

# The risk of “stringing”

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Vendor fraud comes in a variety of different packages. In most instances, effective controls and a lack of agency complicity can minimize the risk an agency faces from receiving inferior services or being over-billed.

The Illinois Compiled Statutes criminalizes unscrupulous conduct related to public contracting – from bid rigging and bid rotating to kickbacks and false statements. Little known among the array of crimes is stringing. The Illinois Criminal Code 720 ILCS 5/33E-2 (i-5) defines stringing as “knowingly structuring a contract or job order to avoid the contract or job order being subject to competitive bidding requirements.” A person (either a vendor or a public employee) can commit stringing and be charged with a Class 4 felony. (720 ILCS 5/33E-18)

Stringing occurs when a purchase of biddable items exceeding the applicable dollar amount requiring a sealed, competitive bid is broken up by spreading planned purchases over a period of time or dividing up the quantity of items purchased. For example, the purchase of machinery can be divided into purchases of the machine’s component parts, with the value of each part falling below the bidding threshold. Or, planned purchases of commodities can be divided up over time, again with the dollar amount of each purchase below the bidding requirement.

Some agencies have proclaimed stringing inappropriate even for contracts for professional services or other non-biddable procurements.

Inherent in a stringing scheme is the vendor’s wish to avoid the controls that accompany a bidding process – including analysis assessing responsibility and responsiveness – as well as the burdensome bidding process. The contracting agency may also want to avoid the cost of complying with state laws. In certain environments, the agency may also want to avoid the appearance of making a high-dollar purchase.

Rules, however, are enacted to protect those involved. The risks to an agency that engages in or condones stringing are substantial. Has there been competition? The bidding process – and even internal RFP-type procurements – invite competition. Competition allows the agency to pick a responsive and responsible bidder. When an agency decides to string a purchase, competition may have been avoided, exposing the agency to a vendor who may not be required to perform as long as the job costs less than bidding thresholds.

Will the vendor invoice to the stringing limit regardless of actual cost to the agency? When an agency engages in a stringing scheme with a vendor, it’s likely the agency’s seminal goal is to keep the cost below the bidding threshold and not the procurement of the best goods or services at the most reasonable price. If the goal is to stay under the radar, some vendors will fly just below. If a vendor knows he cannot exceed \$25,000, and the agency is complicit in the stringing scheme, the vendor will likely submit a bill for \$24,999. Likewise, the purchase of a \$40,000 piece of equipment, when subjected to competitive bidding, would likely yield consistent bid responses in that range. A “stringing” purchase of the machine’s two component parts could easily cost the agency \$50,000 if the vendor knows the key requirement is to stay under the \$25,000 per purchase competitive bid threshold.

Complicity in a stringing scheme also fosters a less-than-arms-length relationship between the vendor and agency representatives responsible for monitoring and paying the vendor. As always, a less-than-arms-length relationship fosters the circumvention of other necessary controls and exposes the agency to more risks at many levels.

Set the tone at the top by monitoring all purchases closely and invite competition for goods and services.



## About the authors:

**Mary O’Connor, ASA, CFE**, is Partner, Valuation and Dispute Advisory Services with Sikich. She has worked exclusively in the field of valuation and financial forensics since 1979. She specializes in business valuation and the appraisal of tangible and intangible assets for litigation with special focus in health care, intangible assets in property tax appeal, securities, subrogation and insurance matters. She also possesses extensive experience with fairness and solvency opinions. Mary has provided opinions to a wide variety of public and private clients in a range of industries including health care, governmental entities, agricultural businesses and food companies, senior living, technology, financial services, automotive, hospitality/gaming, manufacturing, natural resources,

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retail, utilities, waste management/recycling and real estate development. Mary has provided litigation consulting and expert witness testimony to federal, state and local jurisdictions (including U.S. Tax Court, Delaware Chancery and Property Tax Appeals Boards) nationally and internationally in cases related to business valuation, lost profits damage analysis, diminution of business value, fraudulent conveyance, shareholder dispute, intangible assets in property assessment, breach of contract, fraud, estate taxation, marital dissolution, sale/leaseback, subrogation, ability to pay, insurance defense, condemnation and bankruptcy matters for both Plaintiffs and Defendants. She is experienced in melding the skills of investigative accounting, valuation, economic analysis, fraud investigation and forensic technology in cases of all sizes. She has been called as an expert in large cases related to the 9/11 attack, and has provided business valuations for diverse assets including the Polish Stock Exchange and the Chicago Bears.

**James M. Sullivan, JD, CIG**, is a director in Sikich's dispute advisory service area. In this role, Jim conducts investigations of alleged fraud, evaluates systems and procedures for control weaknesses, and recommends appropriate controls to prevent fraud. He served for 12 years as the Inspector General for the Chicago Board of Education, the third-largest public education system in the country. During his tenure, Jim's office investigated and exposed multi-million dollar fraud schemes committed by vendors, resulting in criminal convictions and the civil recovery of funds from the unscrupulous contractors. Jim also conducted and led investigations that uncovered some of the largest employee orchestrated theft schemes in local government and successfully worked with prosecutors to secure criminal charges. Jim also served as a member of the Chicago Board of Education's Audit Committee. Before being appointed Inspector General, Jim was a Deputy Inspector General at the Chicago Board of Education and the City of Chicago. Jim began his legal career as a criminal prosecutor with the Cook County State's Attorney's Office, successfully handling hundreds of bench and jury trials and appellate arguments. Jim has been a long-time board member of the Association of Inspectors General (AIG). Jim has spoken at numerous AIG national training conferences and also presented on a paper he co-authored, *Search and Seizure Issues Raised in Investigations of Workplace Misconduct: O'Connor v. Ortega and Its Progeny*. Jim has trained other Inspectors General, executive level staff, investigators and auditors in the AIG's certification institutes.

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