Measures to prevent collusive tendering: an important adjunct to a liberalized government procurement regime

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Matters to be addressed

o **What is collusive tendering?**

o **Why should we be concerned and what can we do about it?**

o **Possible indicators of collusive tendering ("suspicious signs")**

o **Concluding remarks**

What is collusive tendering?

- **Cartelization in regard to public procurement processes. Also known as "bid rigging".**
- **Essence of the offence is an agreement between competitors (e.g., to bid high, to not bid, to submit "cover" bids, etc.)**
- **Competitor may agree not to bid in return for promise of a sub-contract**
- **Often also involves side payments to competitors who "lose" and/or rotation of who wins**
- **As with other cartels, normally carried on in secret**

Why should we care about collusive tendering and what can we do?

- **Collusive tendering imposes heavy costs on public treasuries and therefore on taxpayers (can raise the costs of goods and services procured by 20-30 %, sometimes more)**
- **Undermines confidence in governments**
- **Best deterred through heavy fines and/or jail sentences (NB bid challenge or protest system not sufficient for this purpose)**
- **Need for agency vigilance/public education**
- ***Opening markets to foreign competitors helps (shows link to international trade)***
- **Certificate of independent bid preparation a good idea**
- **The procurement agency should also prepare an internal estimate to compare with the bids submitted**

Suspicious signs

○ **The same group of suppliers always submit bids and each wins in a regular pattern**

○ **All bids are consistently higher than the internal estimate**

○ **A company always bids high and then gets a sub-contract from the wining bidder**

○ **A competitor submits its own and another competitor's bid or the competitor's bid looks the same but with a few specific changes**