



DETECTING BID RIGGING IN PUBLIC PROCUREMENT

AN OECD PERSPECTIVE

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Main Points

- Detecting illegal bid rigging can save significant government resources.
- The OECD Checklist for Detecting Bid Rigging identifies numerous warning signs.
- Warning signals do not prove that illegal bid rigging is occurring, but do indicate that further investigation is warranted.



OECD Guidelines for Fighting Bid Rigging

- The Guidelines have two checklists:
 - Detection Checklist
 - Design Checklist
- The Guidelines were approved by the OECD Competition Committee in February 2009.
- The Guidelines are a nonbinding document and reflect the best practices of OECD member countries.



Checklist for Detecting Bid Rigging

- Section 1 – Warning signs and patterns when businesses are submitting bids
- Section 2 – Warning signs in bid documents
- Section 3 – Warning signs and patterns related to pricing
- Section 4 – Suspicious statements
- Section 5 – Suspicious behaviour
- Section 6 – Cautionary note about indicators
- Section 7 – Steps to take when bid rigging is suspected



CHECKLIST FOR DETECTING BID RIGGING

- SECTION 1 -

WARNING SIGNS AND PATTERNS WHEN
BUSINESSES ARE SUBMITTING BIDS



Suspicious Bidding Patterns

- Look for patterns, such as:
 - Same bidder often wins.
 - A pattern in awards indicating bid rotation or geographic allocation.
 - Certain bidders fail to bid, withdraw bids, or always bid but never win.
- Unnecessary joint bids or subcontracts.



Example – U.S. Gloves Case

- 4 firms bid on 4 types of gloves (women's dress gloves, women's outdoor gloves, men's dress gloves, and men's outdoor gloves).
- Each type of glove was a separate contract.
- Procurement official noticed that each of the 4 firms won one contract.



EXAMPLE - LITHUANIAN SCHOOLS CASE

- The municipality of Klaipeda announced a procurement for construction of general educational schools and pre-schools for the years 2005-2006.
- Two bidders agreed they would divide the tenders -- one would get the general education schools and the other would get the pre-school establishments.
- The two bidders coordinated preparation of their tenders and agreed on prices they would bid. They also got cover bids from their competitors to further the scheme.
- As a result of the investigation, the companies admitted to bid rigging.



Example - U.S. Paint Brushes Case

- Two companies bid on 90 contracts over 7 years.
- Two procurement auditors were discussing these contracts during lunch, and they noticed that each firm won 50% of the contracts each year.



Your Experiences

- What patterns do you think might be a concern?
 - Have you noticed any unusual patterns in your work?
- What is your experience with joint bids or subcontracts?
 - How common?
 - Necessary? Or could separate entities bid?
 - Did practice change at some point in time?



CHECKLIST FOR DETECTING BID RIGGING

- SECTION 2 -

WARNING SIGNS IN BID DOCUMENTS



Clues in Documents

- Identical mistakes, fax numbers, postmarks, forms or cost estimates.
- Indications of last-minute changes.
- Indications bid is not genuine, such as lack of detail or failure to comply with required terms.

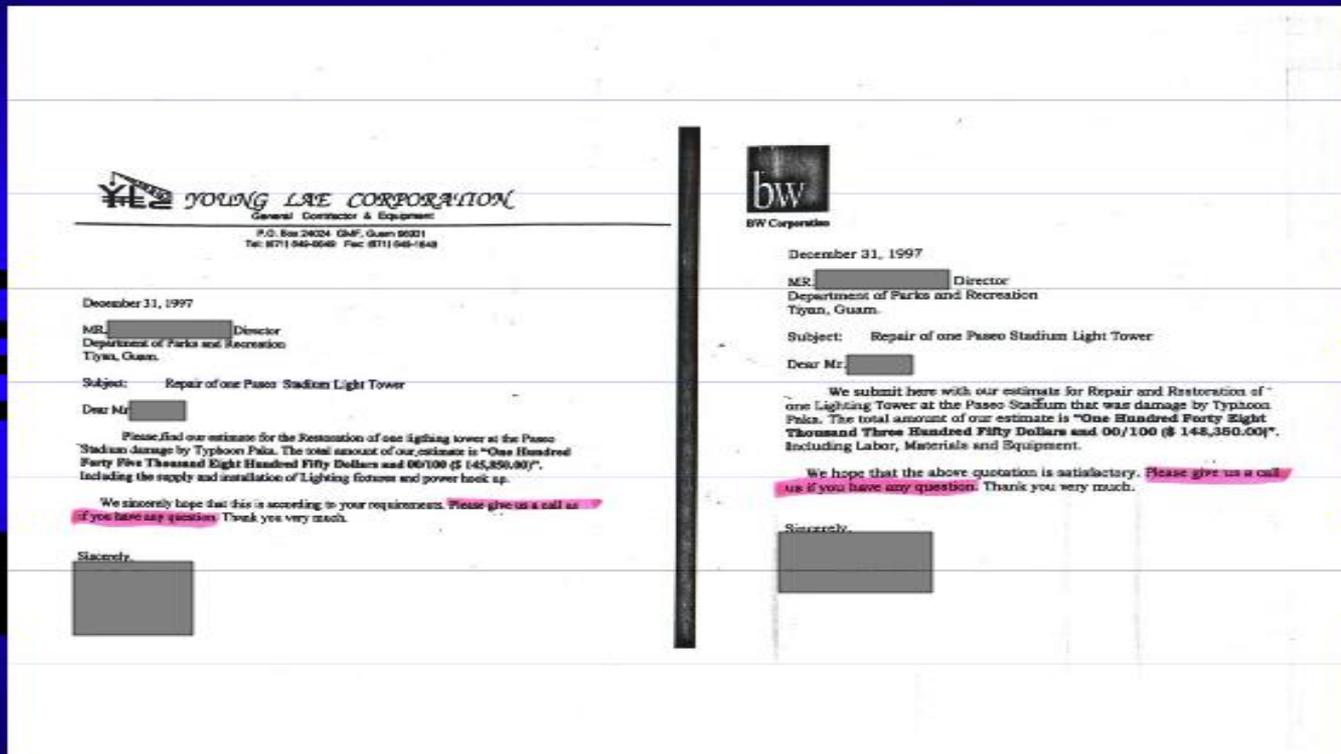


Example – U.S. Storm Damage Repair Case

- Next slide shows identical typos in two bidders' cover letters to repair damage done when a typhoon hit Guam.
- The letters both end with identical words: “Please give us a call us if you have any questions. Thank you very much.”
- By noticing the extra “us” in both letters, the procurement official uncovered the cartel.



Exhibits from Guam Repair Case





Your Experiences

- Do you compare documents submitted by bidders?
- Do you look for signs of communication among the bidders?
- Have you ever received a bid where it seems that the bidder was not really trying to win?



CHECKLIST FOR DETECTING BID RIGGING

- SECTION 3 -

WARNING SIGNS AND PATTERNS RELATED
TO PRICING



Clues in Pricing

- Unexplained price increases, or loss of discounts.
- Unexplained price differences between
 - geographic areas or
 - government agencies or
 - government purchasers and the private sector.
- Large price differences between winning bidder and other bidders.
- Unexplained identical prices or terms.



EXAMPLE: EL SALVADOR AIRLINE TICKETS

SERVICES TO BE RENDERED	AMATE TRAVEL	AGENCIA VIAJES ESCAMILLA	U TRAVEL	INTER TOURS
Cost for issuing round trip tickets	US\$39.55	S\$39.55	S\$39.55	S\$39.55
Flight confirmations/ticket and reservation voucher	Cost free	Cost free	Cost free	NA
Premium ticket procedure	Cost free	Cost free	Cost free	NA
Ticket annulment	Cost free	S\$39.55	Cost free (the same day)	NA
Ticket re-issuance	S\$39.55	S\$39.55	S\$39.55	S\$39.55
Issuance of ticket against exchange order (MCO)	S\$39.55	Cost free	S\$39.55	S\$39.55
Procedure for the reimbursement of non utilized tickets	Cost free	Cost free	Cost free	NA
Procedure for the reimbursement of lost tickets	Cost free	Cost free	Cost free	NA
Train reservation	Cost free	Cost free	Cost free	NA
Delivery service in the Metropolitan Area	Cost free	Cost free	Cost free	NA
Total	S\$118.65	S\$118.65	S\$118.65	S\$118.65



EL SALVADOR AIRLINE TICKETS TENDER

WITNESS EXPLANATIONS

- Witnesses 'testimonies in the number of the procedure:
- U-TRAVEL: *“Asked if the identical service fee does not indicate anything to the company. Answers it is just a coincidence in calculation procedures, in the cost structure that one may have.”*
- AMATE TRAVEL: *“[The commission was calculated] on the basis of the 2003 experience, based on their clients' consumption in that account, that is how they arrived to the US\$35.00 + sales tax. In addition, there are many variables that affect their supply if calculated under the same principles, so their bids consider the fair cost and that is the way the calculations are made, on the basis prior experience with different institutions”.*
- AGENCIA DE VIAJES ESCAMILLA: *“He can talk about the calculations made by Escamilla. He speculates they have the same program with the airline. He can talk about Escamilla's costs. For him, it's very difficult to speculate if those people have the same costs as Escamilla's, if the airline has the same program”.*
- INTER-TOURS: *“The witness is asked again why, existing so many variables that influence in the preparation of the bids and being the companies so different, they all offer an identical charge to the cent calculations but he analyzes the tender documents, sees where they are flying to, the services required, the number of them to be rendered, and then calculates his costs. He does not know the others' costs, but this is the way he calculates them”.*



Example – Canadian IT Services Case

- Certain bidders had virtually identical proposals in terms of format, content, and the resources they intended to use.
- These bidders also had the same typographical errors.
- The procurement official who reported her suspicion of bid rigging to the Canadian Competition Authority had received training on detecting bid rigging.



"Across Project" Bundle (48E29-0895051A)

	Category Weight	TPG*	Veritaag*	Spearhead*	AMBIX	Ridge Falls	HMCS	TLW
Applications Analyst (CCS)	2	\$350	\$325	\$360	\$620	\$538	\$429	no price listed
Applications Analyst (Across CRSA)	6	\$375	\$380	\$350	\$640	\$538	\$394	no price listed
Senior Applications Analyst (CCS)	2	\$400	\$410	\$425	\$620	\$568	\$594	no price listed
Senior Applications Analyst (Across CRSA)	3	\$630	\$620	\$625	\$650	\$568	\$594	no price listed
Applications Programmer /Analyst (CCS)	1	\$345	\$375	\$375	\$300	\$350	\$339	no price listed
Applications Programmer /Analyst (ACROSS CRSA)	1	\$500	\$505	\$525	\$300	\$350	\$369	no price listed
Applications Architect	1	\$652.50	\$655	\$675	\$750	\$648	\$699	no price listed
Total Weighted Price	18	\$14,275	\$14,290	\$14,240	\$19,240	\$16,220	\$15,198	

* Denotes winner



Your Experiences

- Have you examined pricing patterns?
 - Tried to determine if prices are increasing compared to past bids?
 - Assessed whether increases are justified?
 - Assessed whether there are significant differences in prices paid between various types of buyers (e.g., based on geographic area, agency, public v. private, etc.)
- Have you encountered identical prices from bidders?



CHECKLIST FOR DETECTING BID RIGGING

- SECTION 4 -

SUSPICIOUS STATEMENTS



Clues in Statements

- Indication of communication or agreement among bidders.
- Mention of “industry” or “standard” prices.
- Indication certain customers or areas belong to a certain bidder.
- Indications a bidder does not expect to win, or knows who will win.
- Concerns about having to sign a Certificate of Independent Bid Determination.



Example – Canadian Bus Services Case

- Both bidders submitted bids that were very similar.
- After award, the bidder who received only a small portion of the award (losing bidder) telephoned procurer.
- Procurer's notes of conversations with losing bidder follow. The losing bidder indicated that he knew bids were close, even though they were sealed bids.



Alberta Bus Tender (2)



Mar 1: I clarified the rates with Paul Dion @ Sun Valley and awarded him the \$20,000 contract.

He was surprised to learn that he was only getting the small contract & questioned why we did not split the large one when the pricing was so close. (he said that) I asked him why he thought it was such a close bid... he hummed & haid, basically said he thought it would be.



Alberta Bus Tender (3)



Mon 6 - 9:30AM - telecon Paul Lion - wanted to know why the contracts were not split when they were so close then the only difference would be on the overnight rates. I asked him what made him think it was on the overnight rate? He said bases on last couple of years. He then went on to ~~say~~ state the advantages / disadvantages on a fixed night rate versus a cost plus rate.

My feeling is that Sun Valley + Bison Buses are in collusion on these SOA's with the objective of price fixing and reducing competition.



Your Experiences

- Do you communicate with individual bidders
 - Via telephone or in person?
 - Do you take notes?
 - Do you store those notes?
 - Via email?
 - Do you store emails permanently?
- Do you have any indication that bidders have communicated with each other?
- Do you use Certificates of Independent Bid Determination?



CHECKLIST FOR DETECTING BID RIGGING

- SECTION 5 -

SUSPICIOUS BEHAVIOUR



Clues in Behaviour

- Competitors meet privately, such as at trade association meetings.
- Bidder requests or submits competitor's bid.
- Bidder tries to determine who else is bidding, and then, perhaps, changes bid.
- Several bidders make similar enquires or requests of procurer.



Example – U.S. Ice Cream Case

- Two firms submitted bids for ice cream to supply Department of Defense.
- First Clue
 - Following slides illustrate one bidder submitting the competitor's bid.
 - The procurement official first noticed that on item #35 of the bid form, both bidders made the same mistake -- they both multiplied the quantity (8,400 GL) times the price per dozen (4.68/dz) instead of the price per gallon (12.45/gal).



Capitol Bid

15	ICE CREAM, REGULAR, TYPE II, GRADE 1, GENERAL 8.0% MF (MIN), CHOCOLATE, FRUIT, NUTS OR OTHER BULKY FLAVORS <u>13722</u> 4 (FLUID OUNCE) CUP FIBER/PLASTIC	8,400	GL	4.68/doz 12.45/gal	39,312.00
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Briggs Bid

15	ICE CREAM, REGULAR, TYPE II, GRADE 1, GENERAL 8.0% MF (MIN), CHOCOLATE, FRUIT, NUTS OR OTHER BULKY FLAVORS <u>13722</u> 4 (FLUID OUNCE) CUP FIBER/PLASTIC	8,400	GL	4.50 /doz 11.97/gal	37,800.00
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Example - U.S. Ice Cream Case

- Second Clue
 - On the bottom of the bid form, the bidder types its address.
 - The procurement official noticed that the same address was originally typed on both bids, and then changed.
 - This could be seen only on the original documents, not on copies, so you cannot see it on the slide. It is always important to look at original documents.



OFFER (MUST BE FULLY COMPLETED BY OFFEROR)

NOTE: ITEM 10 DOES NOT APPLY IF THE SOLICITATION INCLUDES SECTION K, PROVISION NO. 32.214-16, MINIMUM BID ACCEPTANCE

10. In compliance with the above, the undersigned agrees, if this offer is accepted within 73 calendar days from the date of receipt of offers specified above, to furnish any or all items upon which prices are at the price set opposite each item, delivered at the designated points), within the time specified in the schedule.

11. DISCOUNT FOR PROMPT PAYMENT <small>(See Section I, Clause No. 32-232-A)</small>	10 CALENDAR DAYS %	20 CALENDAR DAYS %	30 CALENDAR DAYS %	CALEND.
12. ACKNOWLEDGEMENT OF AMENDMENTS <small>(The offeror acknowledges receipt of amendments to the SOLICITATION for offers and related documents numbered and dated.)</small>	AMENDMENT NO.	DATE	AMENDMENT NO.	DATE

13. OFFEROR CODE FACILITY CODE

NAME AND ADDRESS
(Street, City, County, State and Zip Code)

Capitol Ice Cream Wholesalers, Inc.
2307 Bladensburg Road, N.E.
Washington, DC 20018

AREA CODE AND TELEPHONE NUMBER

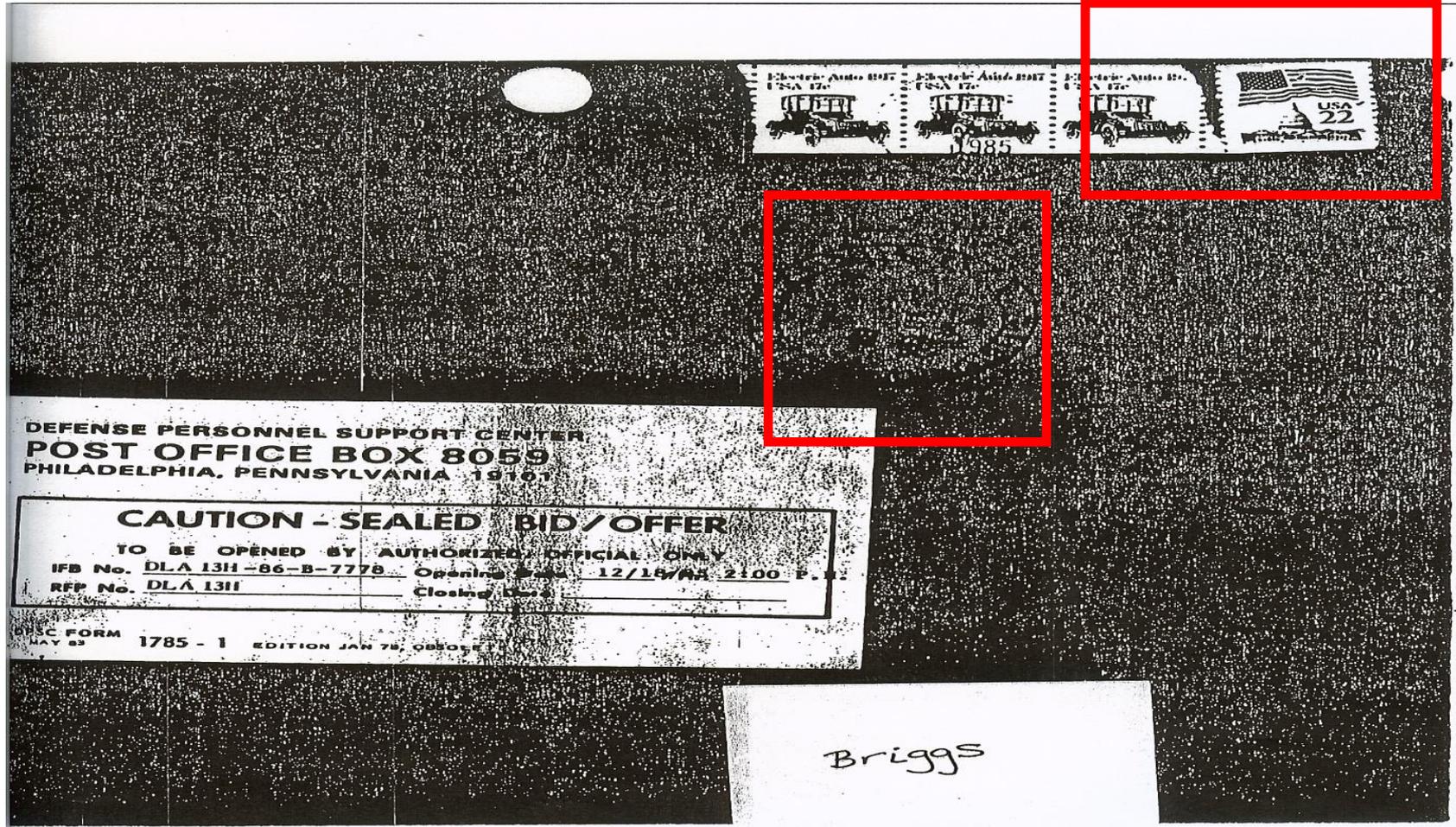
202-832-730

! Check if remittance address is different from above - Enter such address in schedule (see clause K42).



Example – U.S. Ice Cream Case

- Third Clue
 - The procurement official examined the envelopes used to submit the bids.
 - Post marks showed both envelopes were mailed from the same post office at the same time.
 - The stamps (with the pictures of the cars) were ripped from the same roll of stamps.



DEFENSE PERSONNEL SUPPORT CENTER
POST OFFICE BOX 8059
PHILADELPHIA, PENNSYLVANIA 19107

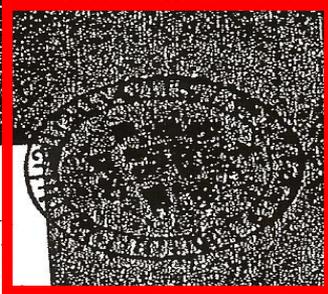
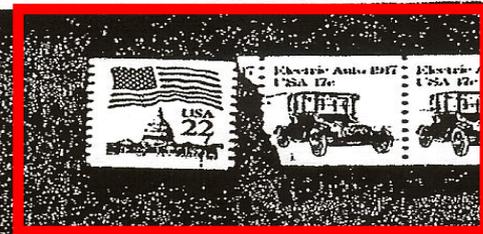
CAUTION - SEALED BID/OFFER

TO BE OPENED BY AUTHORIZED OFFICIAL ONLY

IFB No. DLA 13H-86-B-7778 Opening Date 12/16/AA 2:00 P.M.
RFP No. DLA 13H Closing Date _____

DPSC FORM 1785 - 1 EDITION JAN 78, OBSOLETE
MAY 82

Briggs



DEFENSE LOGISTICS AGENCY
DEFENSE PERSONNEL SUPPORT CENTER
2800 SOUTH 20TH STREET
POST OFFICE BOX 9059
PHILADELPHIA, PA 19101-8059

CAUTION - SEALED BID/OFFER
TO BE OPENED BY AUTHORIZED PERSONNEL ONLY

IFB/OFF NO: DLAISH - R6 - R-7778

OPENING/CLOSING DATE: Dec 18, 1967 / HR 2:00 P.M.

DFSC FORM 1785 - 1
APR 66

EDITION MAY BE OBSOLETE

Capitol



Your Experiences

- Do your suppliers meet privately before submitting bids?
Trade association meetings?
- Have you seen any behaviour that makes you suspicious that we have not already talked about today?



CHECKLIST FOR DETECTING BID RIGGING

- SECTION 6 -

CAUTIONARY NOTE ABOUT BID RIGGING



Clues Do Not Prove Bid Rigging

- Indications of possible bid rigging may have innocent explanations.
- Do not assume supplier is guilty based on clues.



CHECKLIST FOR DETECTING BID RIGGING

- SECTION 7 -

WHAT TO DO IF YOU SUSPECT BID RIGGING



If You Suspect Bid Rigging:

- Keep all documents and detailed records of clues.
- Do NOT discuss concerns with bidders.
- Contact internal legal or audit staff, or manager.
- Contact competition authority.
- After obtaining advice, decide whether to proceed with tender.



Conclusion

- Detecting bid rigging requires your constant attention for clues, which are detailed in the OECD Checklist for Detecting Bid Rigging.
- Among the most important clues are:
 - Patterns in the bidding or prices
 - Indications that the bidders have communicated with each other.



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