



Bid-Rigging



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Bid-rigging occurs when two or more persons agree that, in response to a call for bids or tenders, one or more of them will:

- not submit a bid;
- withdraw a bid; or
- submit a bid arrived at by agreement.

The offence of bid-rigging is committed only if the person requesting the bids or tenders is not informed beforehand about the agreement made between parties.

Bid-rigging is a serious crime that eliminates competition among your suppliers, increases your costs, and harms your ability to compete. Whether this occurs on government projects or in the private sector, these increased costs are ultimately passed on to the public.

Bid-rigging typically involves competitors agreeing to artificially increase the prices of goods and/or services offered in bids to potential customers.

DETECTING BID-RIGGING

While bid-rigging schemes are limited only by the imagination of those involved, there are four common types of agreements that result in a pre-selected supplier winning the contract:

- **Cover bidding** gives the impression of competitive bidding, but, in reality, suppliers agree to submit token bids that are usually too high.
- **Bid suppression or withdrawal** is an agreement among suppliers either to abstain from bidding or to withdraw bids.
- **Bid rotation** is a process whereby the pre-selected supplier submits the lowest bid on a systematic or rotating basis.

- **Market division** is an agreement among suppliers not to compete in designated geographic regions or for specific customers.

There are several common red flags that could suggest that a call for bids or tenders may be a target of bid-rigging:

- There are few bidders in the market that offer the good or service.
- Two or more proposals contain similar handwriting, typos, or mathematical errors.
- Competitors' bids are received together
- Over a series of awards, one bidder always wins, regardless of competition.

YOU CAN DISCOURAGE BID-RIGGING

The Competition Bureau developed a document called "Certificate of Independent Bid Determination" for use by persons calling for bids or tenders. The certificate can deter bid-rigging by requiring bidders to disclose all material facts about any communications and arrangements they have entered into with competitors regarding the call for tenders.

PREVENTION TIPS

- Establish a bidding pool and know your suppliers and their market prices.
- Tender specifications should:
 - require disclosure regarding potential subcontractors and their pricing;
 - allow for substitute products whenever possible;
 - avoid preferential treatment for a certain class of suppliers;
 - avoid predictability; and

- avoid splitting contracts between suppliers with identical bids.

- Ensure regular staff training on bid-rigging prevention, review tender history/results periodically, and conduct interviews with unsuccessful vendors or past suppliers. You may contact the Bureau to request an educational session on bid-rigging prevention.

IF YOU SUSPECT BID-RIGGING

If you suspect you are a victim of bid-rigging or have information about a bid-rigging scheme, contact the Bureau.

The Bureau conducts its investigations in private and, subject to certain exceptions, keeps the identity of the source and the information provided, confidential.

IF YOU ARE INVOLVED IN BID-RIGGING

If you have been involved in bid-rigging, you could be eligible for immunity from prosecution if you are first to report the offence to the Bureau. Others who self report early in the Bureau's investigation may also qualify for lenient treatment. For further information on our Immunity and Leniency Programs, visit our website.

POSSIBLE PENALTIES

Bid-rigging is a criminal offence under Canada's *Competition Act*. Firms and individuals convicted of bid-rigging face fines at the discretion of the court or imprisonment for up to 14 years, or both.

For further details on how to detect and prevent bid-rigging, see our presentation *Bid-Rigging: Awareness and Prevention* at www.competitionbureau.gc.ca/cartels.

The Competition Bureau, as an independent law enforcement agency, ensures that Canadian businesses and consumers prosper in a competitive and innovative marketplace.

Headed by the Commissioner of Competition, the Bureau is responsible for the administration and enforcement of the *Competition Act*, the *Consumer Packaging and Labelling Act*, the *Textile Labelling Act* and the *Precious Metals Marking Act*.

Legal Actions

We have the ability to refer criminal matters to the Director of Public Prosecutions, who then decides whether to prosecute before the courts. We also have the power to bring civil matters before the Competition Tribunal or the courts, depending on the conduct in question and applicable legal provisions.

Written Opinions

The Commissioner has the discretion to provide a binding written opinion to businesses seeking to comply with the *Competition Act*. Any person may request written opinions on whether proposed business plans and practices could raise concerns under the Act.

Questions or Complaints

If you believe any of the laws under the Bureau's jurisdiction have been breached, please fill out our online form, call, fax or write.

We are required by law to conduct our investigations in private. We keep the identity of the source and the information provided confidential, subject to certain exceptions.

For More Information:



www.competitionbureau.gc.ca



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This publication is intended to provide basic information only. To learn more, please refer to the full text of the Acts or contact the Competition Bureau.

