



Competition Bureau
Canada

Bureau de la concurrence
Canada

Canada

Bid-Rigging

Awareness, prevention & detection

August 13, 2024

Élise Constantineau and Colette Morin-Wade
Competition Bureau

Competition Bureau (CB)

- The CB is an independent federal law enforcement agency.
- Our role is to protect and promote competition for the benefit of Canadian consumers and businesses.
- We support and protect Canadians by fostering a competitive and innovative marketplace.
- Our actions are guided by the principle that competition is good – the result is competitive prices, a greater choice of products and quality services.

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
 - Fostering competition through advocacy, education and outreach

Cartels Directorate

- We detect, investigate and deter hard core cartels, including conspiracies, agreements or arrangements to:
 - fix prices
 - allocate markets
 - restrict supply
 - fix wages
 - not poach each other's employees
 - rig bids
- We also reach out to stakeholders engaged in procurement to enable them to detect and deter bid-rigging activities
- Collaboration with the Public Prosecution Service of Canada (PPSC) & other Canadian law enforcement agencies

Bid-Rigging Offence

- Call for bids or tenders
- Two or more persons:
 - submit bids arrived at by agreement,
 - agree not to submit a bid, **or**
 - agree to withdraw their bid
- 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)

Bid-rigging: Compete legally!



Sources of Information

- Complaints and Media
- Federal Contracting Fraud Tip Line
- Informant
- Whistleblower
- Immunity/Leniency Program

Investigative Process

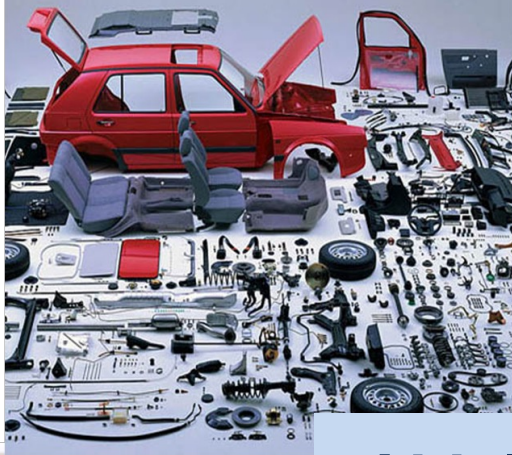


Library and Archives Canada (LAC)

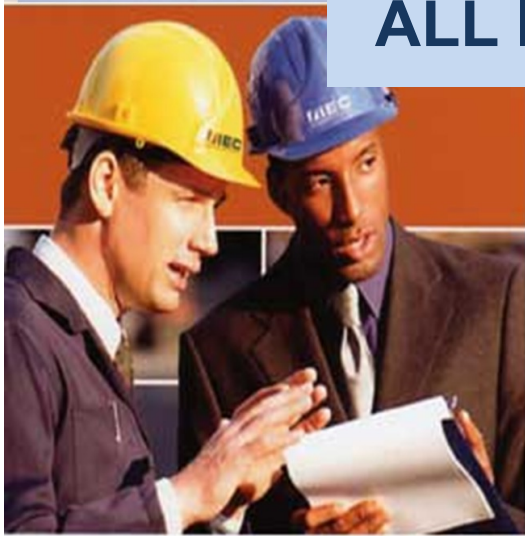
- May 2014: the CB laid charges in relation to a bid-rigging conspiracy regarding federal government contracts
- May 2015: one of the individuals charged under the Competition Act pleaded guilty to bid-rigging
- August 2016: a second guilty plea for bid-rigging
- December 2016: a LAC employee pleaded guilty under the FAA for her involvement in the conspiracy

Gatineau bid-rigging scheme

- Bid-rigging among engineering firms to divide **21 public infrastructure contracts** awarded by the city of Gatineau
- Charges were laid in June 2018 against 4 individuals for bid-rigging scheme stretching from 2002 to 2008
- All 4 of the accused pleaded guilty. They received conditional sentences totalling 5 years and 11 months and court-ordered community service totalling 260 hours
- Criminal charges were laid against a fifth person in June 2021, and he has also pleaded guilty to conspiring to rig bids.



ALL INDUSTRIES ARE AT RISK



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
- 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 From Suppliers' Statement

- Use of the same terminology when explaining price increases
- References to « industry suggested prices » or « industry price schedules »
- Refusal to sell to you or in your area because of an agreement
- Knowledge of competitor's confidential bid

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 participates

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

Collusion Risk Assessment Tool

- It is a [web-based tool](#) that helps procurement agents who organize and administer tenders.
- Use the Collusion Risk Assessment Tool to:
 - assess the potential risk of bid-rigging conduct and
 - learn best practices to help mitigate these risks

How does the Tool work?

- **Step 1:** Start by using the Tool to answer questions according to your own tender.
- **Step 2:** Upon completion, you will receive a collusive risk score either **high, medium, or low**. Along with your score, you will receive a set of tailored best practices aimed at minimizing your tender's overall collusive risk.
- **Step 3:** You may implement the best practices provided to support a pro-competitive tender process.

Useful information and hyperlinks

- [Preventing bid-rigging: Tips for tendering authorities \(canada.ca\)](#)
- [Certificate of Independent Bid Determination](#)
- [Collusion risk assessment tool for procurement agents \(canada.ca\)](#)
- A [directory](#) of several resources from the CB

How To Contact The Competition Bureau

Report suspicious activities

- [Complaint form - Competition Bureau Canada](#)
- [Report cheating in federal government contracts: Submit a tip - Federal Contracting Fraud Tip Line \(ic.gc.ca\)](#)
- **Telephone**
Toll-free: 1-800-348-5358
819-997-4282

Stay connected



@CompBureau

<https://twitter.com/CompBureau>



@bureaudelaconcurrence

<https://www.facebook.com/bureaudelaconcurrencecanada>



Competition Bureau Canada

<https://www.linkedin.com/company/canadian-competition-bureau>



YouTube

Competition Bureau Canada

https://www.youtube.com/channel/UCWEkolOpjOruSK_IbGu_hfVA

Canada 