

From

The Director General,  
Supplies & Disposals Department, Haryana.

To

1. All the Heads of Departments in the State of Haryana
2. All the Managing Directors/Chief Executive Officers of Boards/Corporations/Federations in Haryana State.
3. All the Divisional Commissioners in the State Haryana.
4. All the Deputy Commissioners in the State Haryana.
5. The Registrar, Punjab & Haryana High Court, Chandigarh.
6. The Registrar, all the Universities in the State.

Memo No. DS&D/Admin/CCI/EA-II/2021 1083-1283

Dated

23/4/21

Subject:- Observation of warning signs of Collusion/Bid Rigging by the bidder firms in various tendering processes & action to be taken - Regarding

1. On the subject cited above, this office vide memo no. DS&D/Admin/CCI/EA-II/2017/9599-9800 dated 13.10.2017 had issued instructions with regard to warning signs of collusion/bid rigging by the firms in various tendering process and action to be taken by the tendering authority in this regard. The said instruction dated 13.10.2017 are hereby substituted with the present instruction to make them more specific for their application by the various stake holders of the State in the tendering process.
2. Warning signs of collusion/ bid rigging by the firms in various tendering processes:-  
The Competition Commission of India, during an "Interactive Meeting towards Institutionalization of the Mechanism for Establishing Competition Culture in Policy Making and Governance" in 2017, had mentioned some Warning signs of collusion/ bid rigging by the firms in various tendering processes as under:-
  - A. The same supplier is often the lowest bidder.
  - B. There is a geographic allocation of winning tenders.
  - C. Bids from different companies contain similar handwriting of typeface or use identical forms or stationery.
  - D. The bid is coming from same IP, in case of online bidding.
  - E. Certain companies always submit bids but never win.
  - F. Sudden and identical increase in price or price ranges by bidders that cannot be explained by cost increases.
  - G. Two or more 'businesses submit a joint bid even though at least one of them could have bid on its own.
3. Various examples of Collusion/Bid Rigging may be as under:-
  - A. Bid suppression:- It occurs when competitors agree not to submit a bid, or to withdraw a previously submitted bid, so that the cartel's designated winner's bid is selected.
  - B. Cover bidding:- It occurs when competitors agree to submit a bid that is higher in price than that of the cartel's designated winner, or contains terms that are

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SUPPLIES & DISPOSALS DEPARTMENT, HARYANA  
S.C.O. No. 09, 1<sup>st</sup> & 11<sup>nd</sup> Floor, Sector-16, Panchkula-134109 (Haryana)

Ph.:- 0172-2570121, 123, 124. Fax No.:- 0172-2570122.  
e-mail:- supplies@hry.nic.in , website:- dsndharyana.gov.in

unacceptable to the purchaser, in order to ensure that the bid of the designated winner is selected by the purchaser, while still giving the impression of competition.

- C. Bid rotation:- It occurs when competitors agree to take turns being the winning bidder. Contracts may be allocated equally among competitors by volume or value, or the division may correspond to the respective sizes of each company.
- D. Market sharing or market allocation:- It occurs when competitors agree to divide up markets among themselves. This could be through the allocation of customers, products or geographic regions to particular members of the cartel.
- E. Price fixing:- It occurs when there is an agreement among competitors to raise, fix or otherwise maintain the price of a good or service. This includes agreements to: ≥ set a minimum price; ≥ eliminate or reduce discounts; ≥ adopt a formula for computing price; ≥ increase prices; or ≥ hold prices firm. Price fixing affects a customer's ability to shop around for lower prices.
- F. Output restrictions:- It occur when competitors agree to reduce or restrict supply of a good or service with the aim of limiting availability, and therefore increasing prices.
- G. Bids are too close or too far apart.
- H. Losing bidders become sub-contractors.
- I. Repeat orders to same contractor.
- J. Some bidders have put special conditions in their bids which cannot be acceptable to tendering organization.
- K. Abnormally high bid prices quoted by losing bidders as compared to L1 bidder.
4. It is requested that in case such a scenario is observed as in Para-2 & 3 above, action as provided in the rules i.e forfeiture of EMD/blacklisting of firm etc as provided in the DNIT may be taken against the concerned firm(s). In case the quantum of collusion of bid rigging is of substantial nature, petition may be filed under Section 19(1)(b) of the Competition Act, 2002 or other relevant sections before Competition Commission of India.

This may be brought to the notice of all concerned for its implementation

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Additional Director (Admin),  
For Director General, Supplies & Disposals Haryana.

Endst No. DS&D/Admin/CCI/EA-II/2021 1284.

Dated, the 23/4/21

A copy of the above is forwarded to the Principal Secretary to Government Haryana, Industries & Commerce Department in reference to its order under Diary No. 2613 dated 09.04.2021.

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Additional Director (Admin),  
For Director General, Supplies & Disposals Haryana.