



Competition Policy as a Tool to Improve Public Procurement

Mario A. Umana, Lead Trade and Competition Specialist



“Tackling Corruption and Collusion in Public Procurement”

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IDB IN LATIN AMERICA

- Oldest and largest Multilateral Regional Bank
- Main financial Institution in Latin America and the Caribbean
- Capital USD 170,000 Million
- USD 11,500 Millions approved 2012
- USD 3,000 Millions active portfolio
- 26 borrower countries
- 48 members

Public Procurement and the Economy

- Public procurement is associated with 80% of world trade (but outside principles of NT and WTO market access)
- 15% to 20% of the countries' GDP
- IDB financing is less than 10% of total public procurement, but it is significant

Tools of the Bank

- **Bank procurement rules** are based on international standards harmonized with other multilateral ones
 - Objectives:
 - Promote transparency
 - Standardize the resolution of disputes
 - Bring about economic efficiencies
- **Support National Systems**
 - Brazil, Chile, Mexico and Colombia use national legislation until certain thresholds

Enforcement at the IDB to Fight Corruption Practices

- The Bank requires that all businesses and individuals involved in IDB-financed activities adhere to the highest ethical standards.
- The Bank prohibits the following practices:
 - Corruption
 - Fraud
 - Collusion
 - Coercion
 - Obstruction of investigation
- Collusive practices refer to an agreement between two or more parties in order to achieve a specific outcome. These practices include the inappropriate influence on the actions of another party (bid-rigging, cartels, but also agreements between private sector and government).

IDB Statistics

- During 2012, the bank received 127 complaints. In the first half of 2013, the bank has received 65 complaints.
- Of all reported complaints resulting in preliminary or full investigations, it is estimated that collusion was a factor in 5% of cases in 2012 and 15% of cases in the 1st half of 2013
- 12% of these cases have been substantiated and may result in administrative penalties.
- Penalties range from a private letter of reprimand to permanent exclusions. The bank can also claim the restitution of funds.
- The bank encourages the parties to report fraud and corruption in Bank-financed projects to the office of Institutional Integrity. Reports may be anonymous or confidential.
- To report: [Oii-reportfraud @iadb.org](mailto:Oii-reportfraud@iadb.org), www.idbfc.org, 1-877 223 4551, 1300 New York Ave. NW, Washington DC 20577

The Role of Competition

- **The Bank promotes the development of competition policy as a tool for economic development**
 - Improves market efficiency and increases global competitiveness of local business
 - Competition as productivity requirement
 - It helps to increase the purchasing power of people, especially those with lower incomes
 - Lower income individuals are consumers of goods and services and are affected by any lack of competition
 - It helps the public spending to be more efficient
 - IMSS Case

Lessons

- Collusion cases are rare but not without importance. However, even the perception of stronger IDB rules can act as a deterrent
- Collusion activities are more likely to be successful when taking place in the context of local processes under national law framework
- Institutional Development is important but so is the market structure

Lessons

- In developing countries with concentrated markets, first seek the improvement in competition (reduce/eliminate barriers of entry)
- Direct negotiation can be more efficient in concentrated local markets, but there is a fear of a lack of transparency
- Development goals of the projects are more related to economic efficiency than with transparency

Lessons

- **The value of the contracts is relevant**
 - Firms with collusive intentions may prefer medium-sized projects to go under the radar. Project teams prefer larger contracts, and local counterparts typically want lower contracts
- **The nature of the transaction matter**
 - Collusion is more common in repetitive purchases vs one-time contracts.

Lessons

- Economic efficiency does not always benefit from standard procurement processes
- How to give more flexibility to the rules in order to meet heterogeneous markets?
- Mea culpa: origin requirements
 - Donors demand transparency but support tied funds

Lessons

- More coordination its required between Provision Agencies and the corresponding authorities
- More preventive actions rather than *enforcement* ones
- Barriers to markets entry have to be reduced, especially those of a regulatory nature
- Negotiation techniques should be introduced in public procurement processes, in order to increase competition.

Ideas for future work

- Sector-based studies on concentrated markets of public procurement in order to identify relevant barriers
- Balancing competition and transparency, identifying practices to encourage competition in concentrated markets even if transparency suffers a bit.