

Competition Policy and Improved Performance in Public Procurement

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Overview

- Why Make Procurement a Competition Policy Priority?
- A Three-Part Competition Policy Program
- Means for Implementation
- Caveat: Personal Views

Resources

- Anderson & Kovacic, *Competition Policy and International Trade Liberalization: Essential Complements to Ensure Good Performance in Public Procurement Markets*, 2009 Public Procurement Law Review, No. 2, p. 67.
- Kovacic, *An Integrated Competition Policy to Deter and Defeat Cartels*, 51 Antitrust Bulletin 813 (Winter 2006).
- Kovacic, Marshall, Marx & Raiff, *Bidding Rings and the Design of Anti-Collusive Measures for Auctions and Procurements*, in Handbook of Procurement, Ch. 15 (Dimitri, Piga & Spagnola, eds., Cambridge University Press, 2006).

Why Make Procurement a Priority?

- Large Potential Payoffs in Economic Welfare
 - Public Procurement: 15-20% of GDP or more
 - Critical infrastructure projects and social services
 - Strong empirical evidence: especially in transition economies
- Contribution to Anti-Corruption Objectives
- Readily Understood Benefits to Larger Public
 - Major distributional benefits: e.g., public education, health care
 - Increase in public trust in public administration

Competition Policy: Three Elements

- Law Enforcement
 - Prohibitions against cartels and collusive tendering
 - Ban against unauthorized state restrictions on competition
 - Merger control
- Advocacy to Oppose Restrictive Legislation and Regulations
 - Current example: economic recovery measures
- Education of Public Procurement Authorities
 - Detect and report suspicious tendering
 - Build anti-collusion safeguards into tendering procedures

Means for Implementation

- Priority-Setting in the Competition Authority
- Cooperation and Learning
 - Large base of experience and practical guidance
 - Large multinational networks: ICN and OECD
 - BRIC: e.g., Procurement mandate of Russia's FAS
 - Academic institutions
- Evaluation of Past Cases and Procurement Programs
 - Patterns of conduct and changes in performance

Conclusion

- Portfolio Model for Competition Authorities
 - *FTC at 100* (January 2009)
- Key Inquiries
 - What are the payoffs from a given amount of resources?
 - What are the costs and risks of the program?
 - How will we know it is working?
- Procurement Belongs in the Portfolio
- Broadly Understood Social Benefits