

BID RIGGING RED FLAGS CHECKLIST

FAVORABLE MARKET CONDITIONS FOR COLLUSION

Product/Service Conditions	<ul style="list-style-type: none"> ▪ No practical alternatives for the product/service (inelastic demand) ▪ Standardized or Homogenous product- vendors must compete on price not a differentiated product (this also allows the competitors to more easily set a joint pricing scheme) ▪ A manufacturer requires all distributors or resellers to sell a product at a certain price (resale price maintenance). This may enable collusion amongst the distributors or resellers through the manufacturer.
Types of Bidders	<ul style="list-style-type: none"> ▪ Only a small number of consistent bidders in the market (two or three) ▪ Companies all headquartered in same state/region ▪ Familiarity among vendors (e.g. trade organizations, former employees, family members, etc.)
Bidding Conditions	<ul style="list-style-type: none"> ▪ High frequency of repetitive bids ▪ Competitors get together in person prior to bids (e.g. annual industry conference) ▪ Grant programs- vendors may be collude to take advantage of the program and charge higher prices

SUSPICIOUS STATEMENTS

Knowledge of Competitor Pricing	<ul style="list-style-type: none"> ▪ Vendor statement suggesting that competitors discussed pricing or bids before submitting ▪ Vendors submit a “joint bid” despite one vendor being able to bid on their own ▪ Salesperson mentioned industry-wide price schedules
Division of Bids or Territory Among Vendors	<ul style="list-style-type: none"> ▪ “We are no longer bidding on these accounts” ▪ “That’s not in my territory” ▪ “that a bid belongs to another vendor”
Bid, won’t win	<ul style="list-style-type: none"> ▪ A vendor is submitting a “complementary,” “courtesy,” “token,” or “cover” bid

SUSPICIOUS APPLICATIONS

Physical Signs	<ul style="list-style-type: none"> ▪ Same handwriting, stamps, stationary, letterhead, etc. ▪ Same or similar addresses, email, phone, or contact information on bid submission forms ▪ Grammar errors, typos, edits, or math errors carried across bids
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SUSPICIOUS BEHAVIORS

Joint Bid/Competitor Subcontracting	<ul style="list-style-type: none"> ▪ Vendors submit a “joint bid” despite one vendor being able to bid on their own ▪ Subcontracting to a competitor ▪ A key employee recently shifts companies
Fake Competition	<ul style="list-style-type: none"> ▪ A vendor bids when they are incapable of performing the contract ▪ A former employee starts a competitor company and always loses ▪ Vendor consistently bids despite always losing or nearly always losing
New Entrants Stop Bidding	<ul style="list-style-type: none"> ▪ New entrant leaves the market soon after entering - possibly pushed out by the incumbent vendors
Competitors Split Territory	<ul style="list-style-type: none"> ▪ Geographic splitting of territories ▪ A vendor only submits a bid after finding out or trying to find out who else submitted a bid ▪ Winning bid withdraws ▪ Vendor planned to bid and did not ultimately bid ▪ Some vendors do not submit bids whom you would expect to ▪ Vendors never compete against one another

SUSPICIOUS PRICING

Suspicious Single-Bid Pricing	<ul style="list-style-type: none"> ▪ Vendor bid is unusually high compared to a prior bid, list prices, published price data, or engineering cost estimates (may be a complementary bid) ▪ Local vendor charges more than a vendor far away ▪ Last minute change to the bid/cross outs ▪ Prior winner’s bid drastically increases after a year ▪ Pricing increases occur across competitors at the same time and to the same extent
Suspicious Pricing Patterns	<ul style="list-style-type: none"> ▪ Patterns that suggests a possible bid rotation – same vendors win in order on each successive bid ▪ There is a consistent difference by margin between the winning bid and the losing bid ▪ A vendor has switched between being a low or high bidder without explanation ▪ Only some bids a vendor bids seem high

If something raises red flags, report it

- Where to report:
 - Your Legal Counsel, let them know they can contact the Washington State Office of the Attorney General's Antitrust Division
 - Antitrust complaint form: <https://fortress.wa.gov/atg/formhandler/ago/AntitrustComplaint.aspx>
 - The Antitrust complaint Inbox: monopoly@ATG.WA.GOV