FIJI PROCUREMENT OFFICE

PUBLIC PROCUREMENT PRACTICE

FIGHTING BID RIGGING

"Bid rigging (collusive tendering) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods or services for purchasers who wish to acquire products or services through a bidding process." *(Organization for Economic Co-operation and Development).*

Look up! *https://www.cips.org/en/supply-management/analysis/2019/april/brazils-corruption-crisis/*

COMMON FORMS OF BID RIGGING

- ***Cover Bidding*** – This occurs when individuals or firms agree to submit bids that involve at least one of the following: (1) a competitor agrees to submit a bid that is higher than the bid of the designated winner, (2) a competitor submits a bid that is known to be high to be accepted, or (3) a competitor submits a bid that contains special terms that are known to be unacceptable to the purchaser. Cover bidding is designed to give the appearance of competition.
- ***Bid suppression*** – involves agreements amongst competitors to refrain from biding or to withdraw a previously submitted bid dot hat the designated winner's bid will be accepted.
- ***Bid rotation*** – conspiring firms continue to bid, but they agree to take turns being the winning (i.e.) lowest qualifying bidder. E.g. conspirators might choose to allocate approximately equal monetary values from a certain group of contracts to each firm or to allocate volumes that correspond to the size of each company.
- ***Market allocation*** – Competitors carve up the market and agree not to compete for certain customers or in certain geographic areas. E.g. competing firms may allocate specific customers or types of customers to different firms, so that competitors will not bid (or will submit only a cover bid) on contracts offered to a specific firm. In return, that competitor will not competitively bid to a designated group of customers allocated to other firms in the agreement.

HOW TO REDUCE RISKS OF BID RIGGING?

1. Be informed before designing the tender process (market research and intelligence).
2. Design the tender process to maximize the potential participation of genuinely competing bidders. (E.g. by packaging tenders or similar procurement projects to spread the fixed costs of preparing a bid.)
3. Define your requirements clearly and avoid predictability.
4. Carefully choose your selection criteria for evaluating and awarding the tender.
5. Raise awareness among your staff about the risks of bid rigging in procurement.

CHECKLIST FOR DETECTING BID RIGGING IN PUBLIC PROCUREMENT

1. *Look for warning signs and patterns when business are submitting bids.*

These include

- The same supplier is often the lowest bidder.
- There is a geographic allocation of winning tender. Some firms submit tenders that win in only certain geographic areas.
- Regular suppliers fail to bid on a tender they would normally be expected to bid for, but have continued to bid for other tenders.
- Some suppliers unexpectedly withdraw from bidding.
- Certain companies always submit bids but never win.
- Each company seems to take a turn being the winning bidder.
- The winning bidder repeatedly sub-contracts work to unsuccessful bidders.

2. *Look for warning signs in all documents submitted.*

These include

- Bid documents from one company make express reference to competitor's bids or use another bidder's letterhead or fax number.
- Bid from different companies contain identical miscalculations.
- Competitors submit identical tenders or the prices submitted by bidders increase in regular increments.

3. *Look for warning signs and patterns related to.*

These include

- Sudden and identical increases in price or price ranges by bidders that cannot be explains by cost increases.
- Anticipated discounts or rebates disappear unexpectedly.
- A large difference between the price of a winning bid and other bids.
- A certain supplier's bid is much higher for a particular contract than that supplier's bid for another similar contract.
- There are significant reductions from past price levels after a bid from a new or infrequent supplier, e.g. the new supplier may have disrupted an existing bidding cartel.
- Local suppliers are bidding higher prices for local delivery than for delivery to destinations father away.
- Only one bidder contacts wholesalers for pricing information prior to a bid submission.

4. *Look for suspicious behavior and statement at all times.*

These include

- Spoken or written reference to an agreement among bidders.
- Statements indicating that an area or customer "belongs to" another supplier.
- Use of same terminology by various suppliers when explain price increases.
- A company requests a bid package for itself and a competitor.
- A company submits both its own and a competitor's bid and bidding documents.

Adapted from the OECD Guidelines for Fighting Bid Rigging in Public Procurement