

Tool: Certificate of independent bid determination

Purpose

- To assist procurement practitioners detect suspect bid rigging in a timely manner.
- To communicate to suppliers that bid rigging is an unacceptable practice in public procurement.
- To support competition authorities to investigate suspected cases of bid rigging.

Public Procurement
Principle: **Integrity, Access**

Procurement Stage:
Tendering

Audience: **Policy Maker,
Procuring Entity**

Description

Bid rigging occurs when suppliers/bidders agree among themselves to eliminate competition in the procurement process, thereby denying the public a fair price. Suppliers/bidders can eliminate competition in public procurement in many simple ways, for example:

- Cover bidding: a competitor agrees to submit a non-competitive bid that is too high to be accepted or contains terms that are unacceptable to the buyer.
- Bid suppression or withdrawal: a competitor agrees not to bid or to withdraw a bid from consideration.
- Market sharing: a competitor agrees to submit bids only in certain geographic areas or only to certain public organisations.
- Bid rotation: competitors agree to take turns at winning business while monitoring their market shares to ensure they all have a predetermined slice of the pie.
- Non-conforming bids: competitors deliberately include terms and conditions they know will not be acceptable to the procuring authority.

Although the schemes used by firms to rig bids vary, they all have one thing in common: the suppliers/bidders agree to eliminate competition so that prices are higher and public organisations pay more.

A certificate of independent bid determination requires suppliers/bidders to sign a written confirmation that their bid has been developed independently from their competitors and that no consultation, communication, contract, arrangement or understanding with any competitor has occurred. The certificate aims to deter bid-rigging by requiring suppliers/bidders to disclose to the procuring authority all material facts about any communications and arrangements which bidders have entered into with competitors regarding a tender.

Box: Certificate of independent bid determination

I, the undersigned, in submitting the accompanying bid to *(Name of procuring authority)* for:

(Name and number of bid) in response to the call or request (hereinafter “call”) for bids made by: *(Name of supplier/bidder)* do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of: *(Name of supplier/bidder)* that:

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorised by the supplier/bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the supplier/bidder;
4. each person whose signature appears on the accompanying bid has been authorised by the supplier/bidder to determine the terms of, and to sign, the bid, on behalf of the supplier/bidder;
5. for the purposes of this Certificate and the accompanying bid, I understand that the word “competitor” shall include any individual or organisation, other than the supplier/bidder, whether or not affiliated with the supplier/bidder, who:
 - a. has been requested to submit a bid in response to this call for bids;
 - b. could potentially submit a bid in response to this call for bids, based on their qualifications, abilities or experience;
6. the supplier/bidder discloses that (check one of the following, as applicable):
 - a. the supplier/bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with, any competitor;
 - b. the supplier/bidder has entered into consultations, communications, agreements or arrangements with one or more competitors regarding this call for bids, and the supplier/bidder discloses, in the attached document(s), complete details thereof, including the names of the competitors and the nature of, and reasons for, such consultations, communications, agreements or arrangements;

7. in particular, without limiting the generality of paragraphs (6)(a) or (6)(b) above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:

- a. prices;
- b. methods, factors or formulas used to calculate prices;
- c. the intention or decision to submit, or not to submit, a bid; or
- d. the submission of a bid which does not meet the specifications of the call for bids; except as specifically disclosed pursuant to paragraph (6)(b) above;

8. in addition, there has been no consultation, communication, agreement or arrangement with any competitor regarding the quality, quantity, specifications or delivery particulars of the products or services to which this call for bids relates, except as specifically authorised by the procuring authority or as specifically disclosed pursuant to paragraph (6)(b) above;

9. the terms of the accompanying bid have not been, and will not be, knowingly disclosed by the supplier/bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening, or of the awarding of the contract, whichever comes first, unless otherwise required by law or as specifically disclosed pursuant to paragraph (6)(b) above.

Name, title and dated signature of authorised agent of supplier/bidder

Source: Industry Canada (n.d.), [Certificate of Independent Bid Determination](#).

Further Resources

OECD (2009), "[Guidelines for Fighting Bid Rigging](#)" (available in 15 languages).