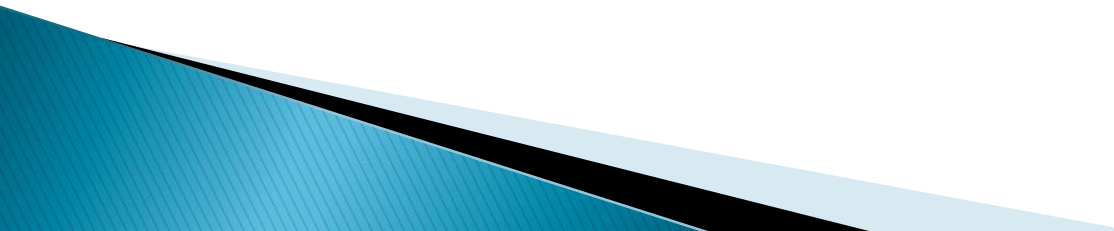
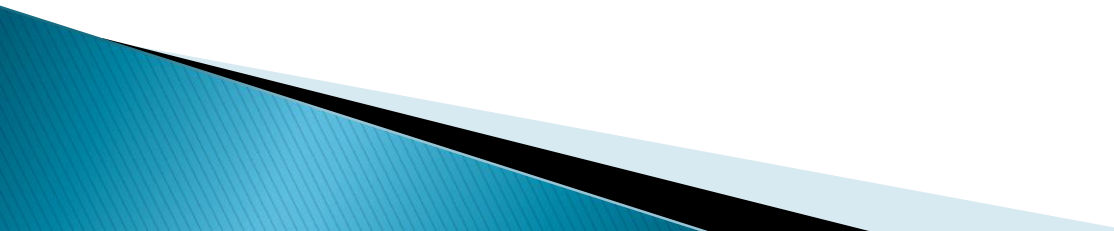


# Safeguards against Bid Rigging in the Public Procurement Act

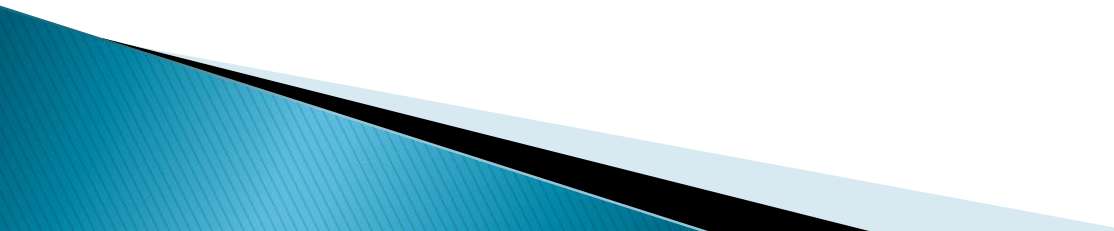
# Objectives of the Public Procurement Act

- Basic Philosophy
    - Value for money
    - Avoiding abuse and corruption
  - Principles
    - Transparency
    - Integrity (anti-corruption)
    - Participation and competition
    - Fair and equitable treatment
    - Economy and efficiency
- 

# Examples of Bid Rigging

- ▶ Agreement by bidders
    - To raise, lower or maintain prices
    - Not to negotiate on price
    - To limit discounts or rebates
    - On price formulas and guidelines
- 

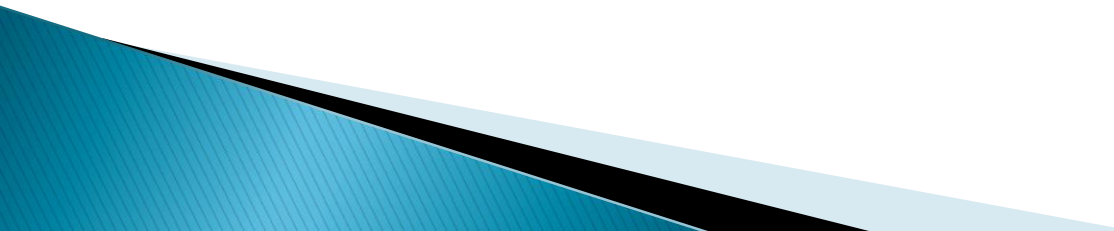
# Possible Ways of Bid Rigging

- ▶ Deliberately submitting non responsive bids
  - ▶ Deliberate non participation
  - ▶ Bid rotation
  - ▶ Market allocation
- 

# Safeguards

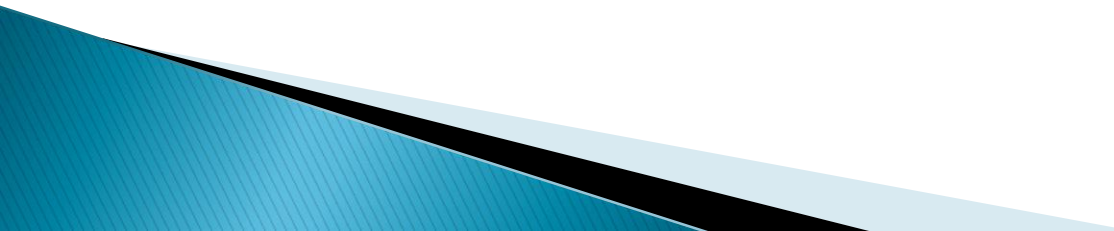
- ▶ Promoting competition
  - Dissemination of Act and Regulations and procurement related information through the PPO website
  - Publication of Procurement Plans and results of bidding exercise including executive summary of evaluation reports
  - Restriction on limitation of participation

# Safeguards

- Restriction on use of procurement and solicitation methods that limit competition
  - Strict rules for the cancellation of a bidding process
  - Restrictions to award contracts at prices substantially above the updated estimated costs
  - Effective review mechanism
  - Severe action against corrupt and collusive practices
- 

# Provisions in the PPA to deter collusive practices

# Section 52. Conduct of bidders and suppliers

- ▶ (3) 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 39. Cancellation of bidding process

- ▶ (1) A public body may, at any time prior to the acceptance of a bid, reject all bids, or cancel the public procurement proceedings where –
  - (a) all the bids are non-responsive;
  - (b) the lowest evaluated bid is substantially above the applicable updated cost estimate;
  - (c) the goods, works or services are no longer required; or
  - (d) it has been established that there has been collusion among the bidders.

# Section 53. Suspension and debarment of bidders and suppliers

- ▶ (1) Subject to subsection (2), the Policy Office may, under such conditions as may be prescribed, suspend or debar a potential bidder or supplier from participation in procurement on the following grounds –
  - ▶ (b) collusion between the bidders or a bidder and a public official concerning the formulation of any part of the bidding documents;
  - ▶ (c) interference by a supplier with the participation of competing bidders;

# Provisions in the Standard Bidding Documents to deter collusive practices

# Collusion

- (3) 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.

# Conflict of Interest

- ▶ A Bidder shall not have a conflict of interest. All Bidders found to have a conflict of interest shall be disqualified. A Bidder may be considered to have a conflict of interest with one or more parties in this bidding process, if
  - they have a controlling partner in common; or
  - they receive or have received any direct or indirect subsidy from any of them; or

# Conflict of Interest

- ▶ they have the same legal representative for purposes of this bid; or
  - ▶ they have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the Bid of another Bidder, or influence the decisions of the Employer regarding this bidding process;
- o

# Conclusion

- ▶ The Public Procurement Act, Regulations and other instruments issued together with the Competition Act provide sufficient safeguards against bid rigging
  - ▶ However, awareness, caution and relevant skills are required to detect and appropriately deal with bid rigging
- 