Country case: Korea's Bid Rigging Indicator Analysis System (BRIAS)

Description

The Fair Trade Commission (FTC) in Korea works with public buying entities to identify cartel activity and potential cases of bid rigging in public procurement. This work is particularly relevant at this time, as a number of potential cases related to increased spending in response to the 2009 economic crisis have been identified. During 2009 and 2010, Korea launched a number of large public works projects in a short period of time, and there are now claims that contractors colluded to divide this work.

Public Procurement Principle: Integrity, Access, E-procurement

Procurement Stage: Tendering

Audience: Policy Maker, Procuring Entity

To identify cases of collusion, the FTC traditionally relied on voluntary reporting by cartel members seeking leniency, and on reports by competing suppliers. These remain the most reliable sources of identification of potential collusion. In 2006, the FTC developed the Bid Rigging Indicator Analysis System (BRIAS) to supplement these methods of identification.

Drawing information directly from the Korean e-procurement system KONEPS, BRIAS looks to data elements including bidding price (as a ratio compared to reference price), the number of participants, and the competition method, and applies a formula that generates a potential bid-rigging score. If above a certain threshold, this then suggests the need to collect more information regarding the contract action. Based on this closer look, an investigation is opened in cases where it is warranted.

BRIAS collects information from KONEPS on a daily basis, and each month the system is run on collected data from the previous month. For goods and services, BRIAS is run on tenders above USD 423,800. For public works, the threshold is USD 4.2 million. As of 2012, BRIAS was run on 20,000-30,000 biddings per year; of approximately 20,000 runs in 2012, the system generated 200 hits that warranted an additional look. The establishment of this kind of automated system for the detection of red flags in public procurement is a good practice implemented successfully in other countries such as Brazil.

Whether identified through BRIAS or through traditional means, investigation of potential cases of collusion involves collection of additional information from PPS followed by site visitations and other investigative steps to find evidence of information exchange. These investigations can take anywhere from one to three years, from initial reporting to final verdict, and the FTC has established a separate investigation unit focused solely on public procurement. When found guilty, sanctions can range from orders for corrective action, which are essentially warnings for minor offenses, through a financial penalty of up to 10% of the contract volume involved. Additional criminal charges can also be filed with prosecutors. In 2012, more than 40 cases led to findings of guilt, leading to fines in excess of USD 847 million. The number of investigations and findings of guilt has been increasing.

In terms of direct contribution, the results from BRIAS have been limited: only three cases initially identified by BRIAS have led to findings of guilt. In part, this is attributable to the fact that the capacity to investigate is limited, and cases based on voluntary reporting or challenges by other suppliers begin with a more firm investigative basis than the circumstantial red flag generated by BRIAS. But during the period of its operation, voluntary reporting by cartel participants has increased significantly, and some of this increase is attributed to the raised awareness and fear of being caught generated by the implementation of the BRIAS system. This result is consistent with the OECD Recommendation on Public Procurement, which identifies the publication of risk management strategies, including systems for generating red flags, as an important element of their effectiveness.

To further expand the benefits of the BRIAS system, the FTC established a committee between project commissioners (including PPS and other large enterprises) to try to encourage adoption of a similar system at other public enterprises. In addition to providing the same functionality in a broader range of public procurement cases, spreading systems like this will allow the FTC to develop broader expertise, based on the differences in procurement practices at different entities, to better identify and prosecute cases of collusion. Dissemination activities are also undertaken to spread awareness and identify typical cases of collusion. In addition, the PPS training centre recently developed a separate training course on collusion, implemented in collaboration with the FTC.

Source: OECD (2016*), Towards Efficient Public Procurement in Colombia: Making the Difference*, OECD Publishing, Paris.