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COMPETITION MATTERS

Fostering Fair Competition in the Marketplace



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Red Flag Series No. 2: Physical Clues in Bid Packages Indicating Possible Vendor Collusion

In this edition of “Competition Matters” we feature the second installment of our “Red Flag” series of articles with tips on spotting possible vendor collusion. The tips are intended to help you recognize warning signs, or red flags, that might indicate illegal activity.

Keep an eye on the physical characteristics of the bid packages submitted by (or supposedly submitted by) different vendors that should lead you to take a closer look at the bids. As a general rule, be suspicious of similarities in bids of different vendors that would be unlikely to occur unless those vendors were communicating and/or working together.

Here are some examples:

- Similarities in the preparation of the bid package, such as:
 - Same handwriting.
 - Unusual typeface or font used by multiple vendors.
 - Identical stationary or unique type of envelopes.
 - Similar or unique postage stamps or postmarks.
- Identical fax numbers used by different companies. (Separate, competing companies should not be using the same fax number.)
- Identical math errors showing up on two separate bids.
- Same spelling errors appearing in separate bid packages.
- Same contact person listed in different vendors’ bid packages.
- For electronic bid submissions, similarities in the documents’ metadata, such as the author’s name.

In addition to similarities appearing in multiple competing bids, watch out for evidence of last-minute changes to the bids, such as white-outs, erasures, or other physical alterations. Haphazard-looking alterations could mean that the changes happened during a conversation among bidders – perhaps just moments earlier outside in a parking lot.

One final note: these indicators of collusion may arouse suspicion, but by themselves they are not proof of collusion. We encourage all procurement officials to report suspicious bids through appropriate channels in your organization and consider submitting a tip (confidential if you wish) on our [Bid Rigging Web Tip form](#). The information you provide could uncover a more widespread problem, and when warranted we may conduct an investigation.

The Informed Purchaser: Defining Metadata

Occasionally, you may encounter certain terms or concepts used in conjunction with antitrust issues, competition, and schemes to exploit purchasers. In this installment of “The Informed Purchaser,” let’s talk about metadata.

Metadata, is, simply put, data about data. When you send an email, the “To:”, “From:”, “Subject:”, and what email program was used all are examples of metadata – information about the email. Documents created on your computer using programs like Word, Excel, and Adobe Acrobat all have metadata attached to them. That metadata can provide valuable information when you have questions about bids or when you suspect vendors may be sharing information.

For example, check the “Info” or “Properties” sections of electronic bid documents. Do they have the same author, even though they were submitted by different vendors? Is the “Created” date the same in each bid, even though the “Last Changed” or “Edited” dates are different?

If so, it may be a sign that the vendors – instead of working independently to win the business – are sharing documents or even allowing each other to submit losing bids on their behalf.

Using metadata, in conjunction with other red flags, may help you identify colluding vendors and ensure that you are getting the most of the competitive process.

We’re Looking for Partners to Keep Competition Healthy!

Ohio Attorney General Mike DeWine’s Partnership for Competitive Purchasing takes a proactive approach to bid-rigging detection.

Our attorneys and investigators regularly work on issues related to anti-competitive activities, giving them the expertise to help you spot bid-rigging and price-fixing.

The Partnership for Competitive Purchasing offers reviews to analyze bid files for anti-competitive activities and answer your questions or concerns. This is not an audit, but a helpful on-site review to keep competition fair and healthy.

The partnership is a voluntary program open to all Ohio public entities — from cities to villages, from universities to state agencies, from public libraries to school districts. Registration for the partnership is free and easy.

To register, visit the [Partnership for Competitive Purchasing](#) page and select “[Enroll in the Partnership for Competitive Purchasing](#)” or call the Attorney General’s Antitrust Section at 614-466-4328.

Need a Speaker?

The Ohio Attorney General's Antitrust Section has attorneys and investigators available to present your group with a lively presentation that educates participants on the basics of antitrust law, giving real life examples of vendor misconduct impacting Ohio public purchasers.

If you have an upcoming event and would like a speaker from our office to talk about the Partnership for Competitive Purchasing, bid-rigging detection, or other antitrust issues, contact Karen Pierson at 614-728-2493 or Karen.Pierson@OhioAttorneyGeneral.gov.

We Welcome Your Questions

We encourage you to suggest a topic or ask a question of the legal staff of the Ohio Attorney General's Antitrust Section. Questions will be addressed in future issues of "Competition Matters." (No individuals' or organizations' names will be published.)

Please submit your questions or suggested topics to Karen Pierson at Karen.Pierson@OhioAttorneyGeneral.gov.

You also can tailor the topics and timing of email communications from the Ohio Attorney General's Office by visiting www.OhioAttorneyGeneral.gov/EmailUpdates. In addition to receiving "Competition Matters," you can sign up for other newsletters, learn about careers with the Attorney General's Office, and more. You also can choose the timeframe for delivery — when available, daily, or weekly.