



OECD GUIDELINES ON FIGHTING BID RIGGING IN PUBLIC PROCUREMENT

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THE PROBLEM

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Japan targets engineering bid riggers

Wednesday, 8 January 2014 (1 week ago)

Faez Samadi

Japan's Fair Trade Commission has issued a cease-and-desist order and fines totalling ¥747 million (€5.2 million) to two engineering companies for rigging bids on contracts issued by Tokyo Electric Power Company (TEPCO).



A TEPCO plant in Yokohama

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10 December 2013



THE PROBLEM

Korea punishes construction bid rigging

Tuesday, 7 January 2014 (2 weeks ago)


Faaez Samadi

Korea's Fair Trade Commission has fined 21 construction companies 132 billion won (€91 million) for rigging bids on contracts for a subway project in the city of Incheon.

It is the largest bid-rigging fine issued by the KFTC in the construction sector.

The authority found that all 15 construction projects for the new Incheon Subway Line 2 project were rigged. The new underground transport system includes 27 new stations and the project is worth more than 2 trillion won (€1.4 billion). It is due for completion in 2016.

The contractors colluded to rig bids for each part of the project, the KFTC says, agreeing between themselves which company would win the tender. One company was fined additionally for allegedly interfering with the KFTC's investigation.

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24 October 2013



THE PROBLEM

CADE detects cartel among bank security contractors

6 January 2014 *(2 weeks ago)*

The chief investigator at Brazil's Administrative Council for Economic Defence has asked the enforcer to fine four companies and 10 people accused of rigging bids in the market for metal detectors and secure doors for over a decade.

Poland fines mining supply cartel

19 December 2013 *(1 month ago)*

Poland's Office of Competition and Consumer Protection (UOKiK) has fined three companies more than 18 million zloty (€4.3 million) for **bid rigging**, price fixing and market sharing in supplying products used in mining.

Latvia punishes security bid riggers

12 December 2013 *(1 month ago)*

Latvia's Competition Council has fined four companies 9,100 lats (€13,000) for rigging a government security contract.

Poland fines IT services bid riggers

10 December 2013 *(1 month ago)*

Poland's Office of Competition and Consumer Protection (UOKiK) has fined five companies 2 million zloty (€480,000) for **bid rigging** a contract to supply IT equipment to schools and libraries.

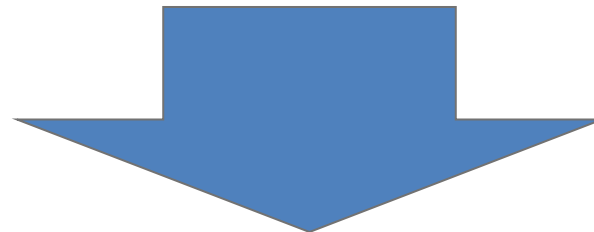


WHY WORRY ABOUT BID RIGGING?



Public procurement accounts for approx 15-20% of GDP in OECD countries

Bid rigging can raise prices significantly (up to 20% or more)

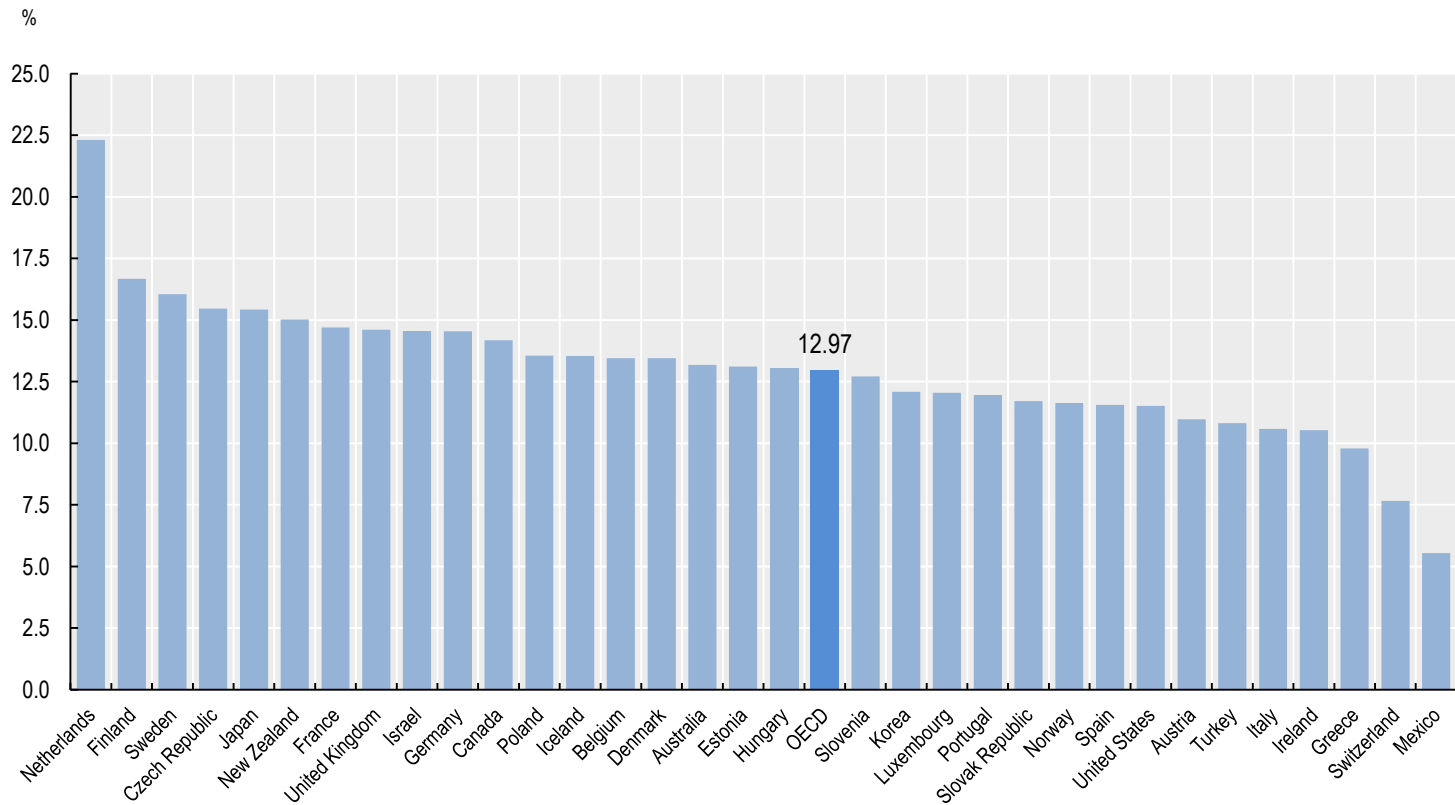


**POTENTIAL DAMAGES FOR TAX PAYERS
CAN BE SIGNIFICANT !!**



PUBLIC PROCUREMENT MATTERS BECAUSE...

General government procurement as share of GDP

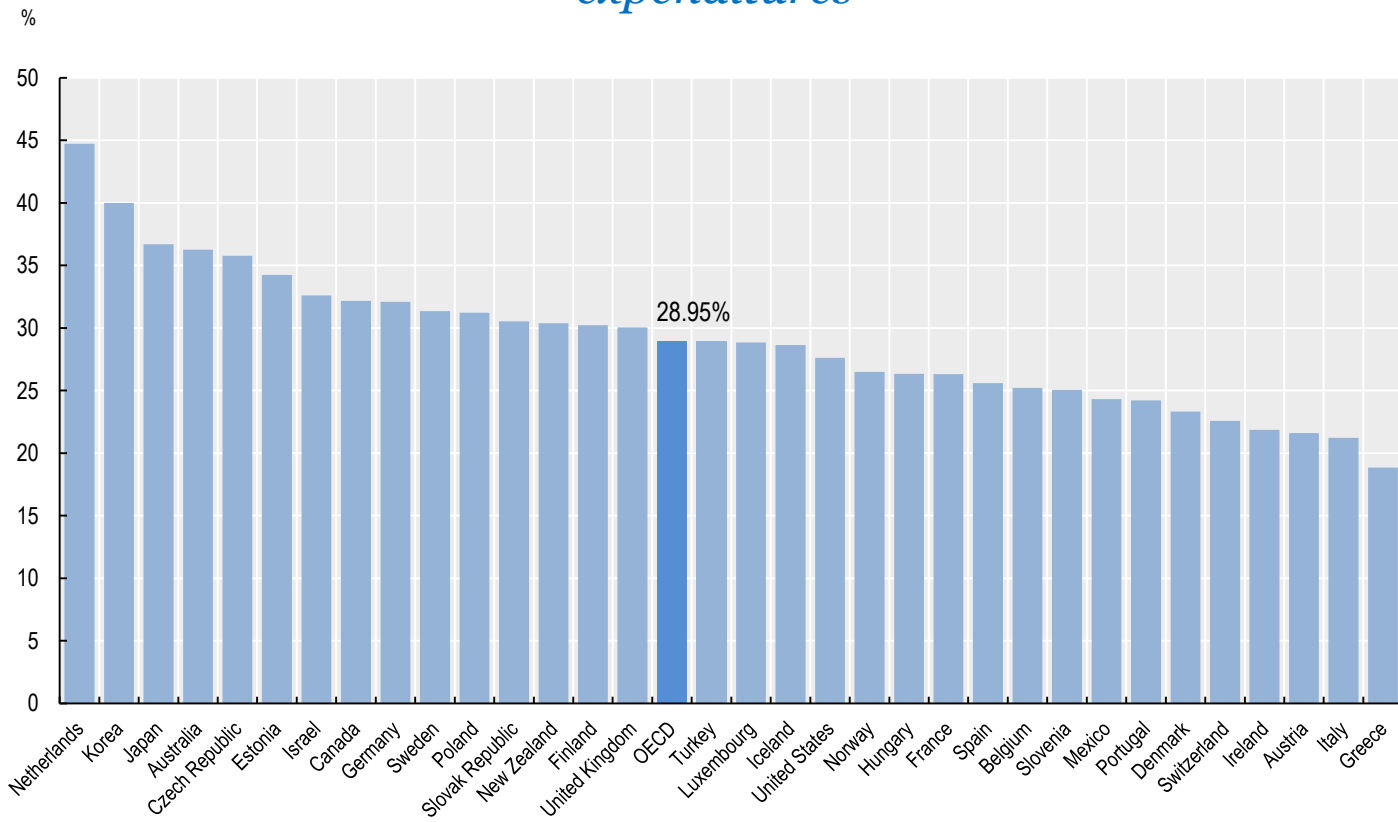


Source: OECD National Accounts Statistics. (2011)



PUBLIC PROCUREMENT MATTERS BECAUSE...

General government procurement as share of total general government expenditures



Source: OECD National Accounts Statistics. (2011)



SURVEYS OF CARTEL OVERCHARGES

Reference	Number of Cartels	Mean Overcharge (percent)	Median Overcharge (percent)
Cohen and Scheffman (1989)	5-7	7.7-10.8	7.8-14.0
Werden (2003)	13	21	18
Posner (2001)	12	49	38
Levenstein and Suslow (2002)	22	43	44.5
Griffin (1989)	38	46	44
OECD (2003), excluding peaks	12	15.75	12.75
Weighted average	102-104	36.7	34.6



BID RIGGING – THE COSTS

Japan: Prices across 18 tenders declined by approximately **20%** after competitive bidding as restored to the procurement process

U.S.: Bid rigging had raised the price paid by the US Department of Defense by **23.1%**

S. Africa: Prices of health care products declined by approximately **27%** after antitrust intervention

Clarke and Evenett have shown, the resource saving that can be generated by only a marginal reduction in bid rigging on government contracts (e.g. of the order of 1 per cent) is greater than the average annual operating budget of the competition agency in most countries, often by a factor of several times over.



HOW TO FIGHT BID RIGGING EFFECTIVELY

- Effective cartel laws and regulations
- Effective leniency program
- Effective enforcement procedures and institutions
- Effective sanctions

Other ways:

Raise awareness of procurement officials and bidders concerning the risks of bid rigging (Checklists and Guidelines)



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



OTHER GUIDELINES



Cartels

Deterrence and detection
a guide for government procurement officers



COMPETITION ACT, 2002
Advocacy Series 4

PROVISIONS RELATING TO

BID RIGGING



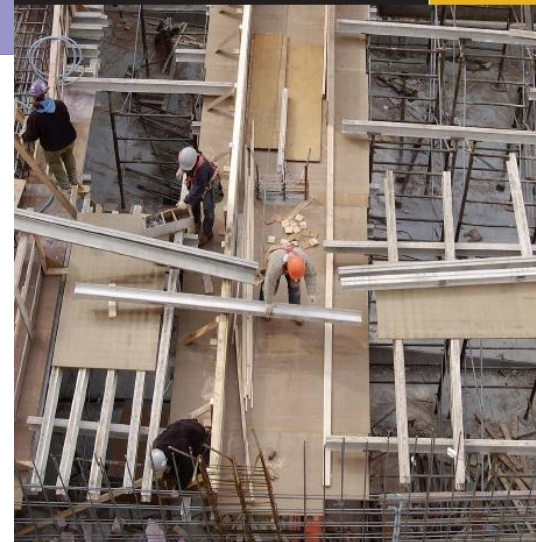
Twelve ways to detect bid-rigging cartels

Have you noticed anything odd about the tenders you received in a tender procedure for goods or services? Take your suspicions seriously. When companies circumvent applicable competition rules in tendering procedures, they often leave signs; signs which may be easy to spot with a little knowledge.

This checklist sets out twelve signs which suggest that companies may

Making competition work for you

A guide for public sector procurers of construction



THE REAL TRUTH ABOUT 14M13175

入札談合等関与行為防止法について

入札談合等関与行為の排除及び防止並びに職員による入札等の公正を害すべき行為の処罰に関する法律

- 入札談合等関与行為防止法の制定及び平成18年の改正の経緯
入札談合等関与行為防止法は、国・地方公共団体等の職員が入札談合に関与する、いわゆる官製談合を防止するために、平成14年7月に議員立法により制定され、平成15年1月から施行されました。
同法施行後、鹿児島市、新潟市、日本道路公団の入札談合事件において、本法に基づき、公正取引委員会が改善措置要求を行ったほか、刑法の総入札妨害罪・談合罪で発注機関側が発見される事例も生じる等、いわゆる官製談合事件が、国・地方問わず多くみられる状況が続いたことを踏まえ、平成18年12月、発注機関職員に対する刑事罰の導入、入札談合等関与行為の範囲の拡大、法適用対象となる発注機関の拡大等を内容とする改正が行われ、平成19年3月14日から施行されています。

公正取引委員会



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



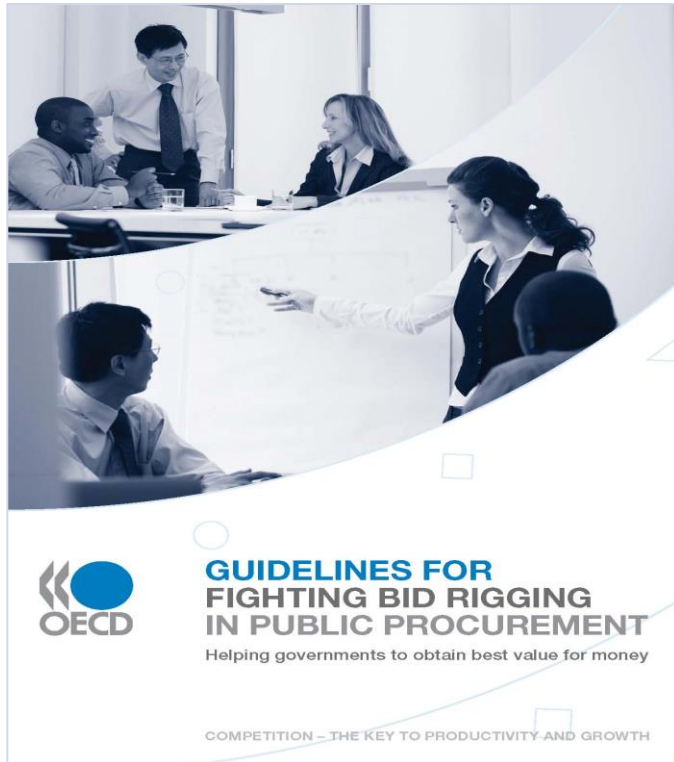
2009 - today



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



WHERE TO FIND THE OECD GUIDELINES?



Web link:

[www.oecd.org/competition/
bidrigging](http://www.oecd.org/competition/bidrigging)

Translations available in 24
languages!



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