

Fighting Bribery and Corruption

In cooperation with
OpenThinking Academy

Via Zoom

Prepared and Presented By
Mike J. Masoud, CPA, CACM, CFE, MBA
Sr. Director of The AACI in the Middle East and Africa

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A bit About Us

- The American Anti-Corruption Institute (AACI)
- Mike J. Masoud, CPA, CACM, CFE, MBA



The Points to Discuss

- Introduction
- Fraud and Corruption Schemes
 - ✦ Billing Schemes
 - ✦ Bribery Schemes
 - i. Kickbacks
 - ii. Bid-rigging
- Conflicts of Interest
- United Nations Convention Against Corruption
- Recent Trends and Schemes



Introduction

- What is corruption?

The AACI defines corruption as “**Abuse of power** or perceived power or entrusted authority **for** direct or indirect **private** monetary or non-monetary **gain.**”

- We do not classify it. Corruption is corruption
- ALL types of POWER

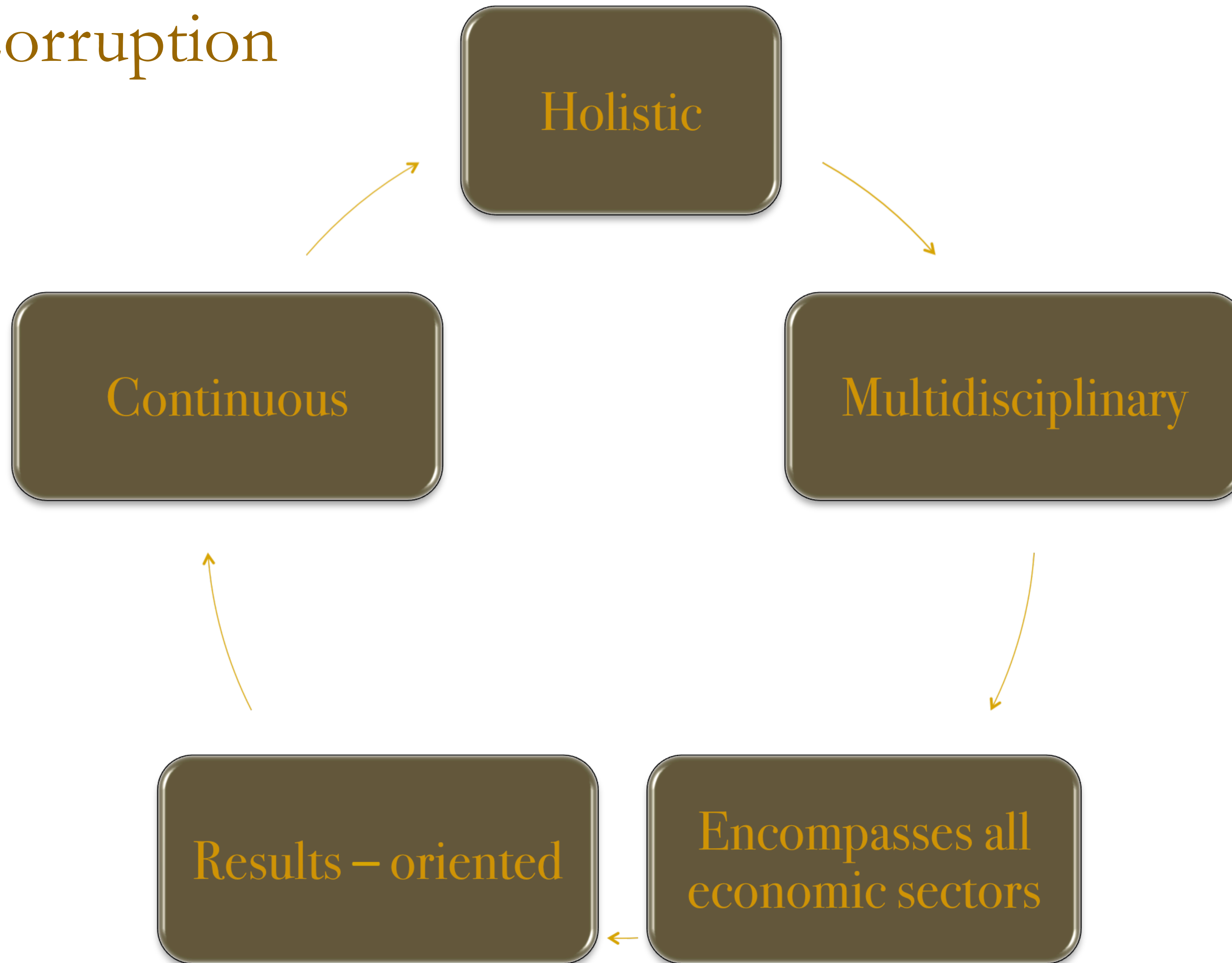


Corruption: The Cancer of Nations

- It is (in most cases) the #1 enemy of each nation.
- **Know your enemy**
- **Fight intelligently**



Fighting Corruption



Is a **process** effected by those charged with governance, employees, citizens ,and other stakeholders to provide a **reasonable assurance** that those entrusted with power did not abuse it for a private gain(s)



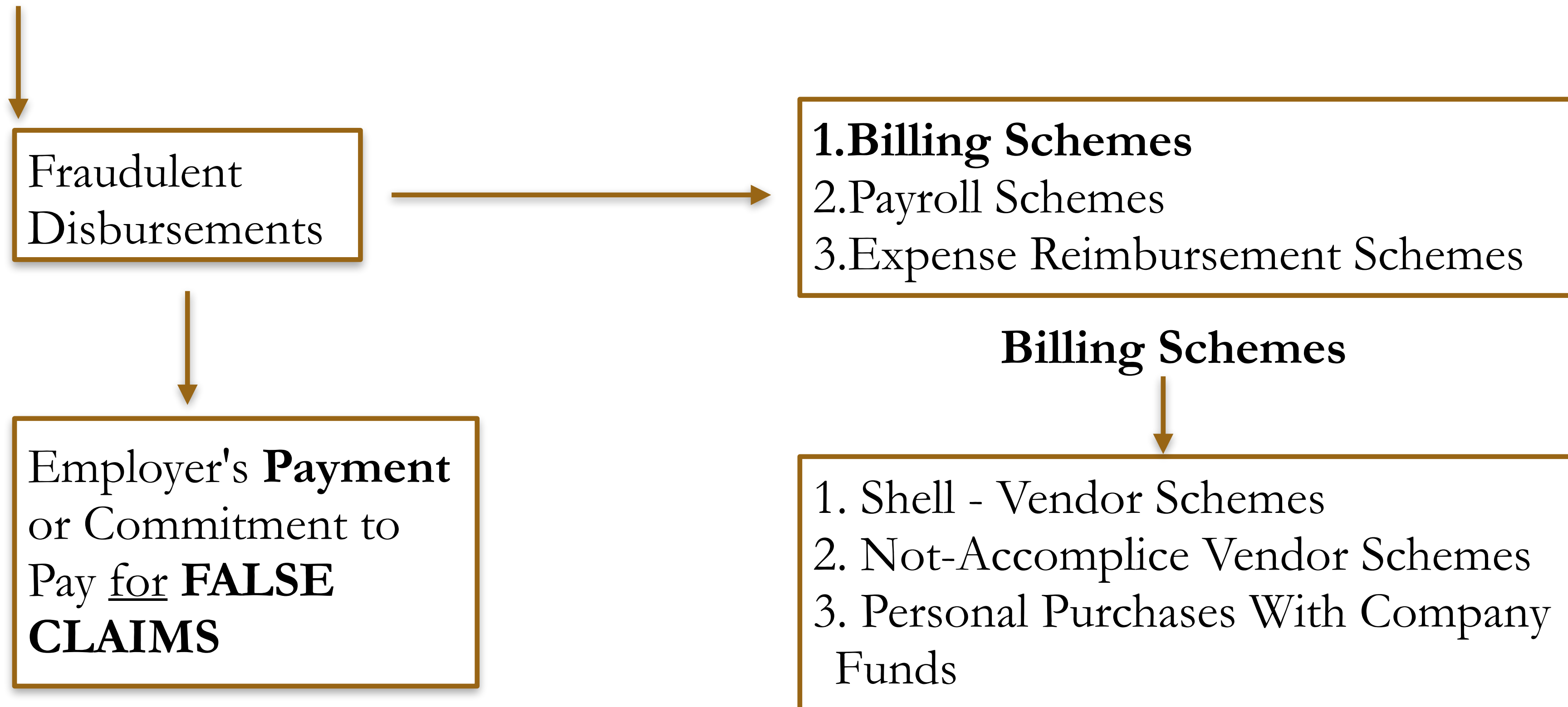
The Ten Principles of Fighting Corruption

- The Fram of Reference
- **Foundation to institutionalize fighting corruption, money laundering, and financing terrorism.**
- Principle-Based; NOT Rule-Based
- The United Nations Convention against Corruption UNCAC



Fraud and Corruption Schemes

- Assess Misappropriation



Fraud and Corruption Schemes

- **Billing Schemes** →

1. Shell - Vendor Schemes
2. Not-Accomplice Vendor Schemes
3. Personal Purchases With Company Funds

Shell - Vendor Schemes
Personal Purchases
with Company Funds

Employer or Victim Company

Purchases of Goods or Services

1. Authorization
2. Receipt of goods or services
3. Approve payment

Corrupt Employee

Not-Accomplice Vendor Schemes

Vendor

NO Collusion



Fraud and Corruption Schemes

- **Billing Schemes** →

1. Shell - Vendor Schemes
2. Not-Accomplice Vendor Schemes
3. Personal Purchases With Company Funds

Schell - Vendor Schemes

Employer or Victim Company

1. Fake Invoice = No Good or Services Received
2. Approve the fake invoice for payment
3. The corrupt employee receives the money

Corrupt Employee



Corruption: Bribery, Economic Extortion, Illegal Gratuity, and Conflict of Interest

- **Bribery:** Illegal and unethical **exchange transaction** where the recipient (seller) uses his influence to have a decision made in favor of the giver (buyer) for anything of value (from the perspective of the seller).

✿ **Note:** The mere offering of a bribe is a crime. Acceptance is another crime.

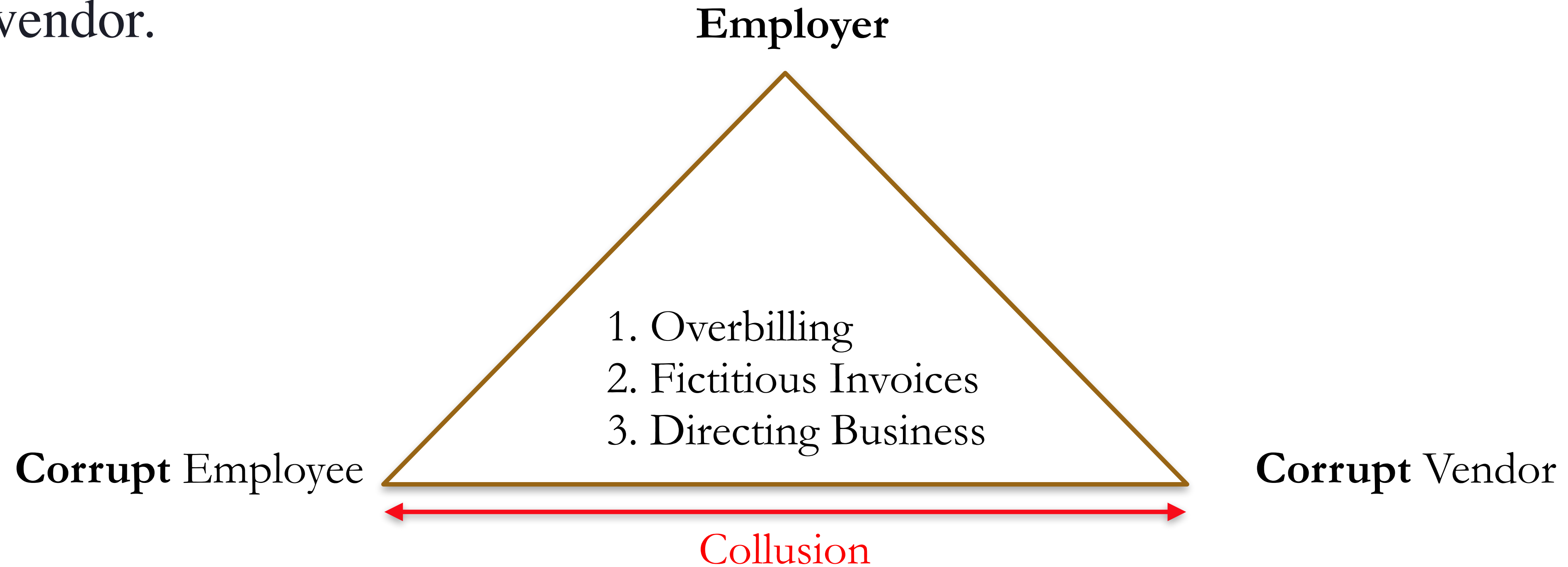
1. Kickback Schemes

2. Bid-Rigging Schemes



Kickback Schemes

- Occurs when a vendor pays or delivers an undisclosed something of value to a corrupt employee, without the consent or knowledge of the employer, to influence the corrupt employee's decision in favor of the vendor.

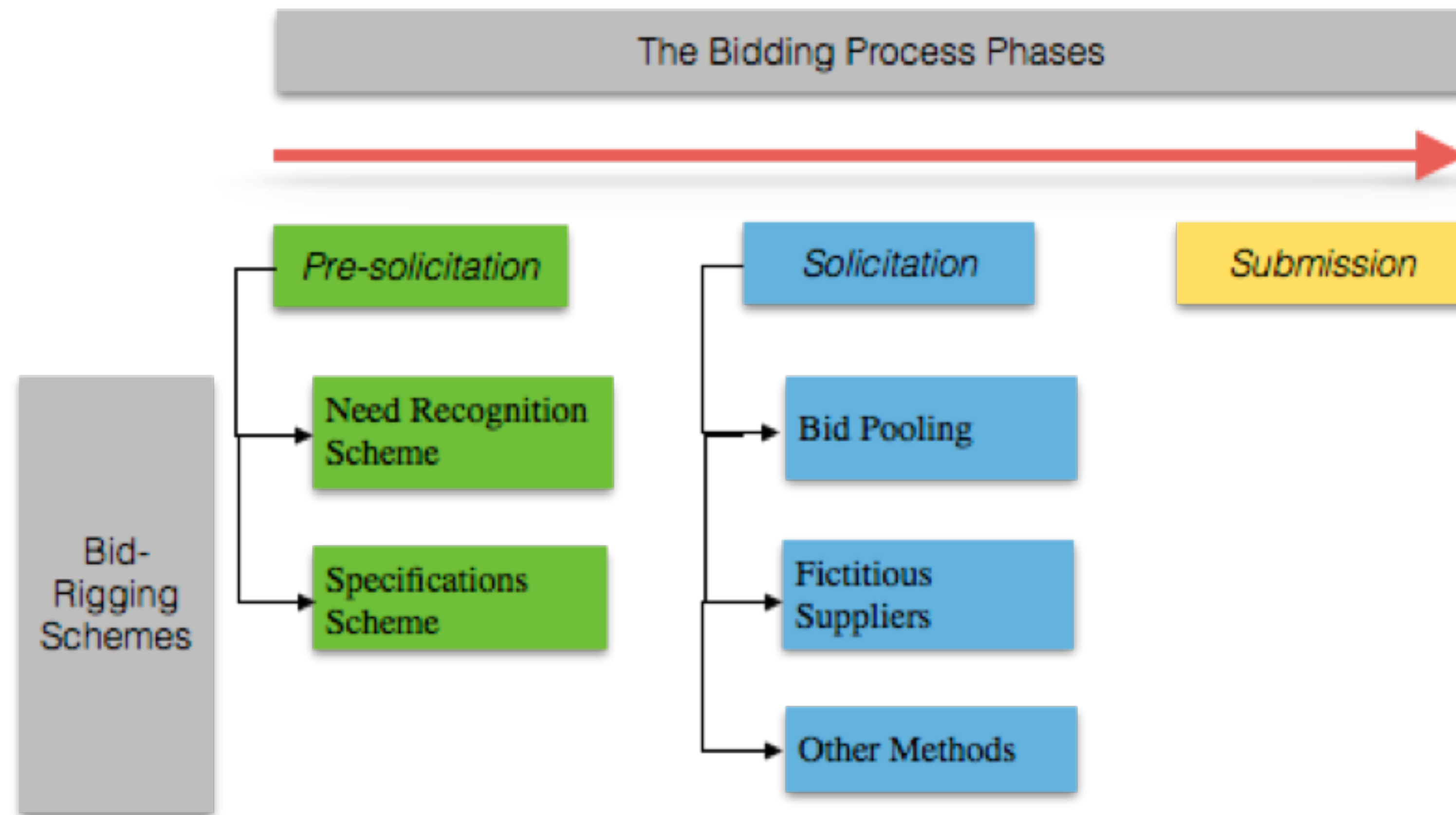


Bid-Rigging Schemes

- What is Bidding?
 - ✧ It is a special set of purchases
 - ✧ Terms and Conditions
 - ✧ Apply Equally to ALL vendors
 - ✧ Confidentiality
- What is Bid-Rigging?
 - “Payment of a bribe to take an advantage”
 - Who bribes whom and when?



Bid-Rigging Schemes



Economic Extortion and Illegal Gratuity

- **Economic Extortion:** An official or a business decision maker (i.e. purchasing manager) requires a citizen or vendor to pay him a bribe to decide in his favor.
- **Illegal Gratuity:** Gratuity is a gift. An illegal gift is a bribe.



Red Flags of Bribery Schemes

- Any sign of collusion between bidders
- Any indication of interference in accepting late bid
- Evidence that there are bidders who reveal their prices to each other
- Specifications that are designed to fit with a contractor's products, competencies, or other irrelevant attributes.
- Others

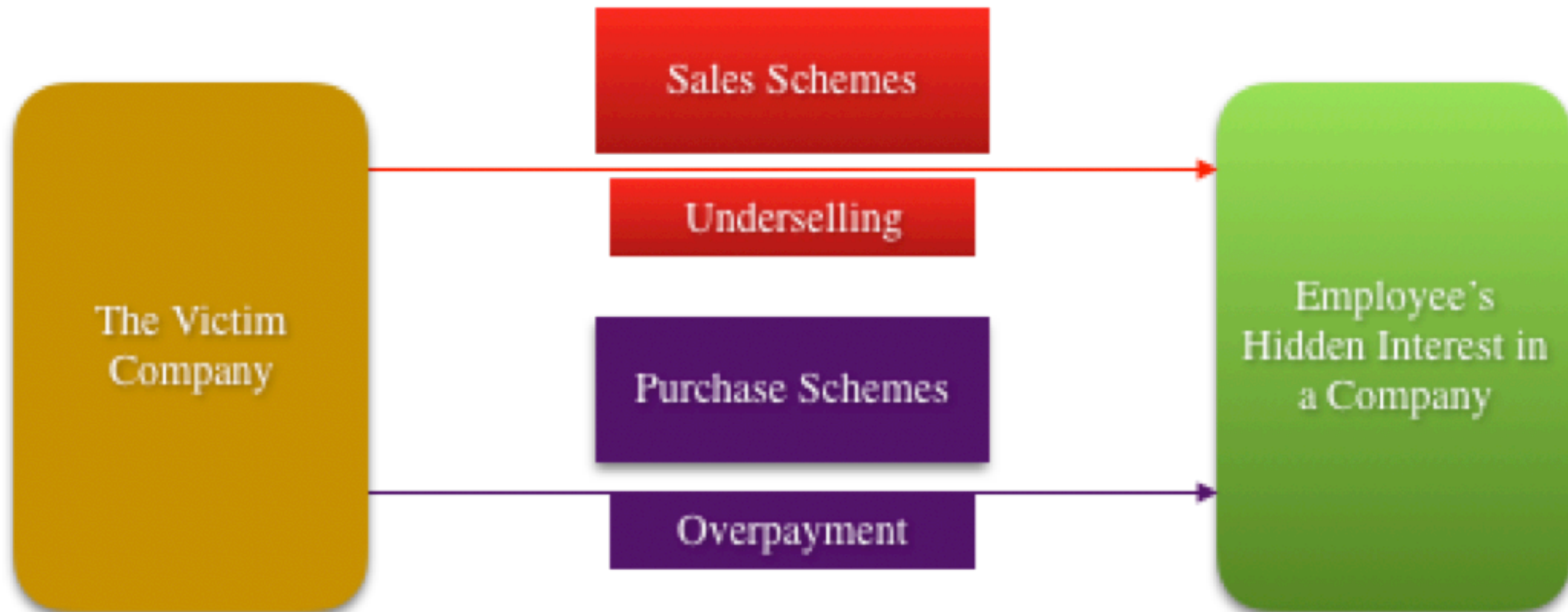


Conflicts of Interest

- It occurs when an employee influences a business decision to the detriment of his employer where he has an undisclosed interest in it. The employee's interest can be financial or non-financial. It can also be economic or uneconomic.
- Fiduciary Duty: What does it mean?
 - ✿ Duty of care
 - ✿ Duty of loyalty - act in good faith to the best interest of the employer
- What shall one do when he has a fiduciary duty and a potential conflict of interest? He shall make F.....D..... **and** refrain from deciding on transactions he has potential conflicts of interest.



Conflicts of Interest Schemes



Prevention of Conflicts of Interest

The entity shall have a policy that

- ✦ Define precisely what constitutes a conflict of interest
- ✦ Request employees to complete an annual disclosure stating.....
- ✦ Request employees to immediately report any actual or potential conflicts of interest to.....
- ✦ Provide employees with proper learning programs and conduct brainstorming sessions aiming to equip them with the knowledge and skills to spot potential conflicts of interest and avoid being victims of it



Detecting Conflicts of Interest

Examples are

- ✦ Performing proper scrutiny and due diligence of new vendors' ownership before listing them as approved vendors to the company
- ✦ Establishing a corruption prevention policy that usually enables employees, vendors, and other stakeholders to provide the company with tips and complaints.
- ✦ Conducting periodic comparison between the current employees' addresses with those of the company's vendors



United Nations Convention Against Corruption (UNCAC)

- ✧ A comprehensive **set of standards, measures and rules** that all countries can apply in order to **strengthen their legal and regulatory regimes to fight corruption.**
- ✧ These provisions—**the first of their kind**—introduce a new fundamental principle, as well as a framework for stronger cooperation between States **to prevent and detect corruption and to return the proceeds.**
- ✧ International Anti-Corruption Day: 9 December
- ✧ 14 December 2005 ; 187 as of 6 February 2020
- ✧ **Eight Chapters**



UNCAC - Chapters and Articles

1. General Provisions
Articles: 1 - 4

2. Preventive Measures
Articles: 5 - 14

**3. Criminalization and
Law Enforcement**
Articles: 15 - 42

4. International Cooperation
Articles: 43 - 50

5. Asset Recovery
Articles: 51 - 59

**6. Technical Assistance and
Informational Exchange**
Articles: 60 - 62

7. Mechanisms and Implementation
Articles: 63 - 64

8. Final Provisions
Articles: 65 - 71



UNCAC

Article 5 Clause 1

Each State Party shall, in accordance with the fundamental principles of its legal system, **develop and implement or maintain** effective, coordinated **anti-corruption policies** that **promote**

1- the participation of society, and

2- reflect the principles of

- ✧ the rule of law,
- ✧ proper management of public affairs and public property,
- ✧ integrity, transparency and accountability.



UNCAC

Article 9 Clause 2

Each State Party shall, in accordance with the fundamental principles of its legal system, take appropriate measures to promote **transparency and accountability** in the management of public finances. Such measures shall encompass, inter alia:

- (a) Procedures for the adoption of the national budget;**
- (b) Timely reporting on revenue and expenditure;**
- (c) A system of accounting and auditing standards and related oversight;**
- (d) Effective and efficient systems of risk management and internal control; and**
- (e) Where appropriate, corrective action in the case of failure to comply with the requirements established in this paragraph.**



UNCAC

Article 60 Clause 1 (a, b)

Each State Party shall, to the extent necessary, initiate, develop or improve specific training programmes for its personnel responsible for preventing and combating corruption. Such training programmes could deal, inter alia, with the following areas:

- (a)* Effective measures to **prevent, detect, investigate, punish and control corruption, including the use of evidence-gathering and investigative methods;**
- (b)* Building capacity in the **development and planning of strategic anticorruption policy;**



Recent Trends and Schemes

- ✦ S. 1309 - Combatting Global Corruption Act of 2019
- ✦ Magnitsky Act: Title 4 Section 402
- ✦ External Audit's Role
- ✦ NMC Health Plc: Who Defrauded Whom?
- ✦ Wirecard Corruption
- ✦ Tips. Tips. Tips.
- ✦ Employees and Customers



Q and A

Thank You



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Thank You

The American Anti-Corruption Institute (AACI)

1204 East Baseline Road, Suite 106, Tempe, AZ 85283, ph: 1 602 235 0956
info@THEAACI.com

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