

# American Recovery and Reinvestment Act Fraud Prevention

*Understanding, Detecting, & Reporting Antitrust Violations*

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Antitrust Division,  
San Francisco Field Office

# Criminal Antitrust Enforcement

- ◆ Criminal investigation and enforcement
  - Bid rigging
  - Price fixing
  - Market allocation

# What is Bid Rigging?

- ◆ Bid Rotation
  - Competitors agree to take turns being the low (winning) bidder
- ◆ Bid Suppression
  - Competitor agrees not to bid
- ◆ Complementary Bid
  - Competitor agrees to bid high

# Bid Rotation

	Year "A"	Year "B"
Bidder #1	Low	High
Bidder #2	High	Low

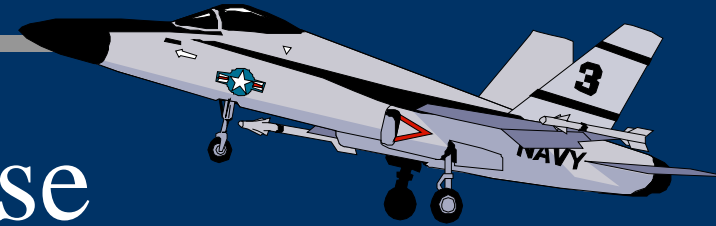
  

	Item "A"	Item "B"
Bidder #1	Low	High
Bidder #2	High	Low

	Area "A"	Area "B"
Bidder #1	Low	High
Bidder #2	High	Low

# Aircraft Parts Case



	T-37 Nose Wheel		F-5 Main Wheel	
1985	Smith & Smith	\$275	Jay-Em	\$1000
1986	Jay-Em	\$455	Smith & Smith	\$1390
1987	Smith & Smith	\$465	Jay-Em	\$1416

“Price war is over between Smith & Smith and Jay-Em.”

-- Presidents of Jay-Em and Smith & Smith, 1986

Prices increased significantly – 60% jump between '85 and '86.

No economic explanation to support such a significant price increase.

# Post-Tensioning Construction

- Three contractors pre-qualified to bid
- Agreement: 1/3 of sales to each contractor
- Discussed methods to avoid detection
  - No specific contract assigned to a specific contractor
  - Used a “Scoreboard” to track sales and ensure no cheating

# Complementary Bid

Bidder #1      Low

**Bidder #2      High**

Bidder #1 awards subcontract, or pays kickback to **Bidder #2**.

# Typhoon Repair Projects - Guam

## PASEO LIGHT TOWER

Deok Shin Corporation	\$134,000
Young Lae Corporation	\$145,850
BW Corporation	\$148,350


## WETTENGEL FOOTBALL FIELD

Cho Iron Works	\$126,000
Deok Shin Corporation	\$134,800
C.Y. Development Co.	\$138,300

## YPAO BEACH PAVILLION AND CABANAS

BW Corporation	\$145,000
QL International Development	\$155,280
New Development Corp.	\$158,280

*Minimum of three bids required. Companies either with no interest in project, or in existence only on paper, submit high bids so friend will get the project.*

 **YOUNG LAE CORPORATION**  
General Contractor & Equipment

P.O. Box 24024 GMF, Guam 96931  
Tel: (671) 649-0649 Fax: (671) 649-1649

December 31, 1997

MR. SONNY SHELTON, Director  
Department of Parks and Recreation  
Tiyan, Guam.


Subject: Repair of one Paseo Stadium Light Tower

Dear Mr. Shelton,

Please find our estimate for the Restoration of one lighting tower at the Paseo Stadium damage by Typhoon Paka. The total amount of our estimate is **"One Hundred Forty Five Thousand Eight Hundred Fifty Dollars and 00/100 (\$ 145,850.00)"**. Including the supply and installation of Lighting fixtures and power hook up.

We sincerely hope that this is according to your requirements. **Please give us a call us if you have any question.** Thank you very much.

Sincerely,

  
Park Young Kwang  
President



BW Corporation

December 31, 1997

MR. SONNY SHELTON, Director  
Department of Parks and Recreation  
Tiyan, Guam.

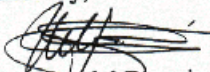
Subject: Repair of one Paseo Stadium Light Tower

Dear Mr. Shelton,

We submit here with our estimate for Repair and Restoration of one Lighting Tower at the Paseo Stadium that was damage by Typhoon Paka. The total amount of our estimate is **"One Hundred Forty Eight Thousand Three Hundred Fifty Dollars and 00/100 (\$ 148,350.00)"**. Including Labor, Materials and Equipment.

We hope that the above quotation is satisfactory. **Please give us a call us if you have any question.** Thank you very much.

Sincerely,

  
Manolito del Rosario  
Project Engineer

# Bid Suppression

Bidder #1      Low

**Bidder #2      No bid submitted**

Bidder #2 expressed interest in obtaining project. Had capability and resources to do the project.

# JUDY GREEN E-RATE CASE

- ◆ West Fresno Elementary School District Technology Project
- ◆ Green Hired As Consultant to District
  - Green Creates Request for Proposal (RFP)
  - RFP calls for bids on four (4) items
    - Cabling
    - Data (switches and routers)
    - Servers
    - PBX/video

# GREEN ORCHESTRATES BID RIG

- ◆ TERMS OF BID RIG AGREEMENT
  - Only vendor H will bid on project
  - Vendor I subcontract for data and pbx
  - Vendor P subcontract for servers
  - Vendor V subcontract for video
  - Vendor S subcontract for data cabling
  - Vendors will provide kickback to Green
  - Green will disqualify non-conspirators

# What You Can Do To Discourage and Detect Collusion

- ◆ Expand bidders list – solicit as many reliable sources as economically possible and keep track of possible bidders who express interest in the project;
- ◆ Require the submission of sealed bids to be delivered by a specified time and to a specified location, and date and time stamp the bids when they are received;
- ◆ Set the public bid opening at least one day after specified due date;
- ◆ Require a certification of independent price determination to be submitted with all bids. Avoid abstract words such as “competitor,” “collude,” or “sham” in certification;

# What You Can Do To Discourage and Detect Collusion

- ◆ Retain all bids, envelopes, facsimile transmittal sheets, or e-mail transmittal messages, that the bids or quotes were in or which accompanied the bids;
- ◆ Ensure that all purchasing department employees are familiar with the indicators of bid rigging, price fixing, and market allocation;
- ◆ If the prices or bids submitted don't make sense, press your vendors to explain and justify their prices;
- ◆ Become familiar with the market in which you make your purchases.

# Questions?

**Jeane Hamilton**

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# USDOJ Antitrust Div. ARRA Initiative Website



[www.usdoj.gov/atr/public/criminal/  
economic\\_recovery.htm](http://www.usdoj.gov/atr/public/criminal/economic_recovery.htm)