



FIGHTING BID RIGGING IN PUBLIC PROCUREMENT IN COLOMBIA

An OECD Report

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THE OECD ROLE

The OECD is a unique forum where the governments of 34 democracies work together to address the economic, social and environmental challenges of globalisation.

The OECD is also at the forefront of efforts to understand and to help governments respond to new developments and concerns, such as corporate governance, the information economy and the challenges of an ageing population.

The OECD provides a setting where governments can compare policy experiences, seek answers to common problems, identify good practice and work to co-ordinate domestic and international policies.



THE REPORT

- In response to the SIC's request, the OECD prepared a report which reviewed Colombia's compliance with relevant OECD Recommendations in October 2013.
- The background report for the accession review process in the Competition Committee will build on the conclusions of this Report.
- In the report, the OECD puts forth a series of suggestions specific to Colombia



THE ASPIRATION AND PURPOSE OF THE REPORT

The implementation of the OECD recommendations in this Report, coupled with the increased awareness among Colombian procurement officials of the existence, risks and costs of collusion, will enable Colombia to increase the effectiveness of its public procurement to the benefit of its taxpayers.

The Report and its conclusion will also assist SIC in improving the ongoing efforts in fighting collusive practices in public tenders in Colombia.



ADDRESSES OF THE REPORT

The OECD's suggestions are targeted at the Colombian government, including:

- Superintendencia Industria y Comercio,
- the National Public Procurement Agency;
- Government purchasing groups; and
- Any other government institution involved with public procurement.



RECOMMENDATIONS IN A NUTSHELL

Report deals with procurement policies and practices such as:

- increasing the use of public tenders, consolidated purchases and reverse auctions;
- preparing detailed, useful market studies; and,
- reducing disclosure of competitively sensitive procurement and bidding information.
- Increase information sharing and communications among the SIC, the NPPA and government purchasing officials
- Increase training activities sponsored by the SIC and NPPA.



OECD GUIDELINES - 2009



GUIDELINES FOR FIGHTING BID RIGGING IN PUBLIC PROCUREMENT

Helping governments to obtain best value for money

COMPETITION – THE KEY TO PRODUCTIVITY AND GROWTH



DESIGNING TENDERS TO REDUCE BID RIGGING

Helping governments to obtain best value for money

COMPETITION – THE KEY TO PRODUCTIVITY AND GROWTH



DETECTING BID RIGGING IN PUBLIC PROCUREMENT

Helping governments to obtain best value for money

COMPETITION – THE KEY TO PRODUCTIVITY AND GROWTH



OECD GUIDELINES FOR FIGHTING BID RIGGING

Source

Best practices in OECD countries

Better tender design

Help procurement officials design public tenders to reduce bid rigging
(Design Checklist)

Tougher law enforcement

Help procurement officials detect bid rigging when it occurs
(Detection Checklist)



CHECKLIST FOR DESIGNING TENDERS

- Learn about the market and about your suppliers
- Maximize participation of potential bidders
- Define requirements clearly and avoid predictability
- Reduce communication among bidders
- Raise awareness of the risks of bid rigging, provide training



CHECKLIST FOR DETECTING BID RIGGING

Procurement officials should be alert for:

- Opportunities that bidders have to communicate with each other
- Relationships among bidders (joint bidding and sub-contracting)
- Suspicious bidding patterns (e.g. ABC, ABC) and pricing patterns
- Unusual behavior
- Clues in documents submitted by different bidders



IN PRACTICE WHAT DOES THIS MEAN?

Procurement Rules

- Coordinated efforts to develop best practices

Advocacy

- Education of officials, business, media
- Advocacy to government and legislators

Enforcement

- Strong sanctions
- Inter-agency co-operation



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Fighting bid rigging in public procurement

Bid rigging involves groups of firms conspiring to raise prices or lower the quality of the goods or services offered in public tenders. Although illegal, this anti-competitive practice continues to cost governments and taxpayers billions of dollars every year across OECD countries.

The 2012 Recommendation on Fighting Bid Rigging in Public Procurement

On 17 July 2012, the OECD Council adopted a [Recommendation on Fighting Bid Rigging in Public Procurement](#) that calls for governments to assess their public procurement laws and practices at all levels of government in order to promote more effective procurement and reduce the risk of bid rigging in public tenders.

The Recommendation is a step forward in the fight against collusion in public procurement that the OECD has been leading for a long time especially through the 2009 [Guidelines for Fighting bid rigging in Public Procurement](#) and the work related to its dissemination worldwide.



OECD Guidelines for Fighting Bid Rigging in Public Procurement

[View the text of the Guidelines](#)

First adopted in 2009, the Guidelines are available for download in many different languages.

They are designed to reduce the risks of bid rigging through careful design of the procurement process and to detect bid rigging conspiracies during the procurement process.

Mexico-OECD partnership for fighting bid rigging in government contracts



Bid rigging affects government procurement around the world and costs taxpayers billions of dollars. Mexico has partnered with the OECD to improve its procurement practices and step up its fight against bid rigging.

In January 2011, Mexico's Social Security Department signed a Memorandum of Understanding with the OECD and Mexico's Competition Commission, thus becoming the first public agency in Mexico (and in the world) to formally commit to adopt and implement the OECD Competition Committee's Guidelines for Fighting Bid Rigging in Public Procurement.

Overview of the Guidelines

Related links and documents

In order to ensure that the policy must be designed to obtain results and evidence of... > Collusion and Competition in



2009 - today



<http://www.oecd.org/daf/competition/fightingbidrigginpublicprocurement.htm>



THE REPORT - STRUCTURE

The Report contains five sections:

- The introductory section on the importance of competition in public procurement and the negative consequences of bid rigging.
- Section 2 provides a summary of current Colombian legal framework governing procurement by the central government.
- The report then reviews the extent to which Colombia complies with the 1998 Recommendation and the 2012 Recommendation in sections 3 and 4, respectively.
- Section 5 of the report sets out advice and suggestions that the OECD believes will enable Colombia to combat collusive practices in public procurement more effectively.



THE SIC SHOULD PARTNER WITH THE NPPA

- The establishment of the NPPA in 2011 would assist Columbia in aligning with the OECD Recommendations.
- **The SIC and the NPPA should develop a formal partnership** with regular and ongoing communications.
- The NPPA should chair a council of government procurement officials, with the SIC, to be a forum for identifying the resolving issues for government procurement in Columbia.



Increase the use of public tenders

Percentages of the total number of Colombian government contracts

	Public Tenders	Direct Awards or Contracting	Other Procurement Processes
2010 (76,485 contracts)	2.36	68.35	29.29
2011 (161,323 contracts)	1.53	54.70	43.77
2012 (328,925 contracts)	0.35	65.75	33.90

Percentages of the money value of Colombian government contracts

	Public Tenders	Direct Awards or Contracting	Other Procurement Processes
2010	0.03	71.94	28.03
2011	7.78	28.06	63.16
2012	13.23	53.41	33.46



Comprehensive market studies

- Market studies are vitally important to help contracting authorities understand all prevailing market conditions and potential suppliers.
- The SIC and the NPPA should establish **the minimum acceptable content for market studies** through the creation of a checklist.
- The NPPA should arrange for the best quality market studies to be shared among Columbian public procurement agencies.



Consolidation of purchases

- The consolidation of purchases often causes the disruption of existing collusion. Also, it enhances buying power which should lead to better purchase prices.
- Currently, it occurs infrequently and on an adhoc basis.
- The Columbian government purchasing organisations should be directed to **proactively seek out opportunities for the consolidation of purchases** within individual procurement groups or through framework agreements.



Joint bidding, sub-contracting and split awards

- Although joint bidding, sub-contracting and split awards often fosters competition in public procurement processes, each of these three activities can also be used to reduce competition.
- The NPPA should obtain statistics regarding how often procurement procedures involve these three practices.
- Procurement groups should institute certain disclosure requirements for suppliers undertaking such practices.
- Procurement groups should only split a single contract among multiple suppliers in exceptional circumstances.



Other advice and suggestions

The Columbian government should abolish the legal requirement for government procurement groups to disclose the budgets for their procurement procedures.

The Columbian government should eliminate other types of disclosure.

- Exchanges of information with bidders by electronic means
- Eliminating the mandatory requirement for public clarification meetings

Columbian government procurement groups should increase their use of reverse auctions.



Other advice and suggestions – cont'd

Columbian government should consider making Certificates of Independent Bid Determination mandatory in procurement processes.

Columbian government procurement groups should abandon the use of lotteries to pre-select bidders.

The SIC, in conjunction with the NPPA, should support procurement training and bid-rigging education activities across the Columbian government.

The NPPA and government procurement groups should enhance the sharing of information among procurement officials.



Other advice and suggestions – cont'd

Columbian government and the SIC should implement procedures for Colombian government procurement staff to raise concerns relating to bid rigging.

Columbian government procurement groups should retain relevant procurement records.

Columbian government procurement groups should seek damages in bid-rigging cases.



Thank you for your attention!



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