

Competition and Public Procurement

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This Afternoon's Agenda: Suggested Policy Refinements

- Data Collection and Operational Research
- Enforcement Trip Wires
- Bounties
- International Research Agenda
- Caveat: Personal Views Only
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Joint Work

- Rob Anderson
- Alison Jones
- Marianela Lopez-Galdos
- Robert Marshall
- Anna Caroline Mueller
- Michael Meurer

Resources

- Anderson, Kovacic & Mueller, *Ensuring Integrity and Competition in Public Procurement Markets*, in **The WTO Regime on Government Procurement: Challenge and Reform** 681 (Arrowsmith & Anderson, eds. 2011)
- Anderson & Kovacic, *Competition Policy and International Trade Liberalization: Essential Complements to Ensure Good Performance in Public Procurement*, 18 *Public Procurement L. Rev.* 67 (2009)
- Kovacic, *Private Monitoring and Antitrust Enforcement: Paying Informants to Reveal Cartels*, 69 *George Washington L. Rev.* 766 (2001)

Data Collection and Operations Research

- Profile of Procurement Activity by Purchasers
- Profile of Enforcement Activity by Competition Agencies and Public Prosecutors
 - Firms and individuals
- Post-Enforcement Reviews
 - Specific cases
 - Impact on firm and individuals

Identify Tendencies and Trends to Improve Program Effectiveness

- Seeing Individual Events in Historical Context
 - Example: Trucks cartel
- See Patterns to Inform Policy/Enforcement
 - Marshall & Marx, **Economics of Collusion** (2012)
 - Kovacic, Marshall, Marx & Raiff, *Bidding Rings and the Design of Anti-Collusive Measures*, in **Handbook of Procurement** 381 (Dimitri, Piga & Spagnola eds. 2006)

New Direction for Compliance

- Ex Post Examination of Cartel Episode
 - Who was responsible?
 - Why did they do it?
 - Compare: Transportation accident reviews and reconstructions
- Remedies/Amnesty Conditions
- Guide Enforcement Practice and Training

Enforcement Trip Wires

- Certification of Independent Tendering
 - Signed by senior business official
- Implications
 - False certification violates prohibitions on making false statements to government authorities

Bounties

- Payments to Reveal Information
- Model: US Civil False Claims Act
 - Substantial rewards (up to 35% of total recovery)
 - Attorneys fees
 - Notice to public agency
 - Anti-retaliation safeguards
 - Compare: Existing amnesty programs

International Research Agenda

- Data Collection and Reporting
- Detailed Case Studies
- Teaching
 - Procurement officials
 - Competition agencies
 - Public prosecutors
 - Anti-corruption offices

Common Global Research Agenda

- Sector Studies
- Case Assessments: “Academic Audit”
- Data Reporting and Collection
- Comparative Study