

BID RIGGING

Recent trends and developments in Sweden

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The Swedish Competition Authority
is working to safeguard and
increase competition and supervise
public procurement in Sweden.

Outreach activities – public procurement officials



The SCA offers public procurement officials training with the purpose of:

- a) Raising awareness on how to detect cartel activity
- b) Reducing the risk of bid-rigging cartels

Welcome!

The Competition Authority wants to make it as simple as possible for companies to cooperate and submit joint bids in procurements when possible. With this guide you can quickly find out what kinds of cooperation are normally permitted.

Click on one of the questions to begin:

Can we cooperate in this procurement?

What form of cooperation is permitted?

When am I allowed to use a competitor as a subcontractor?

What may the consequences of illegal cooperation be?

I can't find my question!



Quiz:
What do
you know about
cooperating in
procure-
ments?

Can we cooperate in this procurement?

> Are you part of the same economic entity?

Yes

No



What is an economic entity?

Back



Back to start



Can we cooperate in this procurement?

 **OK to cooperate, but remember:**

If you are planning to merge with another company, you can not start cooperating until control has passed to the acquiring company.

Read about an example: Charter buses

Cooperation must cease when actual control is no longer held by only one company. If the economic entity is split up, for example by the disposal of a subsidiary, a cooperation that was permitted previously may now be infringing the competition rules.

Read about an example: Car part retailers

Disclaimer: If you are worried that your company may be acting in a way that could infringe the competition rules, you should contact legal counsel with competition law expertise.

Back

Car part retailers

Car manufacturer A owned the subsidiaries B and C. A sold most of its shares in B, but kept 21.7 percent of the shares. B and C were cooperating regarding the supply of spare parts and other accessories. After the majority of the shares in B had been sold by the parent company A, B and C were no longer considered as part of the same economic entity. The cooperation agreement was therefore in breach of competition law.

Commission decision (88/84/EEC)



[Back](#)



[Back to start](#)

Can we cooperate in this procurement?

> Are you part of the same economic entity?

Yes

No



What is an economic entity?

Back



Back to start



Can we cooperate in this procurement?

> Are you competitors?

Yes

No

Two companies are normally considered to be competitors if they offer the same products or services.



§ What does the law say?

Back

Can we cooperate in this procurement?

- > Does your company independently meet the requirements in the procurement, in other words, are you able to submit an independent bid?

Yes

No



When does a company have the capacity to submit an independent bid?

Back



Back to start

Can we cooperate in this procurement?

Probably not OK to cooperate

If a company can submit an independent bid in a procurement it is normally not allowed to cooperate with another company, even if the other company cannot submit an independent bid.

[Read about an example: Construction companies](#)

[Read about an example: Taxi](#)

What may the consequences of illegal cooperation be?

[Back](#)

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How to detect bid rigging – the importance of combining reactive and proactive detection tools

- Tip-offs from procurers or other informants
- Leniency
- Screening / economic analysis

The use of screening and economic analysis to detect bid-rigging cartels

- Can you identify geographical patterns?
- Can you identify other patterns? (price similarities etc)
- Analysis of deviation from optimal bids
- Analysis of percentage differences between winning and losing bids

Lessons learned from the use of economic analysis

Future challenges

- Continue and broaden out-reach activities towards public procurers and undertakings, including information about leniency
- Clarify the Authority's position when it comes to leniency and the exclusion of companies in public tenders due to participation in cartel activity
- Evaluate the results of the economic analysis project



- Stockholm city Council's procurement for clinical physiology and neurophysiology services
- Three companies suspected of volume sharing and exchange of information
- The SCA has petitioned that the companies are to be sentenced to pay a total of almost SEK 30 million in fines

**Thank you for your
attention!**

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