



Introduction to Bid Rigging in Public Procurement

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What is competition policy all about?



□ Economic growth.

- Productivity
- Innovation

□ Value for Money

- lower prices
- better quality
- choice.

The Competition Act of 2007



Overview

- In effect as from 25 November 2009
- Establishes the Competition Commission of Mauritius
- Powers to investigate (incl. entry and search, compelling attendance and production of documents), sanction restrictive business practices and issue directions.

The Competition Act of 2007



Restrictive Business Practices

- Monopoly Situations
- Collusive Agreements (incl. Bid Rigging, Price fixing, Market Sharing)
- Non-Collusive Agreements
- Merger Situation

The Competition Act of 2007



Collusive Agreements: Bid Rigging

- Section 42 (1) “..an agreement, shall be collusive if one party to the agreement –
 - (a) agrees not to submit a bid or tender in response to an invitation for bids or tenders; or
 - (b) agrees upon the price, terms or conditions of a bid or tender to be submitted in response to such a call or request.

The Competition Act of 2007



- Collusive agreements, which include Bid Rigging considered to be a serious breach of the Competition Act
- Financial Penalties if committed intentionally or negligently.
- Financial penalty of up to 10% of turnover during the period of breach (up to max of 5 years)

The Public Procurement Act of 2006



- ▶ **Section 52 (3)** of the Act “A bidder shall not engage in collusion, before or after a bid submission, designed to allocate procurement contracts among bidders, establish bid prices at artificial non-competitive levels or otherwise deprive a public body of the benefit of free and open competition.”
- **Section 53 (1)(d)** “..the Policy Office may,...suspend or debar a potential bidder or supplier from participation in procurement ... on grounds of misconducts relating to the submission of bids,price fixing...”

Bid Rigging or Collusive Tendering



- According OECD Guidelines for Fighting Bid Rigging:

“occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower quality of goods or services for purchases who wish to acquire products or services through a bidding process.”

Consequences of Bid Rigging



- ▶ Not achieve 'Value for Money' in terms of:
 - ▶ (1) Low prices
 - ▶ (2) Better quality /products

And

- ▶ (3) Innovation by companies
- ▶ (4) International Competitiveness

Bid Rigging in Public Procurement



- (1) Extra cost to taxpayers
- (2) Diminishes public confidence
- (3) Undermine the benefits of competitive marketplace (as defined above)

Common forms of Bid Rigging



- **Bid Rotation**
 - Competitors agree to take turns being the low (winning) bidder
- **Bid Suppression**
 - Competitor agrees not to bid
- **Complementary Bid**
 - Competitor agrees to bid high

Bid Rotation



	Year "1"	Year "2"
Bidder #1	Low	High
Bidder #2	High	Low

	Item "A"	Item "B"
Bidder #1	Low	High
Bidder #2	High	Low

	Area "A"	Area "B"
Bidder #1	Low	High
Bidder #2	High	Low

Aircraft Parts Case

	T-37 Nose Wheel		F-5 Main Wheel	
1985	Smith & Smith	\$275	Jay-Em	\$1000
1986	Jay-Em	\$455	Smith & Smith	\$1390
1987	Smith & Smith	\$465	Jay-Em	\$1416

“Price war is over between Smith & Smith and Jay-Em.”

-- Presidents of Jay-Em and Smith & Smith, 1986

Prices increased significantly – 60% jump between '85 and '86.

No economic explanation to support such a significant price increase.

Complementary Bid

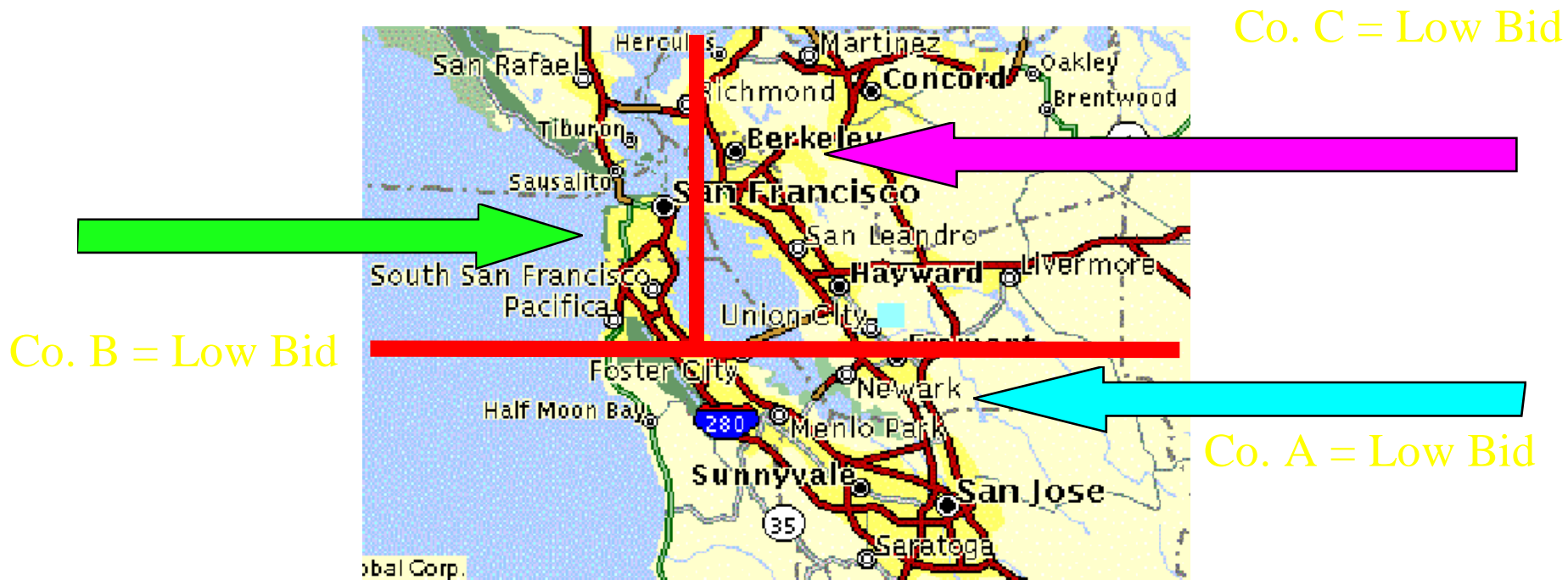


Bidder #1 Low

Bidder #2 High

Bidder #1 awards subcontract, or pays kickback to Bidder #2.

Traffic Signals Case



No significant cost advantage due to geographic location. Bid pattern continued even when more projects offered in one area over other areas.

Bid Suppression

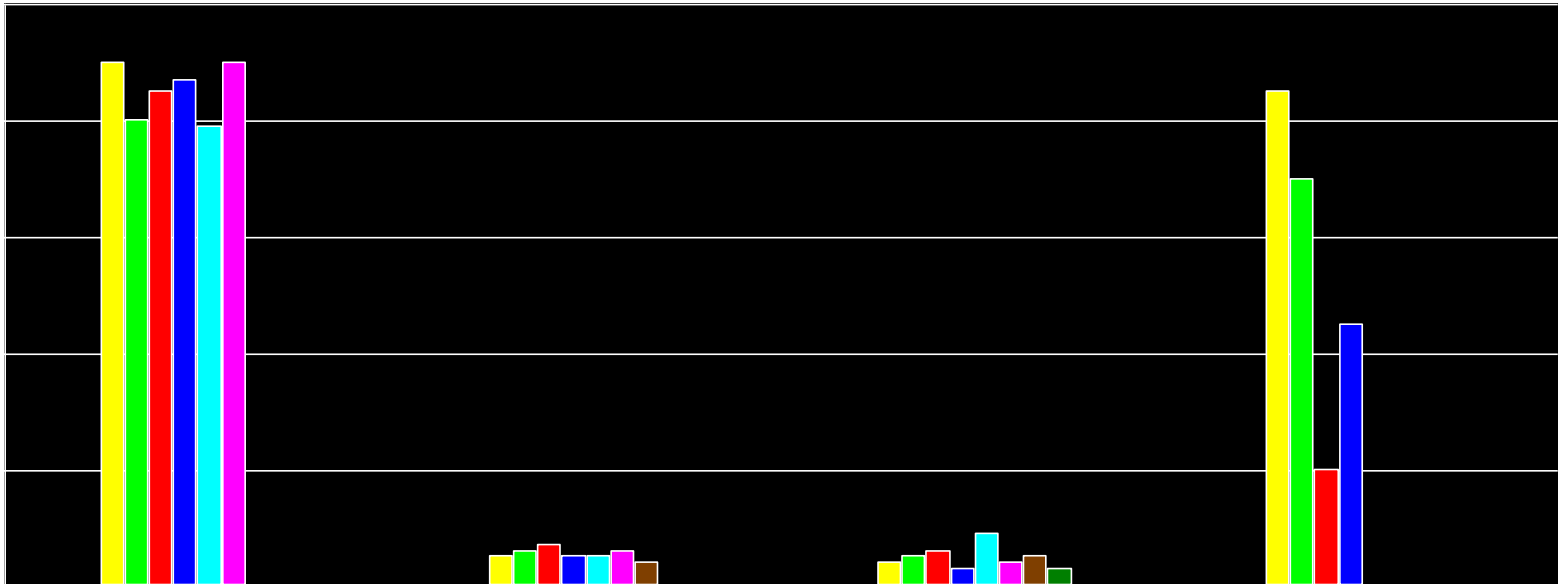


Bidder #1 Low

Bidder #2 No bid submitted

Bidder #2 expressed interest in obtaining project. Had capability and resources to do the project.

Timber Sales



Period of significant bid competition during periods of both high and low end product prices.

Minimal or no competition. No economic explanation for cessation of competition.

Investigation begins. Competition resumes.

Market Characteristics that help collusion /bid rigging



- Few suppliers in the market
- A small group of major suppliers controls a large share of the market
- The goods or services sought standardised
- Industry associations

Bids characteristics (similarities)



- ▶ Two or more proposals contain similar handwriting, typos, or mathematical errors.
- ▶ Two or more proposals are sent from same mailing address, e-mail, fax number, etc
- ▶ Two or more proposals reflect that last-minute changes (such as white-outs and cross-outs) were made to alter price quotes
- ▶ The document properties of two or more electronic proposals show that the proposals were created or edited by one vendor

Patterns to detect bid rigging



- ▶ Over a series of awards, competing suppliers rotate as the award winner
- ▶ Over a series of awards, routinely win the same or similar amounts of work
- ▶ The winning bidder subcontracts work to losing bidders or to bidders that withdrew their proposals or refused to submit proposals
- ▶ As compared with prior awards, a small number of vendors submit proposals for the current award

Suspicious Behaviour



- ▶ A supplier submits a proposal for a procurement or grant award for which you know the supplier lacks the ability to perform
- ▶ A bidder brings multiple proposals to an in-person procurement or grant process or submit multiple proposals
- ▶ A bidder makes statements on the phone or by e-mail indicating advance knowledge of a competitor's prices or its likelihood of winning the award

What You Can Do To Discourage and Detect Collusion

Inform us on:

info@ccm.mu



www.ccm.mu