



**MIKE DEWINE**  
 ★ OHIO ATTORNEY GENERAL ★

# COMPETITION MATTERS

Fostering Fair Competition in the Marketplace



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## Ohio Attorney General's Office Presents Competition Law Programs Throughout the State

Public officials and procurement professionals have their hands full managing the day-to-day operations of their cities, townships, counties, school districts, or other public bodies. Although officials have little time to enroll in a university course on antitrust law or bid-rigging detection, the Ohio Attorney General's Antitrust Section can bring training to you. Our attorneys and investigators have given presentations to public entity personnel at annual conferences and other meetings all across the state – from Cleveland to Cincinnati and Cambridge to Xenia.



We offer two programs: “Vendor Collusion in Public Contracting – Detection and Reporting” and “An Ounce of Prevention – Protecting Your Purchasing Process.” Each presentation educates participants on the basics of antitrust law, giving real-life examples of vendor misconduct impacting Ohio public purchasers. The presentations can help public purchasers recognize red flags and maximize public funds.



If you have an upcoming event and would like to request a speaker from our office to talk about bid-rigging or other antitrust issues, contact Beth Hubbard at 614-466-1358 or [Beth.Hubbard@OhioAttorneyGeneral.gov](mailto:Beth.Hubbard@OhioAttorneyGeneral.gov).

### The Informed Purchaser: Defining “Sham Bids”

When unscrupulous vendors rig bids, the competitive process is disrupted. At times, the bid results look perfectly normal and the wrongdoers fly quietly under the radar. At other times, however, the results look so unusual as to raise immediate suspicion in the mind of the purchasing official. For example, a competitive solicitation on which only one bidder bids but where historically three or four bidders have participated will raise an immediate red flag.

Vendors who rig bids are well aware of this fact. Thus, in situations where their schemes are vulnerable to detection, they often agree to submit intentionally losing – or “sham” – bids in order to protect the predetermined winning vendor and to conceal their conspiracy. Even though sham bids

are intended to lose, they are often successful at giving the false impression that competition is alive, well, and thriving.

## **Legal Corner: Four Convicted of Rigging Public School Bus Route Auction in Puerto Rico**

Public officials must constantly balance the need to purchase safe and effective products and services against the need to get the most for their finite financial resources. Competitive bidding – whether through a sealed bid or live auction – is a vital tool in this process. Unfortunately, as we’ve reported in many issues of “Competition Matters,” dishonest bidders can derail that process. A public school district in the town of Caguas, Puerto Rico, recently experienced that firsthand.

In 2013, the Caguas school district conducted an auction to award four-year contracts for its bus routes that would transport the district’s children to and from school. But the companies that appeared to compete at the auction for the routes were not really competing at all. Company officials met before the auction and divided the contracts among themselves, deciding which company would win which route. Most importantly, they agreed not to compete with each other, but rather to submit sham bids for the routes that they were not “supposed” to win in order to give the appearance of vigorous competition.

Fortunately for the taxpayers of Caguas, the scheme was discovered and the U.S. Department of Justice launched a criminal investigation. On Jan. 27, 2017, a jury found the owners of these four school bus companies guilty of conspiring to rig bids and allocating the market for school bus transportation services from 2013 through 2015. The owners also were convicted of mail fraud and conspiracy to commit mail fraud. Sentencing will take place in May 2017.

If you suspect that sham bids have been submitted in a sealed bid process or live auction, contact the Ohio Attorney General’s Office by submitting a tip on the [Antitrust Bid-Rigging Web tip form](#), or call us at 614-466-4328.

## **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 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, including cities, villages, universities, state agencies, public libraries, and school districts. Registration for the partnership is

free and easy. Just visit the [Partnership for Competitive Purchasing](#) page and select “[Enroll in the Partnership for Competitive Purchasing](#)” or call us at 614-466-4328.

## **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 Beth Hubbard at [Beth.Hubbard@OhioAttorneyGeneral.gov](mailto:Beth.Hubbard@OhioAttorneyGeneral.gov).

## **Tailor the Topics and Timing of Our Communications**

You can tailor the topics and timing of email communications from the Ohio Attorney General’s Office by visiting [www.OhioAttorneyGeneral.gov/EmailUpdates](http://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.