



***EU-China Trade Project (II)***

中国-欧盟世贸项目(二期)



A project funded by the  
EUROPEAN COMMISSION  
欧盟资助项目

# Cartel Enforcement Public Procurement & Bid Rigging

Dimitris Loukas  
Greek Competition Commission  
Beijing, June 2011

**Support to China's Sustainable Trade and Investment System**

支持中国可持续贸易和投资体系

# Interplay

## Procurement

Risk : bid-rigging cartel

Limited tools to detect

Market knowledge

Design effective process

Possible compensation

## Cartel Enforcement

Know-how to identify (detection)

Instruments to break cartels

Valuable tip-offs

Monitor bids/patterns

Legally binding results



# What is a bid-rigging cartel ?

- Bid-rigging occurs where two or more competitors agree not to compete genuinely with each other for particular tenders allowing one of them to win the tender
- Various methods & techniques:
  - Cover bidding (non-competitive high or unacceptable bid)
  - Bid suppression (agreement to refrain or withdraw from bid)
  - Bid rotation (agreement to take turns in winning)
  - Market and/or customer allocation
- Price-fixing

# Assessment

- Bid-rigging is illegal practice in most countries and can be investigated and sanctioned under the competition law and rules
- Invariably considered one of the most serious infringements of competition law (by object)
- Also a criminal offence in some countries

# How to Detect Bid-rigging Cartels

## Focus on BIDS (warning signs & patterns)

Examples, that may cause concern:

- always the same winner / lowest bidder
- pattern of winner rotation
- irrationally few and/or unsubstantiated bids
  - illogical bid refusals
  - local supplier refusals
  - Bids without normal detail or required documentation
- last minute withdrawals (without explanation)
- winner withdrawals, why?
- repeated sub-contracting to unsuccessful bidders
- joint bidding

# How to Detect Bidding Cartels

## Focus on PRICES (warning signs & patterns)

Examples, that may cause concern:

- constantly high, unchanged price level compared to
  - other geographical areas
  - public price lists
  - other procurement processes
- collective price changes or increases / identical pricing
- new bidder arrives → prices suddenly drop
- large difference between winning bid and other bids
- bidders have irrational, non-economic explanations

# How to Detect Bidding Cartels

## Focus on suspicious BEHAVIOUR

Examples, that may cause concern in

- bidding documents,
  - suspicious wording
  - identical calculations - even errors
  - references to competitors, agreements, allocation etc.
- opportunities to meet, socialize / interaction in trade associations
- cross-links & relationships between bidders
- bidder interviews → careless statements concerning competitors, agreements etc.

# Designing effective procurement programs

- Be informed about the market before designing the tender
  - identify markets more susceptible to collusive tendering
  - collect information on past tenders & price/cost changes
- Maximise potential participation of genuine bidders
- Define clearly requirements
- Avoid predictability
- Limit communication between bidders during the process
- Carefully choose evaluation and awarding criteria
- Raise awareness & provide training