

REPUBLIC OF SERBIA

Commission for Protection of Competition

INSTRUCTIONS

FOR DETECTING BID RIGGING IN PUBLIC PROCUREMENT PROCEDURES

Belgrade, May 18, 2022

WARNING

ANY SITUATION LEADING TO THE SUSPICION THAT THE BID IN PUBLIC PROCUREMENT PROCEDURE IS RIGGED SHALL BE REPORTED TO THE COMMISSION FOR PROTECTION OF COMPETITION, PHONE NUMBER +381 11 38 11 911, OR EMAIL ADDRESS OFFICE.KZK@KZK.GOV.RS. THE PROTECTION OF PERSONAL DATA ON PERSONS REPORTING SUSPICIOUS SITUATIONS SHALL BE GUARANTEED.

Pursuant to Article 21(1/5) of the Law on Protection of Competition (“Official Gazette of the RS”, no 51/09 and 95/2013), the Council of the Commission for Protection of Competition on its 82nd Session held on May 18, 2022, enacts the following

INSTRUCTIONS

FOR DETECTING BID RIGGING IN PUBLIC PROCUREMENT PROCEDURES¹

INTRODUCTION

The fundamental competence of the Commission for Protection of Competition (hereinafter: the Commission) in accordance with the Law on Protection of Competition (“Official Gazette of the RS”, no 51/09 and 95/2013, hereinafter: the Law) is detecting, prosecuting and sanctioning of competition infringements (acts or actions of undertakings that as their purpose or effect have or may have a significant restriction, distortion, or prevention of competition) as well as removing consequences of competition infringements in the market of the Republic of Serbia or its part. One of the most severe competition infringement is known under the name of “bid rigging” occurring when undertakings participate in public procurement procedures and collude or act in concert prior to submitting a bid aimed at increasing product/service price, or reducing product/service quality, depending on the subject of procurement, or dividing the market of the contracting authority or territory, that is, distort competition in public procurement procedures.

Agreements may have different forms, such as prior determination of bid content (especially the price) in order to impact the outcome of the procedure, withholding from submitting the bid, market division based on geographic position or according to the contracting authority or subject of procurement, or setting up rotation schemes for a number of procedures, etc. The aim of these agreements in practice is to secure a contract for predetermined bidder along with the creation of impression that the procedure is actually competitive. Agreements basically undermine the fair, transparent, competition driven and investment-oriented procurement market by limiting access to actors in such market and by limiting options for the contracting authorities. On the procurement market “inflicted” with collusion, undertakings that follow the law are usually discouraged to participate in public procurement procedures or invest in public sector projects. This is especially damaging to undertakings that are developing their business, small and medium enterprises, as well as the ones that may and intend to develop innovative solutions for the public sector.

Bid rigging occurs in all types of industries and circumstances, and in all parts of the world. When bid rigging impacts public procurement, it has the potential to cause great harm to taxpayers, having in mind that public procurement is often a large part of every nation’s economy. In many OECD countries, it amounts to approximately 12 per cent of the gross domestic product, and in most developing countries it is substantially more than this. Experience also shows that bid rigging conspiracies can last decades and impact many markets.

¹ See: OECD Guidelines for fighting bid rigging in public procurement

(<http://www.oecd.org/competition>):

EC Notice on tools to fight collusion in public procurement and on guidance on how to apply the related exclusion ground (2021/C 91/01)

Therefore, the objective of every state is to prevent and deter implementation of acting in concert in public procurement procedures, particularly due to the fact that the result of such behavior of competing parties is not merely a considerable distortion of market competition, but significant outflow of budgetary funds as well. This collusion impose damage to contracting authority's resources and taxpayers, reduce the level of public trust in procedure transparency and minimize advantage of competitive market.

Bid rigging is a prohibited restrictive agreement pursuant to Article 10, Paragraph 1 and 2, Item 1 and 5 of the Law², for which in the proceeding conducted before the Commission for Protection of Competition the measure for protection of competition may be imposed, in the form of a monetary sum in the amount up to 10% of the total annual revenue of undertaking calculated prior to taxation for the accounting year preceding the year of instituted procedure, as well as the measure of infringement removal from Article 59 of the Law. Also, the Commission may impose a measure of prohibition of participation in public procurement procedures for the undertaking in the duration of up to two years in case it is determined that the undertaking violated competition in the public procurement procedure in the sense of the Law regulating competition protection, in line with Article 235 of the Law on Public Procurement ("Official Gazette of the RS", no. 91/2019, hereinafter referred to as LPP).

The fact that bid rigging is regulated as a criminal offense shows the significance given to this type of competition infringement. Article 228 of the Criminal Code ("Official Gazette of the RS" no. 85/2005, 88/2005 – as amended, 107/2005 – as amended, 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016 and 35/2019) prescribes criminal offense of abuse related to public procurement: "Whoever, concerning a public procurement, submits a bid based on false information, or makes unlawful arrangements with other bidders, or takes other unlawful actions with the intention of influencing the decision-making by the buyer in the public procurement shall be punished with imprisonment of six months to five years. (Paragraph 1) The punishment specified in paragraph 1 of this Article shall also be pronounced to a person with the buyer in the public procurement who, by abusing his/her position or powers, exceeding the limits of his/her powers or failing to perform his/her duty, violates the law or other regulations governing public procurements and thus damages public funds. (Paragraph 2) If the offence specified in paragraphs 1 and 2 of this Article was committed in relation to a public procurement worth more than one hundred and fifty million dinars, the offender shall be punished with imprisonment of one to ten years. (Paragraph 3) The offender specified in paragraph 1 of this Article who voluntarily discloses that the bid is based on false information or on an unlawful agreement with other bidders, or that he/she had undertaken other unlawful actions with the intention of influencing the decision-making of the buyer prior to making their decision on contract awarding, may be remitted from punishment. (Paragraph 4)

Also, Article 229 of the Criminal Code prescribes for criminal offense of conclusion of restrictive agreement that states: "Whoever in a business entity concludes a restrictive agreement that is not exempt from the ban within the meaning of the law regulating protection of competition, whereby the prices are determined, production or sales is restricted, i.e., market is divided, shall be punished with imprisonment of six months to five years and fined. (Paragraph 1) The offender specified in paragraph 1 of this Article who fulfils the conditions for release from the obligation set out in the competition protection measure within the meaning of the law regulating protection of competition, may be remitted from punishment. (Paragraph 2)

² Aligned with 101 TFEU

Detecting and resolving cases of bid rigging represents a special challenge for national competition authorities all over the world, including Serbia. Illegal agreements between undertakings are, per definition, secret and are implemented, in most cases, in a very careful and sophisticated manner. In detecting this type of competition infringement, the Commission requires assistance from public procurement authorities – Public Procurement Office. Further, in order to establish a comprehensive, stable and efficient framework for contracting authority support, their training and in general, for promoting strengthening of competition in public procurement process, it is necessary to provide for cooperation between competition authorities and public procurement authorities. Namely, contracting authorities, usually smaller ones, often lack appropriately trained and experienced staff capable of detecting collusion/bid rigging in the given public procurement procedure. Procurement officers are usually focused on securing that procedure meets basic process and legal conditions and on completing the procedure in time. Even when procurement officers detect suspicious public procurements that are not fully aware of available tools or mechanisms for reaction possible for reception of professional assistance from the competition authority or public procurement authority. Additionally, possibility of delay in public procurement procedure that often results in administrative, budget or even political consequences may deter procurement officials from efficient dealing with cases of possible bid rigging.

1. COMMON FORMS OF BID RIGGING

Bid rigging schemes often include mechanisms to apportion and distribute the additional profits obtained as a result of the higher final contracted price among the bidders. For example, bidders who agree not to bid or to submit a losing bid may receive subcontracts or supply contracts from the designated winning bidder in order to divide the proceeds from the illegally obtained higher priced bid among them. Also, bid rigging may also include monetary payments by the designated winning bidder effected to one or more of the conspirators. This so-called compensation payment is sometimes associated with bidders with higher offers (“cover/courtesy” bids). In many cases, the compensation payment scheme is facilitated by using false invoices for payment of subcontracted activities. The false contracts on consultancy services, in fatto not executed, may be concluded with the same goal.

Although bid riggers may agree to implement bid rigging schemes in a variety of ways, they typically implement one or more of several common strategies. These techniques are not mutually exclusive. For example, “cover” bidding may be used in conjunction with so-called “bid rotation” scheme.

The most frequent forms of bid rigging schemes are:

- a) **Cover or fictitious bidding** (also called complementary, courtesy, token, or symbolic) is designed in such manner to give impression of real competition and represents the most frequent manner in which bid rigging schemes are implemented. It occurs when bidders agree to submit bids that involve at least one of the following:
 - bid that is higher than the bid of the designated (agreed) winner;
 - bid that is known to be too high to be accepted;
 - bid that contains special (specific) terms that are known to be unacceptable to the contracting authority.
- b) **Bid suppression** implies an agreements among competitors in which one or more bidders agree to refrain from bidding or to withdraw a previously submitted bid so that

the designated winner's bid will be accepted. In essence, bid suppression means that a bidder does not submit a bid for final consideration (decision making).

- c) **Bid rotation** implies that conspiring parties continue to bid, but they agree to take turns being the winning (i.e., lowest qualifying) bidder. The way in which bid rotation agreements are implemented can vary. For example, conspirators might choose to allocate approximately equal monetary values from a certain group of contracts to each company or to allocate volumes that correspond to the size of each company.
- d) **Market allocation** implies that bidders carve up the market and agree not to compete for certain contracting authorities or in certain geographic areas. Competing parties may, for example, allocate specific contracting authorities or categories of contracting authorities to different undertakings, so that undertakings (bidders) will not bid (or will submit only a cover bid) on contracts offered by a certain class of potential contracting authorities which are allocated to a specific undertaking. In return, that competitor will not competitively bid to a designated group of contracting authorities allocated to other firms in the agreement.

2. INDUSTRY, PRODUCT AND SERVICE CHARACTERISTICS THAT HELP SUPPORT COLLUSION

Although bid rigging schemes may occur in any economic sector, there are some sectors in which it is more likely to occur due to particular features of the industry or the product involved. Such characteristics tend to support the efforts of firms to rig bids. In such instances, procurement agents should be especially vigilant.

The most frequent indicators of bid rigging schemes are:

- a) **Small number of bidders** – the fewer number of bidders, the higher is the possibility of reaching an agreement on how to rig bids;
- b) **Little or no entry** – markets with fewer number of participants are more susceptible to participants' agreements related to public procurement performance. When few businesses have recently entered or are likely to enter a market (because it is costly, hard or slow to enter), it is considered that exist a protective barrier that helps support bid rigging efforts;
- c) **Market conditions** – constant, predictable demand flow from the public sector tends to increase the risk of bid riggings in public procurement procedures, and opposite to that, considerable changes in demand or supply conditions tend to destabilize ongoing bid rigging agreements. At the same time, during periods of economic upheaval or uncertainty, incentives for competitors to rig bids increase as they seek to replace lost business with collusive gains;
- d) **Industry (trade) associations** – these associations are composed of individuals and undertakings with common commercial interest, associated for achieving future commercial or professional objectives and can be used as legitimate, pro-competitive mechanisms for members of a business or service sector to promote standards, innovation and competition. Conversely, when subverted to illegal, anticompetitive

purposes, these associations have been used by company officials to meet and conceal their discussions about ways and means to reach and implement a bid rigging agreement;

- e) **Repetitive bidding** – repetitive public procurement procedures increase the chances of collusion. The bidding frequency helps members of a bid-rigging agreement to allocate contracts among themselves. In addition, members of the cartel (collusion of competing parties in public procurement procedure) can punish a cheater by targeting the bids originally allocated to him. Thus, contracts for goods or services that are recurring may require special tools and vigilance of competent authorities responsible for implementation of public procurement to discourage collusive tendering;
- f) **Identical or similar products or services** – if products or services that bidders sell are identical or very similar (homogeneous), it is easier to reach an agreement on a common price structure;
- g) **Few if any substitutes** – when there are few, if any, good alternative products or services that can be substituted for the product or service that is being purchased, bid riggers wishing to rig bids are more secure knowing that the purchaser has few, if any, good alternatives and thus their efforts to raise prices are more likely to be successful;
- h) **Little or no technological change** – little or no innovation in the product or service helps undertakings to reach an agreement and maintain that agreement over time.

3. ACTIVITIES FOR DESIGNING THE PUBLIC PROCUREMENT PROCESS AIMED AT REDUCING RISKS OF BID RIGGING

3.1 Collecting information prior to designing the public procurement procedure

Collecting information on the range of products and/or services available in the market that would suit the requirements of the contracting authority, as well as information on the potential suppliers of these products, i.e. providers of services, is the best way for procurement officials to design the procurement process to achieve the best value for money. Develop in-house expertise should be performed as early as possible, whereas the following should particularly be considered:

- influence of characteristics of the market in which the purchase is performed and recent industry (sector) activities or trends;
- size (range) of the market in which the purchase is performed related to characteristics that make collusion more likely;
- information on potential suppliers, their products, prices and costs. If possible, compare prices offered in business-to-business procurements of potential suppliers;
- information about recent price changes, prices in neighboring geographic areas (regions) and about prices of substitutes (possible alternative products);
- information about past procurements for the same or similar products;
- cooperation with other public sector procurers and clients who have recently purchased similar products or services, for improvement of understanding of the market and its participants;

- pre-signing of the statement on confidentiality if external consultants are hired in the process of estimate prices and costs.

3.2 Designing the public procurement process to maximize the potential participation of genuinely competing bidders

Competition can be enhanced if a sufficient number of reliable (credible) bidders are able to respond to the invitation to public procurement and have an incentive to compete for the contract award. For example, participation in the public procurement can be facilitated if procurement officials reduce the costs of bidding, establish participation requirements (conditions) that do not unreasonably limit competition, allow companies from other regions or countries to participate, or devise ways of incentivizing smaller companies to participate even if they cannot bid for the entire contract.

With the aim of increasing number of potential bidders, the following should particularly be considered:

- avoid unnecessary restrictions that may reduce the number of qualified bidders. Specify minimum requirements that are proportional to the size and content of the procurement contract, so that they do not create an obstacle to participation (size, composition, or nature of companies that may submit a bid);
- determine the value of public procurement so that necessary guarantee may be secured, without setting high demands in this segment so that small companies might enter the public procurement process;
- reduce constraints on foreign companies participation in procurement whenever possible;
- avoid a very long period of time between qualification and award, as this may facilitate collusion;
- reduce the preparation costs of the bid;
- whenever possible, allow bids on certain lots or objects within the contract, or on combinations thereof. In larger contracts look for areas in the public procurement that would be attractive and appropriate for small and medium sized enterprises;
- do not disqualify bidders from future competitions or immediately “remove” them from a bidding list if they fail to submit a bid on a recent public procurement;
- be flexible in regard to the number of companies from whom a bid is required. For example, if it started with a requirement for five bidders but receive bids from only three, first it should be considered whether it is possible to obtain a competitive outcome from the three bidders, rather than insisting on a retendering exercise.

3.3 Clear defining of requirements for avoiding predictability

Drafting the specifications and the terms of reference (TOR) is a stage of the public procurement cycle which is vulnerable to bias, fraud and corruption. Specifications/TOR should be designed in a way to avoid bias and should be clear and comprehensive but not discriminatory in any way. They should, as a general rule, focus on functional performance, namely on what is to be achieved rather than how it is to be done. This will encourage innovative solutions and value for money. How public procurement requirements are written affects the number and type of suppliers that are attracted to it and, therefore, affects the success of the selection process. The clearer the requirements, the easier it will be for potential suppliers to understand them, and the more confidence they will have when preparing and submitting bids. More predictable

procurement schedules and unchanging quantities sold or bought can facilitate collusion. On the other hand, higher value and less frequent procurement opportunities increase the bidders' incentives to compete in public procurement. Where possible, the following should particularly be considered:

- define requirements as clearly as possible in the public procurement offer;
- use performance specifications and clearly state what is actually required, rather than providing a product description;
- avoid going to procurement while a contract is still in the early stages of specification;
- avoid predictability in contract requirements, consider aggregating or disaggregating contracts so as to vary the size and timing of public procurement;
- work together with other public sector procurers and run joint public procurements;
- avoid presenting contracts with identical values that can be easily shared among competitors.

3.4 Designing the public procurement process to effectively reduce communication among bidders

When designing the public procurement process, procurement officials should be aware of the various factors that can facilitate collusion. The efficiency of the procurement process shall depend upon the bidding model adopted but also on how the procurement is designed and carried out. Transparency requirements are indispensable for a sound procurement procedure to aid in the fight against corruption. They should be complied with in a balanced manner, in order not to facilitate collusion by disseminating information beyond legal requirements. Unfortunately, there is no single rule about the design of public procurement, but should be designed to fit the situation. Where possible, the following should particularly be considered:

- invite interested bidders to dialogue with the procuring agency on the technical and administrative specifications of the procurement opportunity, but avoid bringing potential bidders together by holding regularly scheduled pre-bid meetings;
- limit as much as possible communications between bidders during the procurement process;
- carefully consider what information is disclosed to bidders at the time of the public bid opening;
- when publishing the results of a public procurement, carefully consider which information is published. Avoid disclosing competitively sensitive information that can facilitate the formation of bid-rigging schemes going forward;
- where there are concerns about collusion due to the characteristics of the market or product, if possible, use an electronic means of communication (portal);
- consider if procurement methods, other than single stage public procurement based primarily on price, can yield a more efficient outcome. Other types of public procurement may include negotiated procurement procedures (in negotiated procedures, the procurer sets out a broad plan and the bidder(s) then work out the details with the procurer, thereby arriving at a price) and framework agreements (the contracting authority calls a large number of companies to submit details of their ability in terms of previously determined qualitative factors of selection, that is, determines so-called framework, composed of a small number of bidders fulfilling designated criteria, while all subsequent steps of contracting authority are then allocated primarily according to the ability of selected bidders to fulfill contracting authority's requests, with the possibility to conduct so-called „mini“ public procurements with each of selected framework bidders submitting a price for the job);

- beware of using industry consultants to conduct the procurement process, as they may have established working relationships with individual bidders;
- whenever possible, request that bids be filed by identifying bidders with numbers or symbols, instead of business names of companies or personal names of individual bidders;
- avoid unnecessarily limit the number of bidders in the bidding process;
- require bidders to disclose upfront if they intend to use subcontractors, which can be a way to split the profits among bid riggers;
- invest particular vigilance about joint bids, especially in case of undertakings that have been convicted or fined by the Commission for Protection of Competition for collusion;
- when initiating public procurement include a warning on sanctions in case of bid rigging, such as the prohibition to participate in public procurements for a specified period, on the fact that by signing the statement on integrity the bidder, under full material and criminal liability confirms that the bid has been submitted independently, without collusion with other bidders or stakeholders and that the accuracy of data in the bid is guaranteed (this statement confirms independent bid), as well as sanctions in line with the Law on Protection of Competition, LPP and the Criminal Code;
- indicate to bidders that any claims of increased input costs that cause the budget to be exceeded will be thoroughly investigated;
- if, during the procurement process, the external consultants are hired, ensure that they are properly trained, that they sign confidentiality agreements, and that they are subject to a reporting requirement if they become aware of improper competitor behavior or any potential conflict of interest.

In accordance with the current Law on Public Procurement, the bidders submit their bids electronically, except for parts of the bid that cannot be submitted by electronic means, in line with Article 45 paragraph 3 of the LPP, in which case bids shall be submitted by mail, courier service or personally.

When submitting bids by mail, in addition to aforementioned, the following shall be considered:

- whenever it is possible, require for parts of the bid to be registered by marking them with numbers of symbols, instead of company names or names of individual bidders.

3.5. Carefully choosing criteria for evaluating and awarding the public procurement

Bidder selection criteria affect the intensity and effectiveness of competition in the procurement process. The decision on what selection criteria to use is not only important for the current project, but also in maintaining a pool of potential credible bidders with a continuing interest in bidding on future public procurements. It is therefore important to ensure that qualitative selection and awarding criteria are chosen in such a way that credible bidders, including small and medium enterprises, are not deterred unnecessarily. Where possible, the following should particularly be considered:

- when designing the public procurement offer, think of the impact that the choice of criteria will have on future procurement competition;
- whenever evaluating bidders on criteria of product quality, post-sale services, etc., such criteria need to be described and weighted adequately in advance in order to avoid post-award challenges;
- avoid any kind of preferential treatment for a certain class, or type of bidders;

- do not favor undertakings currently supplying the goods or services to the public administration and whose contract is coming to an end (the incumbents). Tools that ensure as much anonymity as possible throughout the procurement process may counteract incumbent advantages;
- avoid splitting contracts between bidders with identical bids and investigate the reasons for such bids;
- make inquiries if prices or bids do not make sense, but never discuss these issues with the bidders collectively;
- secure full protection of data from submitted bids;
- reserve the right not to award the contract if it is suspected that the bidding outcome is not competitive.

3.6 Raising awareness among officials about the risks of bid rigging in public procurement procedures

Professional training is important to strengthen procurement officials' awareness of competition issues in public procurement. Efforts to fight bid rigging more effectively can be supported by collecting historical information on bidding behavior, by constantly monitoring bidding activities and by performing analyses on bid data. This helps public procurement agency (and competition authority) to identify problematic situations. It should be particularly noted that bid rigging may not be evident from the results of a single procurement. Often a collusive scheme is only revealed when one examines the results from a number of procurements over a period of time.

Raising officials' awareness on bid rigging risks in public procurement procedures particularly involves the following:

- implement a regular training program on bid rigging and cartel detection for officials;
- periodically review the history of public procurements for particular products or services and try to discern suspicious patterns, especially in industries susceptible to collusion;
- adopt a policy to review selected public procurements periodically;
- conduct interviews with vendors who no longer bid on public procurements and unsuccessful vendors;
- identify the person who shall receive the complaints related to procurement procedure;
- secure the use of mechanisms such as a whistleblower system, to collect information on bid rigging from companies and their employees;
- information on Leniency Program of the Commission enabling the participant in bid rigging reporting it and providing the Commission for the Protection of Competition evidence on participants in bid rigging to be exempt from the monetary amount of competition protection measure or its reduction,
- establishment of internal procedure used by competent authorities to report suspicious integrity statements and other statements causing doubt related to bid independence or suspicious behavior to the Commission for the Protection of Competition as well as internal audit in the authority competent for public procurement with incentives for such activities.

3.7 Checklist for detecting bid rigging in public procurement

The contracting authority should consider the following circumstances in public procurement procedures, and upon noticing, the said should be reported immediately to the Commission for Protection of Competition, in addition to keeping the fact in utmost secrecy:

- the same supplier is often the lowest bidder;
- some bidders participate only in certain geographic areas;
- regular suppliers fail to bid on a public procurement they would normally be expected to bid for;
- some suppliers unexpectedly withdraw from bidding;
- certain undertakings always submit bids but never win;
- two or more undertakings submit a joint bid even though at least one of them could have bid on its own;
- the winning bidder repeatedly subcontracts work to unsuccessful bidders;
- the winning bidder does not accept the contract and is later found to be a subcontractor;
- competitors regularly socialize or hold meetings shortly before the procurement deadline.

Submitted documentation might point to the suspicion that it relates to the agreed (joint) performance of bidders, and particularly considering the following:

- identical mistakes in the bid documents or letters submitted by different undertakings, such as spelling errors;
- bid documents from different undertakings are sent from same computer or from same Internet Protocol (IP) address;
- bids from different undertakings contain a significant number of identical estimates of the cost of certain items.

The price that different bidders offer can be a warning signal to a rigged bid, and particularly considering the following:

- sudden or identical increases in price by bidders that cannot be explained by cost increases;
- anticipated discounts or rebates disappear unexpectedly;
- identical pricing can raise concerns especially when one of the following is true:
 - bidders' prices were the same for a long period of time,
 - bidders' prices were previously different from one another,
 - bidders' increased price and it is not justified by increased costs, or
 - bidders eliminated discounts or rebates, especially in a market where discounts were historically given;
- a large difference between the price of a winning bid and other bids;
- a certain bidder's offer is much higher for a particular contract than that bidder's offer for another similar contract;
- there are significant reductions from past price levels after a bid from a new or infrequent bidder;
- local bidders are bidding higher prices for local delivery than for delivery to destinations farther away;
- similar transportation costs are specified by local and non-local companies.

It can frequently happen that bidders provide statements pointing to a possible coordination of prices, for example:

- justify their prices by stating that they are looking at “industry suggested prices”, or “standard market prices”;
- statements indicating that certain companies do not sell in a particular area or to particular customers;
- statements indicating that an area or customers “belongs to” another supplier;
- statements indicating that a bidder submitted a courtesy, complementary, token, symbolic or cover bid;
- use of the same terminology by various bidders when explaining price increases.

Also, the following behaviors are considered as suspicious:

- bidders meet privately before submitting bids, sometimes in the vicinity of the location where bids are to be submitted;
- bidders participate together in the same social event;
- one bidder submits an offer and public procurement documentation for several bidders;
- bidder is an undertaking for which is reasonably assumed that it cannot successfully fulfill contract requirements;
- undertaking that is a potential bidder shall participate with several prepared options of bids and the decision on which bid shall be submitted shall be adopted at the moment of determination or presumption who the other bidders are (for example, monitoring who delivers financial bid bonds and submits own bid immediately prior to the moment set for bid opening).

These Instructions shall come into effect on the date of publication on the official website of the Commission.

By coming into effect of these Instructions, Instructions for Detecting Bid Rigging in Public Procurement Procedures from June 9, 2011, shall cease to be valid.