



Competition Bureau
Canada

Bureau de la concurrence
Canada

Bid-Rigging

Awareness and prevention

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Canada

Competition Bureau

- Independent federal law enforcement agency
 - Headquarters located in Gatineau, Quebec
 - Regional offices in Toronto, Montreal and Vancouver
 - Approximately 370 employees
- Our role is to help the Canadian marketplace be more competitive and innovative for the benefit of businesses and consumers, through:
 - Competition enforcement
 - Competition promotion
- The Cartels Directorate detects, investigates and deters hard core cartels, including conspiracies, agreements or arrangements among competitors and potential competitors to fix prices, rig bids, allocate markets or restrict supply

Competition Act

- Contains both criminal and civil provisions aimed at preventing anti-competitive practices in the marketplace
- Under the Competition Act, the Bureau is responsible for:
 - Investigating criminal conspiracies and bid-rigging
 - Ensuring truth in advertising
 - Preventing abuse of dominance
 - Reviewing mergers

Bid-Rigging Offence

- Call for bids or tenders
- Two or more persons agree:
 - not to submit a bid, or
 - to withdraw their bid
- Two or more bidders submit bids arrived at by agreement
- Person calling for bids or tenders is not informed of the agreement

Bid-Rigging Penalties

- No upper limit on fines

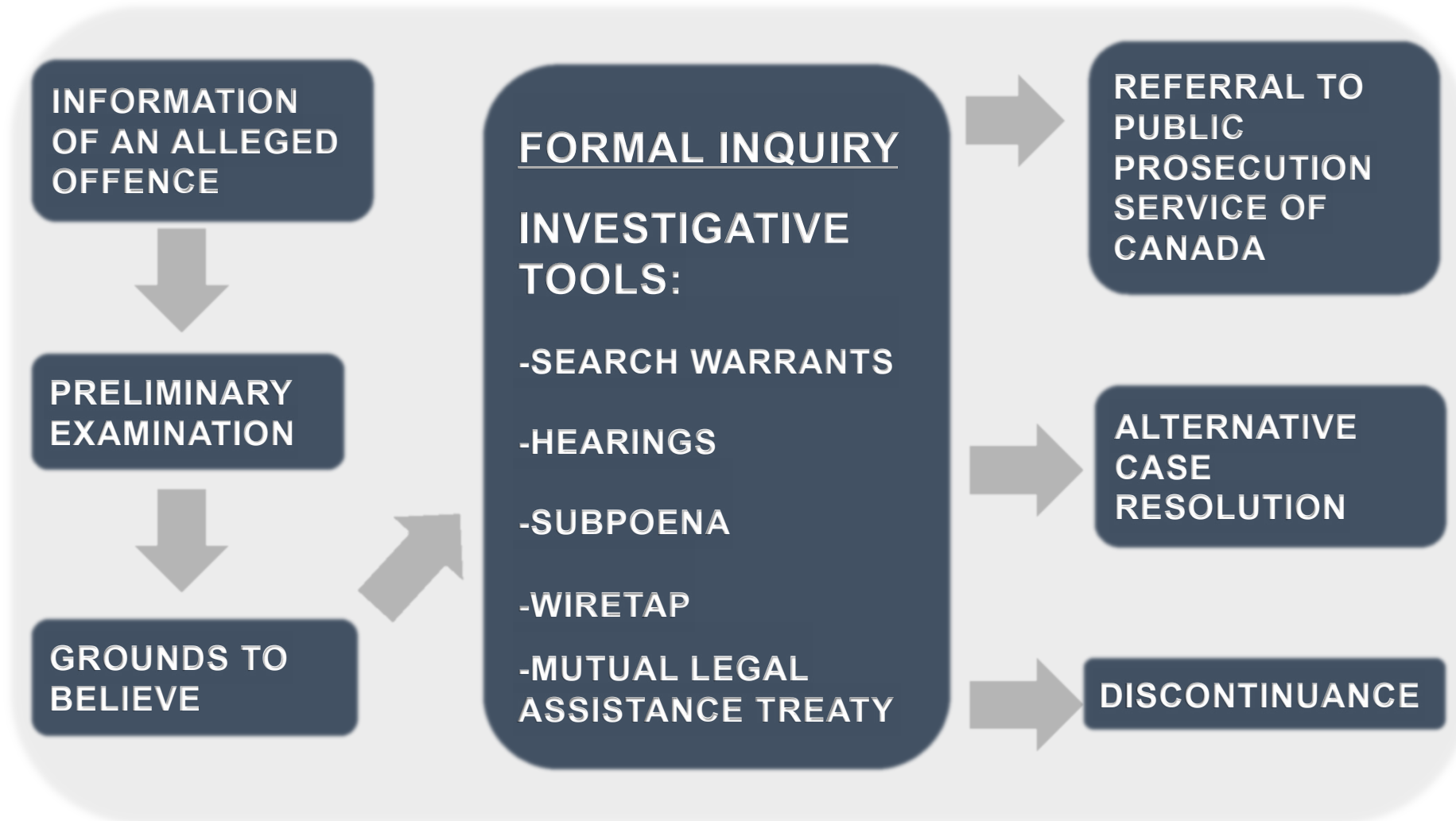
and/or

- Imprisonment up to 14 years
- Criminal record for individuals
- Civil damages (possible)

Sources of Information

- Complaint and Media
- Informant
- Immunity/Leniency Program
- Whistleblower

Investigative Process



Some Industries are more susceptible

- **Be especially vigilant when tender involves:**
 - Similar products
 - Few or no close substitutes
 - Simple products or services
 - No significant technological changes
 - A small number of suppliers or customers
 - Few new entrants
 - Active trade association

Common Forms of Bid-Rigging

- Cover bidding – fake bidding
- Bid suppression – withholding bids
- Bid rotation – rotating agreed best bid
- Market division – carving up the market

Warning Signs Involving Bid Submissions and Outcomes

- Competitors' bids are received together
- Identical irregularities in bids
- Suppliers meet before they submit tenders
- Suppliers that would normally tender fail to
- Only one bidder contacts consultants/wholesalers for pricing information



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Warning Signs Involving Bid Submissions and Outcomes (2)

- Winning bidder does not accept the contract
- Winning bidder subcontracts work to unsuccessful bidders
- Same supplier is often the successful bidder
- Pattern suggesting rotation of successful bids among several suppliers

Warning Signs Involving Pricing

- Identical bid amounts – especially in areas where you would expect variation
- Large difference between price of winning bid and other bids
- Significant change from past price levels after a new entrant or infrequent supplier

Preventing Rigged Bidding

Protect procurement integrity in key areas:

1. Establishing bidding pool
2. Drafting tender specifications
3. Awarding contracts
4. Training and auditing
5. Disclosure of communications

1. Establishing bidding pool

- Maximize the pool of potential bidders
- Know your suppliers and their market prices
- Be aware of price changes for supply inputs
- Know prices in other departments
- Avoid obligatory bids
- Keep bids confidential

2. Drafting tender specifications

- Require disclosure regarding potential subcontractors and their pricing
- Allow for substitute products whenever possible – focus on specific performance
- Avoid preferential treatment for a certain class of suppliers
- Avoid predictability – consider combining or dividing contracts

3. Awarding contracts

- Avoid splitting contracts between suppliers with identical bids
- Ask questions if prices or bids don't make sense

4. Training and auditing

- Provide training on bid-rigging
- Review tender history/results periodically, especially in susceptible industries
- Conduct interviews with:
 - Vendors who no longer offer supply, and
 - Unsuccessful vendors
- Have a Complaint mechanism for suppliers to convey competition concerns

5. Disclosure of Communications

- Use a “Certificate of Independent Bid Determination”
 - One example available on our website
- Requires disclosure of communications between bidders
 - A warning to suppliers that you are proactive in detecting and preventing collusion

If You Suspect Bid-Rigging

- Thoroughly record details of all relevant behaviour
- Do not discuss with suspected participants
- Decide whether or not to continue with the tender
- Contact the Competition Bureau

How To Contact Us

- **Website**

www.competitionbureau.gc.ca

- **Fax**

819-997-0324

- **Telephone**

Toll-free: 1-800-348-5358

819-997-4282



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Thank you