



Summer 2018

[Safeguard Your Purchasing Process](#)

To help public purchasers protect taxpayer dollars and safeguard their purchasing processes, the Ohio Attorney General's Antitrust Section offers presentations on deterring vendor collusion both before and after bids are submitted.

An important part of the mission of the Ohio Attorney General's Antitrust Section is to assist public purchasers by educating them on preventing and detecting vendor collusion.

The section offers a program called "An Ounce of Prevention" that provides tips on how to make the procurement process less susceptible to bid-rigging and similar illegal activities. It addresses steps that public purchasers can take to dissuade vendors from colluding. Presenters discuss why and how to use documents like non-collusion affidavits, vendor questionnaires, and subcontractor lists. The presentation also offers suggestions for best practices in preparing bid specifications and advertising bid opportunities.

The Antitrust Section also offers a presentation called "Vendor Collusion in Public Contracting – Detection and Reporting." This program focuses on the period during and after the bids are submitted and educates purchasers on how to spot (and report) the "red flags" of vendor collusion. From identifying markets most vulnerable to bid-rigging to spotting patterns of behavior that often mean an illegal scheme is at work, the presentation provides public purchasers with a mental checklist that can be applied to every procurement.

Each of these programs is designed to run approximately one hour, though timing is flexible. For audiences that can devote 90 minutes to two hours, the "Vendor Collusion in Public Contracting – Detection and Reporting" presentation also can include an interactive bid-rigging simulation game. The game places participants in charge of fictional Ohio cities that receive bids from fictional companies for three products or services. The game challenges participants to determine which of the three industries' vendors are colluding by applying the "red flags of collusion."

If your organization would like to schedule a presentation from the Ohio Attorney General's Antitrust Section on either of these topics, please contact Beth Hubbard at 614-466-4328.

[A Case of Price-Fixing in the New York Waste Industry](#)

A New York waste-hauling cartel exchanged texts about bid rigging, allocating customers, and fixing prices. The texts ultimately helped lead to criminal and civil penalties for the participants.

In April of this year, two New York firms, Bert Adams Disposal Inc. and Taylor Garbage Service Inc., admitted to colluding to rig bids, allocate customers, and fix prices for waste hauling and recycling services. The companies' collusive agreements spanned from July 2014 to May 2016.

The owners of Taylor Garbage and Bert Adams Disposal memorialized the creation of their cartel over text. One owner asked the other if he "would be willing to sit down sometime [...] and talk about things in the battle field [sic]." He continued, "I'd like to try to work out a plan to work with each other rather than working against each other. *Because the customer is the only one that wins when we're at each other's throat*" (emphasis added). Those customers were cities, townships, and other public purchasers, as well as private customers.

The cartel that was created with those text messages went on to cost New York taxpayers a significant amount of money. Rather than setting competitive prices, the two firms would coordinate price increases. One owner texted the other, asking, "Did I hear a rumor that your [sic] going to raise your residential rates?" to which the other responded, "Yes but I'll tell you when and how much."

In addition to coordinating prices, the companies protected each other's ability to raise prices, often deceiving customers in the process. They would either decline to provide quotes to prospective customers or give prospective customers inflated bids. In one text exchange, an employee of one firm told the other what a specific prospective customer was paying. The other firm then relayed that they'd quoted that customer a higher amount.

The actions of this waste industry cartel deprived the public of free competition and forced customers to pay higher prices, and their texts helped the New York Attorney General secure criminal convictions and civil resolutions against the cartel. The majority owner of Bert Adams Disposal pleaded guilty to a charge of "combination in restraint of trade and competition." He agreed to pay \$75,000 in criminal penalties as part of his plea deal. Bert Adams Disposal itself also pleaded guilty and was required to pay \$850,000 in criminal penalties.

Taylor Garbage Service confessed early on to the anticompetitive conduct and cooperated, resulting in more lenient settlement terms. Taylor Garbage Service and its president will each pay civil penalties to New York State, the former paying \$500,000 and the latter paying \$50,000.

If you suspect that any of your vendors may be engaging in a scheme like this one, [contact the Ohio Attorney General's Antitrust Section](#).

[Spotlight: Meet Sara Coulter, Speaker for the Partnership for Competitive Purchasing](#)

Sara Coulter is the newest attorney addition to the Partnership for Competitive Purchasing. She talks with public purchasers about antitrust laws and the legal elements of vendor collusion and bid-rigging.

Q: How long have you participated in the Partnership for Competitive Purchasing?

A: I've been part of this organization since I started with the Antitrust Section of the Office of the Ohio Attorney General, so since October of 2017.

Q: How important do you feel the program is and why?

A: The program is very important for Ohio. More awareness around the issues of vendor collusion and how to detect anti-competitive practices can help in lots of ways. Public purchasers who are aware of the red flags of collusion are able to involve our office sooner. This means that we will be able to respond quickly and effectively while the trail is still hot. Successful investigations can save taxpayer dollars and ensure that companies and municipalities are also saving money. Plus, antitrust laws promote market economics and healthy market growth. In short, competition helps vendors, purchasers, and the public, so ensuring fair competition in Ohio is a very important job.

Q: What is your favorite part of your job?

My favorite part of the job is getting to travel to talk to purchasers and others throughout Ohio. We interact with highly-informed and motivated purchasers. Their participation in our program and their insightful questions are encouraging.

Q: How can you assist Ohio public purchasers?

In the realm of anticompetitive conduct, education is vital. I help Ohio public purchasers by teaching them to be proactive about preventing opportunities for collusion. Our presentations also help purchasers learn how to detect collusion should it occur. Not only do we educate others, our office is also able to step in and investigate if anyone thinks collusion is present in a market or industry.

Also, I help write for the “Competition Matters” newsletter. If you have any ideas for stories or if there are areas of antitrust law you want to read about, please let us know! Beth Hubbard, who was featured in last month’s newsletter, coordinates the articles and can be reached at Beth.Hubbard@OhioAttorneyGeneral.gov. I can be reached at Sara.Coulter@OhioAttorneyGeneral.gov.

[How to Join the Partnership for Competitive Purchasing](#)

The Attorney General’s Partnership for Competitive Purchasing identifies and prevents anti-competitive activities that can hurt local governments. The program is free to join and can help public purchasers safeguard their purchasing process.

Because anti-competitive schemes such as bid-rigging and price-fixing often are carefully and cleverly concealed, the program’s staff is specially trained to spot questionable activity that may go unnoticed by even the most astute public purchasing officials.

Participation in the Partnership for Competitive Purchasing is voluntary, but all state agencies, government entities, and political subdivisions are encouraged to participate.

Interested government entities can register with the Attorney General’s Office at 614-466-4328 or [enroll online](#). At least twice a year, staff members from the Attorney General's Antitrust Section select a participating entity and schedule an on-site antitrust review. Entities that believe they have evidence of anti-competitive activity should contact the office so they can be given special priority for review. The review is not an audit of a government entity but rather a way for public officials to help ensure they are the best possible stewards of government funds.

[Send Us Your Questions and Ideas](#)

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.