

# OECD Tender Design Checklist to Reduce Risks of Bid Rigging

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# PROCUREMENT RULES/PRACTICES AND BID RIGGING

Certain procurements rules and practices may favour bid rigging



Transparency on project price, bidders and bids



High cost of participation, legal requirements, certificates...



Limitations on bidders (participation restrictions)



Price-only award criteria

BETTER TENDER DESIGN

Part 1: Be informed before designing  
the tender

# 1. BE INFORMED ABOUT THE MARKET



Market research is crucial



- General **characteristics of the market**: recent trends (innovation, new entrants, commodity prices)
- Determine if market characteristics make **collusion more likely**.
- Learn about **potential suppliers** and products. Look at similar, **substitute products**.
- Get information about **pricing trends**.
- Learn about **supplier's major costs**.
- **Contact other procurement offices** and get information from past tenders.

# MARKET CHARACTERISTICS AND BID RIGGING

## Factors that facilitate collusion

- High concentration
- Product homogeneity (similar products)
- Symmetric firms (companies of same size)
- Price transparency
- Stability of demand (predictable and repetitive tenders)

## Factors that may hinder collusion

- Large number of competitors
- Asymmetries in products and competitors
- Easy entry to the market

BETTER TENDER DESIGN

Part 2: Promote bidder participation

## 2. ENCOURAGE PARTICIPATION

- **Avoid barriers to participation:** conditions for eligibility to bid should be proportionate and necessary.
- **Make tenders practical:** keep cost of bidding low, allow adequate time, use electronic means.
- Consolidate or divide into **lots**: If doable, design contract so smaller firms can bid on at least a portion.
- Encourage participation of **SMEs, non-local and foreign firms.**

## 2. ENCOURAGE PARTICIPATION: HOW TO SUPPORT SMEs

- **Pay on time:** SMEs cannot absorb payment delays and have less access to bank loans
- **Use lots:** good knowledge of product and market to make lots relevant and not facilitate collusion
  - Number of lots different from number of potential bidders
  - lots of different size if bidders of similar size
- Use **simple rules** and terms
  - **reduce legal and accounting obstacles, licenses**
- **Follow-up** policies: evaluate, continue or change
- **Support:** Suppliers' capacity building

BETTER TENDER DESIGN

Part 3: Define tender terms clearly  
and avoid predictability

### 3. MAKE REQUIREMENTS CLEAR AND AVOID PREDICTABILITY

- Specifications and terms should be **clear**. Do not leave room to define key terms after the tender publication.
- **Functional and performance requirements**: specify results/outcomes.
- **Avoid predictability**: change volumes, terms, group of products
- Allow for **substitute products** and for **innovative solutions**.

### 3. EXAMPLE: USE OF FUNCTIONAL REQUIREMENTS IN ITALY

- CONSIP; Framework agreement for IT
- ~~Specific product~~
- Functional requirement – Integrated services:
  - **Energy efficiency**
  - **Reduction of staff costs**
  - **Routine maintenance**
  - **Digital management of documents**
  - **Management of electronic waste products**

**Better tender design**

**Part 4: Reduce communication  
among bidders**

## 4. REDUCE COMMUNICATIONS AMONG BIDDERS: THE TRANSPARENCY TRADE OFF

### **TRANSPARENCY – PROCUREMENT:**

- Increases fairness and openness of process
- Makes bidders and procurement officials accountable
- Facilitates detection

### **TRANSPARENCY – COMPETITION:**

- In-person meetings & publication of maximum contract prices can enable cartels
- Publication of bidders' identities, rankings and prices can help policing cartel agreements or form future cartels

**So, need to find the optimal transparency level**

## 4. REDUCE COMMUNICATIONS AMONG BIDDERS

- Try to keep the **number and identity of bidders secret**:
  - Avoid bringing bidders together in one place.
  - Do not disclose the number of bidders.
  - Do not identify bidders before, during or after the tender.
- Do not disclose competitive sensitive information.
- Prioritise **electronic means** to receive bids and make clarifications.
- **Avoid using industry consultants** if they facilitate communication.
- Require Certificate of Independent Bid Determination (**CIBD**).

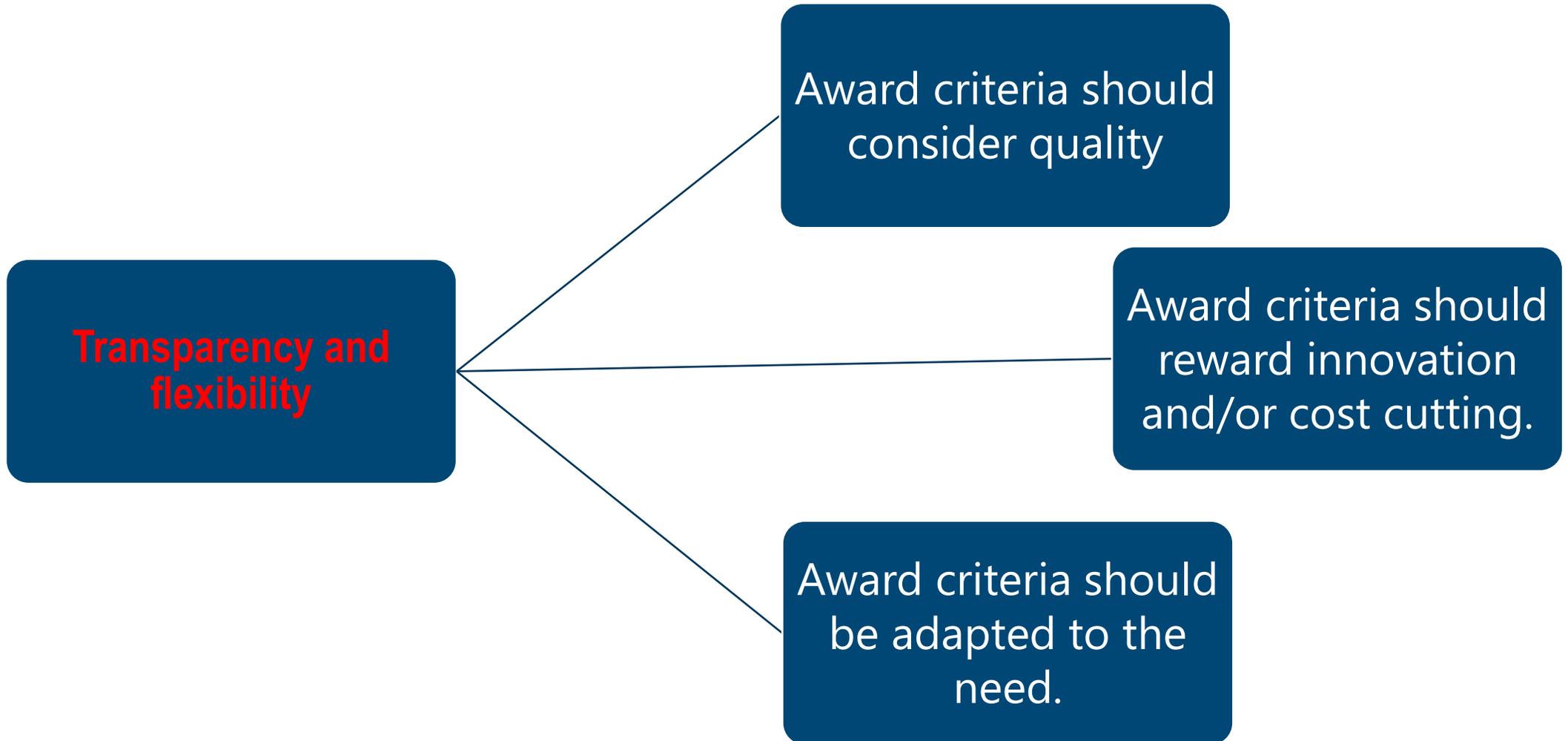
## 4. EXAMPLE: CIBD IN THE US

- Requirement for a CIBD
  - **No communication** with competitors about prices / intention to present a bid
  - **No disclosure** of the terms of the bid to any competitor
  - **No invitation** to other companies to either make or not make an offer, with the aim to restrict competition
- What a CIBD achieves:
  - **Awareness** (inform bidders about competition law requirements)
  - **Criminal prosecution** for false declaration
  - Facilitates **prosecution of collusion cases**, when evidence is weak

## **Better tender design**

**Part 5: Carefully choose the criteria  
for evaluating and awarding the  
tender**

## 5. STATE ANY AWARD CRITERIA IN ADDITION TO PRICE



**Better tender design**

**Part 6: Train Procurement Staff**

## 6. TRAIN PROCUREMENT STAFF

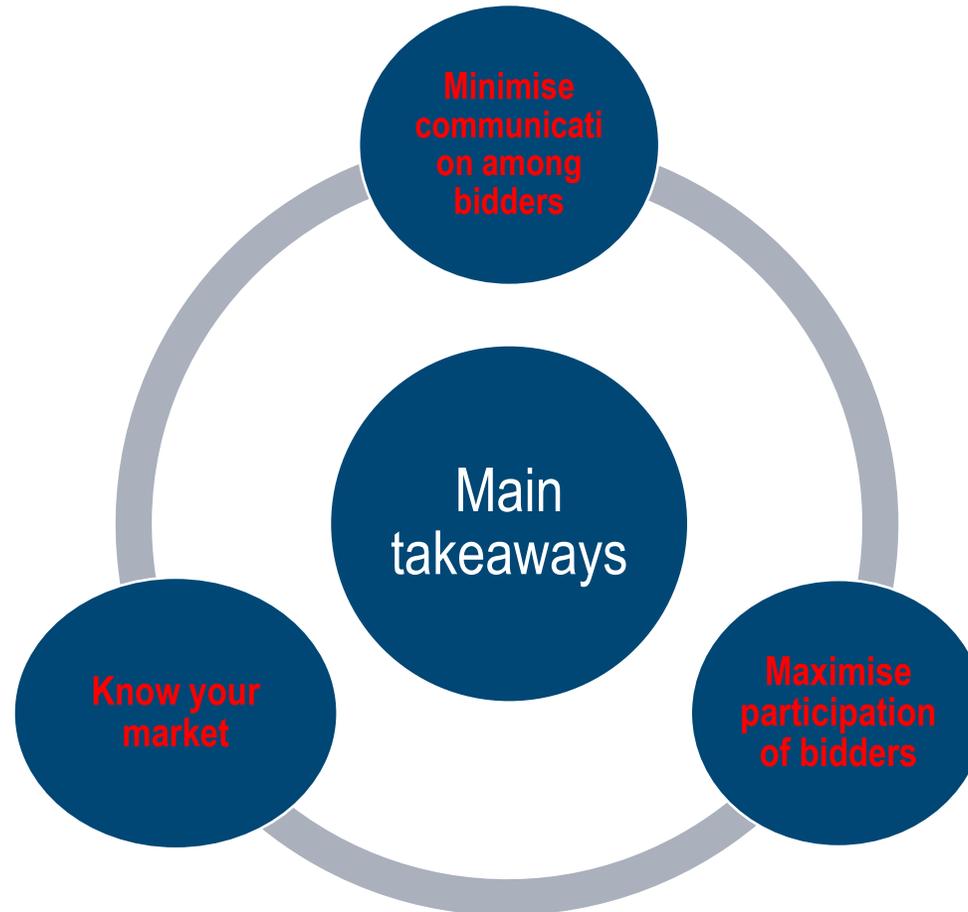
Procompetitive tender design requires an understanding of how bid rigging works.



**Procurement agencies and competition authorities should work together!**

# FINAL REMARKS

- OECD checklist to design procurement so that risk of bid-rigging is lowered





European  
Union

## 2 EU funded projects (Technical Support Instrument)

2024-2026

Austria  
Bulgaria  
Croatia  
Cyprus  
Greece  
Romania

2025-2027

Czechia  
France  
Ireland  
Latvia  
Poland  
Portugal



# OECD/EU Bid Rigging Project (2024-26)



Funded by the European Union

**OECD trainings so far**  
Oct 2024 – Nov 2025

Stakeholders profiles	Numbers trained
Judges	140
Businesses	109
Procurers	352
Non-comp enforcers	102
<b>Total</b>	<b>758</b>

Project "Fighting bid rigging in public procurement in Austria, Bulgaria, Croatia, Cyprus, Greece and Romania"

**BULGARIA**

**WORKSHOPS**  
**Strengthening Private Sector Compliance, Detection, Reporting and Judicial Oversight in the Fight Against Bid Rigging**  
Sofia, 18-20 November 2025

Effective and genuine commitment to control

Дарсация „Антириск и компютриране“

OECD | Funded by the European Union

Project "Fighting bid rigging in public procurement in Austria, Bulgaria, Croatia, Cyprus, Greece and Romania"

**GREECE**

**WORKSHOPS**  
**Strengthening Private Sector Compliance and Judicial Oversight in the Fight Against Bid Rigging**  
Athens, 24 and 26 September 2025

MINISTRY C

OECD | Funded by the European Union



## Key findings on advocacy against bid rigging (compiled in a report)

- **Engage all relevant actors:** Procurement officials, judges, audit bodies, anti-corruption agencies, financial police and other non-competition enforcers are critical.
- **Provide practical, actionable guidance:** Clear guidance on red flags, reporting, preservation of evidence, exclusion rules and assessment of self-cleaning. Avoid legalistic messaging.
- **Strengthen institutional co-operation:** Use both formal agreements and informal channels (contact points, joint events, staff exchanges) to build trust.
- **Key advocacy topics for bid rigging:** tender design, compliance programmes, leniency, whistleblowing, damages claims, judicial review.



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