



BIDDER EXCLUSION

A global perspective

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Ori Schwartz
Head of the Competition Division



What is bidder exclusion and why do we need it?

Bidder exclusion is the banning of a company from a bidding process and future public procurement tenders, for a limited period of time due to.

Bid rigging is considered one of the most harmful conducts to competition, and there is a constant search for a new enforcement tools.

Possible advantages:

- General deterrence
- Individual deterrence
- Preserving the integrity of the tender process



How common is bidder exclusion?

- Quite common! Over 35 jurisdictions.
- Can be applied by not governmental and private sector entities
- Being used by jurisdictions that have criminal enforcement for bid rigging and also by jurisdictions who do not.



What are the main factors to consider?

Factor	Options
Automatic or discretionary application?	Both are possible
Who decides?	In most cases it's the procurement authority, but in some cases it would be the competition authority, the contracting authority or the court
Factors to consider (inter-alia)	<ul style="list-style-type: none">• The bidder role in the conspiracy• Recidivism• Leniency• Impact on the market
Exclusion from what?	Tenders published by the same contracting authority, or public procurement in general
For how long?	From several months to 10 years
Self-cleaning measures for rehabilitation	Exist in some jurisdictions, includes components like cooperating with the investigative authority, paying damages, taking measures to avoid future infringements



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Thank you

Ori.SCHWARTZ@OECD.org