

## Legal update

### Federal Contracting Fraud Tip Line: What Your Business Needs to Know

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Litigation

#### What is the Tip Line?

On April 20, 2017, the federal government introduced the Federal Contracting Fraud Tip Line (the Tip Line) that allows anyone to report suspected fraud, collusion or corruption in federal government contracts and real property agreements. The Tip Line is a program initiated jointly by the Competition Bureau, Public Services and Procurement Canada (PSPC), and the Royal Canadian Mounted Police (RCMP). The Tip Line aims to prevent unethical business practices in public procurement that undermine competition, such as bid-rigging, price-fixing, bribery, fraud, and undisclosed conflicts of interest. In addition to curbing this type of conduct, the purpose of introducing this tool, according to the federal government, is to provide businesses and individuals with one point of contact for suspected wrongdoing respecting federal contracting. The Tip Line also provides investigators and enforcers with a centralized means of gathering and sharing information in their efforts to curtail wrongdoing in the federal contracting process.

#### How does the Tip Line work?

The Tip Line allows anyone to anonymously report and provide information about illegal or unethical business practices by calling a toll-free number or by completing an online form. The online form asks for a description of the alleged conduct or wrongdoing. It also gives the reporting individual the option to include his or her contact information and specific information about the contract or real property agreement in question. The information collected through the Tip Line is shared between the Competition Bureau, PSPC and the RCMP to facilitate investigation into the alleged wrongful behaviour and to help establish due diligence measures to prevent such behaviour in the future. The information gathered with the use of the Tip Line may also be used in enforcement proceedings against the alleged wrongdoer.

The Tip Line is the most recent government initiative that aims to ensure legality in federal contracting practices. It stands beside measures such as the Immunity and Leniency Programs that are currently in place in Canada. These programs provide incentives for those who may be implicated in criminal activity prohibited by the federal *Competition Act* to report that activity to the Competition Bureau in exchange for potential immunity from prosecution or more lenient treatment in sentencing. Another example of an existing anti-fraud program is Canada's Integrity Regime, introduced in 2015, which prevents suppliers with a record of unethical behaviour from being awarded federal contracts and real property agreements.

## Take-Away

The Tip Line highlights the fact that whistleblowing, as a mechanism for preventing anti-competitive and unethical behaviour, is becoming increasingly prevalent and important in Canada. In light of this trend, it is critical that businesses have their own strong internal whistleblowing policies.

Internal reporting mechanisms within organizations should be encouraged as they allow companies to identify any potential problems internally, remediate those problems and – if necessary – take action to report the issues themselves. In our view, it's much more advantageous to learn of a potential issue in your organization internally rather than learning about it for the first time when the RCMP, the Competition Bureau or PSPC contacts you about its investigation. In particular, advance warning gives your organization the opportunity to conduct its own investigation, and take steps to maintain privilege over that investigation.

While the Tip Line will provide the authorities with greater access to information about any potential wrongdoing in federal contracting, its promise of anonymity may encourage whistleblowers to bypass established internal reporting procedures. It is for this reason that businesses should ensure that their compliance and reporting mechanisms are robust and should encourage the use of such mechanisms to mitigate potential risks associated with a possible increase in external whistleblowers.

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