LATIN AMERICAN COMPETITION FORUM

-- Session II: Tackling Bid Rigging in Public Procurement --

Contribution from Brazil

9-10 September 2009, Santiago, Chile

The attached document from Brazil is circulated to the Latin American Competition Forum FOR DISCUSSION under session II of its forthcoming meeting to be held in Chile on 9-10 September 2009.

Contact: Ms. Hélène Chadzynska, Administrator, LACF Programme Manager
Tel: +33 (0)1 45 24 91 05; Fax: +33 (0)1 45 24 96 95
Email: helene.chadzynska@oecd.org

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Session II: Tackling Bid Rigging in Public Procurement

Recent Developments in Tackling Bid Rigging in Brazil

Diego Faleck
Chief of Staff, Secretariat of Economic Law

Chile, September 2009
Contents

1. Cartel Prosecution in Brazil
2. Bid Rigging
3. OECD Bid Rigging Program
4. Recent Achievements
5. Benefits for SDE
6. Examples of SDE efforts to fight Bid Rigging

1. Cartel Prosecution in Brazil

➢ Since 2003, Brazil established a hierarchy of antitrust enforcement that placed cartel prosecution as a top priority

• 300 cartel investigations being handled by SDE
• 75% of the SDE’s resources are currently devoted to cartel investigations
• Creation of the National Anti-Cartel Day
2. **Bid Rigging**

- **Bid rigging is a major priority in SDE’s enforcement efforts**
  - Creation of the Public Procurement Unit as determined by the Minister of Justice
  - Improvements in the mechanisms to analyse and better prosecute bid rigging cases, considering its relevant peculiarities
  - Developing knowledge with the purpose of helping procurement authorities to identify and avoid cartels in public tenders

3. **OECD Bid Rigging Program**

- **Major support for SDE’s efforts in tackling bid rigging in Brazil**
- **Objective**: provide technical assistance to SDE and other Brazilian authorities concerning the prevention and prosecution of bid rigging in order to:
  - Increase the number of successfully prosecuted bid rigging cases
  - Help to reduce the occurrence of cartel activities, resulting in substantial savings of public resources
4. Recent Achievements

- Significant progress has already been achieved with OECD’s contribution:
  - SDE submitted a report examining several proposed amendments to the current procurement law
  - Establishment of a close working relationship with key enforcement agencies to collect information regarding public tenders (Federal Court of Auditors; Office of the Comptroller General; Ministry of Planning)
  - SDE strengthened its relationship with prosecution authorities in order to increment the effectiveness of bid rigging investigations

4. Recent Achievements

- The two-year Project was closed with the event “Bid rigging road show”, which took place in 5 Brazilian cities: over 600 prosecution and procurement authorities attended the event
  - Broadly distribution of the “OECD Guidelines on Fighting Bid Rigging” as well as the SDE brochure about preventing and detecting bid rigging
  - Future presentations in other cities were requested by some public prosecutors
  - High quality complaints sent to SDE
5. **Benefits for the SDE**

- SDE enhanced its techniques on preventing, detecting and prosecuting bid rigging
- Development of skills of procurement and prosecution officials and strengthening of institutional mechanisms to combat bid rigging
- Development of very efficient analysis methods, with the exclusive use of public information
- Guidance based on international experience for its efforts to fight bid rigging in Brazil
- Legitimacy from the support of OECD in presenting its case concerning competition aspects of new bid legislation to congressmen

6. **Examples of SDE efforts to fight Bid Rigging**

- Preparation of manuals, charts and other materials for procurement officials about bid rigging *(all available online)*
- Massive distribution of these materials throughout the country by mail
- Outreach events, both general and customized for important public purchasers
- Dissemination of the e-tool “Click here to tip us”