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COLLUSION AND CORRUPTION IN PUBLIC PROCUREMENT

Contribution from Brazil

-- Session V --

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Contact: H el ene CHADZYNSKA, Programme Manager of the Global Forum on Competition
Tel: 33 1 45 24 91 05; email: helene.chadzynska@oecd.org

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RECENT ACHIEVEMENTS ON FIGHTING COLLUSION AND CORRUPTION IN PUBLIC PROCUREMENT

-- Brazil --

1. The competition law and practice in Brazil is governed primarily by Law No. 8,884, of 1994, as amended in 2000 and 2007. The Brazilian Competition Policy System (BCPS) is composed of three agencies which are in charge for the enforcement of the Brazilian Competition Law at the administrative level – namely the Secretariat of Economic Law of the Ministry of Justice (SDE), the Secretariat for Economic Monitoring of the Ministry of Finance (SEAE), and the Council for Economic Defence (CADE).

2. SDE, through its Antitrust Division, is the chief investigative body in matters related to anticompetitive practices and it also issues non-binding opinions in merger cases. SEAE issues non-binding opinion in merger review and it may also issue non-binding opinions related to anticompetitive practices. CADE is the administrative tribunal, composed of seven Commissioners, which makes the final rulings in connection with anticompetitive practices and merger review, after reviewing the opinions issued by the Secretariats.

3. Since 2003, the BCPS has passed through important changes aimed to improve competition and the enforcement of competition law and policy in the country. The focus has been to enhance – through better working methods, priority-setting goals and communication flow between the BCPS and other government authorities – the effectiveness of its efforts to improve the functioning of markets on behalf of consumers, focusing on anti-cartel enforcement and competition advocacy.

4. Fighting cartels is a top priority for the Secretariat of Economic Law (SDE). Since 2003, SDE has started to use the enhanced investigative tools granted by the Brazilian Congress in 2000 (dawn raids and leniency), and CADE began imposing record fines on companies and executives found liable for cartel conduct. Currently 75% of SDE's resources are devoted to cartel investigations. SDE is also increasingly cooperating with criminal authorities and foreign antitrust authorities, resulting in more effective investigations related to such anticompetitive practices.

5. Since 2007, SDE has also established fighting bid rigging as a priority. As determined by the Minister of Justice, a special unit within SDE was created for this specific purpose aiming at (i) investigating bid rigging in public procurement proceedings and (ii) developing knowledge with the purpose of helping procurement authorities to identify and avoid cartels in the tenders they promote.

6. The development of this unit counted with the valuable assistance of the Organisation for Economic Cooperation and Development (OECD), in the context of the “Project to Reduce Bid Rigging in Latin America”. The two-year Project was launched at the “Latin American Competition Forum” in 2007 with pilot projects in Brazil and Chile. Within the Programme, the OECD prepared several briefs for SDE on a variety of topics, such as specific amendments to the Procurement Law and the Certificate of Independent Bid Determination (CIBD), which undoubtedly contributed to enhance the Brazilian enforcement against bid rigging. OECD also helped SDE to establish a close working relationship with representatives of key public bodies involved in public procurement in Brazil, as stated below.

7. Some recent achievements on fighting collusion in public procurement are presented below, as well as other positive results derived from the enhanced cooperation with anti-corruption authorities and criminal authorities in this area.

1. Introduction

8. In Brazil, mandatory bidding procedures are established by 1988 Brazilian Constitution. Its Article 37, item XXI, states that public bidding procedures must be followed in all public sector contracts of construction projects, services, acquisitions and property transfers, in order to ensure equal conditions to all participants, resulting in the best value for public resources.

9. Bidding proceedings are governed primarily by Law No. 8,666 of 1993 (The Public Procurement Law) and its amendments. It establishes a great variety of principles that must be observed in these proceedings, such as free competition, publicity, strict observance of the terms of the tender notification, objective judgment and compulsory awarding. However, the greatest of all principles is the supremacy of the public interest, which interacts with all of the other principles involved.

10. The Brazilian government has been making considerable efforts to promote competitive public tender practices by implementing more efficient contracting – such as the extensive use of electronic procurement¹ as well as enhancing transparency and its external and internal controls exercised by the authorities responsible for bidding procedures. Furthermore, the competition authorities are now devoting especial attention to preventing and prosecuting collusive practices among competitors in public tenders.

11. However, it is widely known that public procurement is a propitious scenario for cartels activities and other fraud schemes. Many factors contribute for it, such as that the government spends great amounts of resources to purchase goods and services required for its activities in a great variety of relevant areas, such as health services, education, public safety and infrastructure.

12. Additionally, in Brazil, where there is a great decentralisation of bids (each public agency or unit shall promote its own bids), the frequency of contacts between competitors can be quite significant and, as a consequence, it may increase the opportunity for collusion schemes.

13. In private contracts, buyers have more flexibility to respond or suspend a tender if they observe any sign of collusion between suppliers. However, due to the legal framework applicable to public tenders in Brazil, in general, the government is not able to timely react in such cases. Finally, the high number of bidding processes is a challenge that requires constant interaction among the agencies responsible for fighting collusion, frauds and corruption in public tenders.

14. Consequently, since 2007 SDE has made a major effort to build and enhance its relationship with those authorities who also work with public procurement in order to enlarge the effectiveness of their work. The BCPS is also spreading measures to enhance competition and prevent anticompetitive practices in public tenders, as stated below.

2. Enhanced Cooperation among Government Authorities

15. Since 2007 SDE has made a major effort to build a close working relationship with key officials of the Brazilian government who also deal with public procurement in Brazil. The main objective is to

¹ According to the Ministry of Planning, in 2008 only the federal government saved approximately R\$ 3,8 billions (US\$ 1,62 billion) by using the electronic procurement. Source: www.comprasnet.gov.br, access in December 24, 2009.

increase the effectiveness of Brazilian authorities in fighting bid rigging. This is a great priority for Brazil, especially in the context of the forthcoming World Cup in 2014 and Olympic Games in 2016, as stressed by the Brazilian President Luiz Inacio Lula da Silva during the second edition of the Anti-Cartel Enforcement Day, celebrated on October 8th, 2009.

16. As part of the OECD Project, the initial efforts focused on the Ministry of Planning, the Office of the Comptroller General and the Federal Court of Auditors. To encourage these agencies to fight bid rigging, SDE focused on explaining the significant cost of bid rigging to the government. Collusion cases from Brazil and other jurisdictions were used to illustrate this point and also that bid rigging conspiracies can often last many years. Work with these organisations progressed quickly, and after nearly three years of sustained engagement, considerable advances have been made.

17. SDE's joint work with the Ministry of Planning has focused on accessing data regarding public procurement and improving the detection of bid rigging. The Ministry of Planning is responsible for all information technology systems that support federal government procurement (such as *ComprasNet*, the e-procurement unit of the federal government). There are important initiatives within that Ministry for developing software tools which can more quickly identify suspicious patterns of behaviour by suppliers in bids.

18. As a practical result of this cooperation, the Ministry of Planning authorised SDE to access the Data Warehouse of *ComprasNet*, which is an aggregated data storage on federal government purchases applied for monitoring a number of indicators. It includes business intelligence tools, and allows SDE to extract and analyse data regarding public procurement at a federal level. It is a valuable tool for SDE to conduct consultations regarding suspicious bidding processes.

19. Furthermore, following a SDE recommendation, the Ministry of Planning issued in 2009 a regulation that makes mandatory for all participants in federal public bids to file a Certificate of Independent Bid Determination (CIBD). This important measure can be seen as the turning point in the fight against bid rigging in Brazil as will be further discussed below.

20. The work has also focused on the Office of the Comptroller General (*Controladoria Geral da União – CGU*), which is responsible for auditing the expenses of the federal executive branch. CGU is the internal audit unit and the anti-corruption agency of the Brazilian federal government. The joint work between SDE and CGU has focused on using existing methods for detecting fraud and corruption in public procurement to help identify possible bid rigging conspiracies (as bid rigging can occur when these other crimes occur). That cooperation was institutionalised by a cooperation agreement signed in 2009.

21. In addition, SDE has been using CGU's Public Expending Observatory (*Observatório da Despesa Pública – ODP*), which is a data-matching and a tracking system originally designed to detect fraud and corruption, to help the competition authorities identify bid rigging cases and patterns. It has enabled SDE to conduct sophisticated investigations of public tenders with the aid of electronic data. More information about ODP can be found on Annex I.

22. SDE has also established a positive relationship with the Federal Court of Auditors (*Tribunal de Contas da União – TCU*), which resulted in a cooperation agreement signed in 2008. TCU audits the accounts of administrators and other persons responsible for federal public funds, assets, and other valuables, as well as the accounts of any person who may cause loss, misapplication, or other irregularities that may cause losses to the public treasury².

² <http://portal2.tcu.gov.br/portal/page/portal/TCU/english/inside>.

23. SDE and TCU have focused on outsourcing contracts, which was identified as a kind of contract highly vulnerable to fraud schemes. This joint work has enabled SDE to better investigate possible collusive practices in this sector.

24. Additionally, TCU, CGU and SDE have recently developed a typology concerning suspicious patterns applied to this contracts that will be spread among other authorities, especially the criminal ones, in order to better detect and prosecute bid rigging and corruption in this kind of contracts.

25. Furthermore, since 2007, SDE has focused its efforts on strengthening the cooperation with the criminal authorities, in order to increase the impact of its anti-cartel enforcement policy. In Brazil, cartel is both an administrative infringement and a crime, punishable with criminal fines or prison terms that may range from 2 to 5 years. The police and the Public Prosecutors Office – at the Federal and State levels – are in charge of the criminal prosecution, pursuant to Law No. 8137/90 (Economic Crimes Law) and Law No. 8.666/93 (Public Procurement Law).

26. The goal of this joint work with the criminal authorities was to explain the legal standards for a violation of the competition law, to raise awareness of anticompetitive practices, and to discuss penalties, given that bid rigging is also a criminal offence. Moreover, because bid rigging may occur alongside other crimes, such as fraud, money laundering, tax violations and corruption, it is important for public prosecutors and the Federal Police to be aware that additional penalties can be imposed. SDE also sought to deepen its connection with the Federal Police in order to increase the effectiveness of its investigative work. In 2009, for example, the Federal Police participated together with the SDE in a dawn raid in connection with an alleged bid rigging case regarding information technology services in the Federal District.

27. The competition authorities also participate in many inter-ministerial groups, in order to input competition enforcement in the policies conducted by the Brazilian government. Concerning public procurement issues, for instance, it is noteworthy that SDE integrates the National Strategy to Fight Corruption and Money Laundering (*Estratégia Nacional de Combate à Corrupção e à Lavagem de Dinheiro* - ENCCLA).

28. ENCCLA is composed by 70 agencies or bodies of the Executive, Legislative and Judiciary branches plus the Federal Prosecutor's Office, the Office of the Comptroller General and the Brazilian Court of Auditors among other authorities. It is a high level arena for discussions about fighting money laundering and corruption as well as other related crimes, as bribery and collusion in public procurement. In its 7th edition, on November 21, 2009, ENCCLA approved 21 actions to be conducted by its members in 2010. Among them, it is noteworthy the risk analysis of bidding processes related to outsourcing contracts and bidding processes associated to the forthcoming events of the World Cup (2014) and Olympic Games (2016) in Brazil.

29. Concerning these important events to be held in Brazil, SDE will also integrate the Task Force conducted by the Federal Public Prosecutors Office to analyse the bidding processes related to the World Cup of 2014. The main objective is to prevent and effectively repress any evidence of illegal practices in the context of these processes, including collusive evidence.

3. SDE Materials on Fighting Bid Rigging

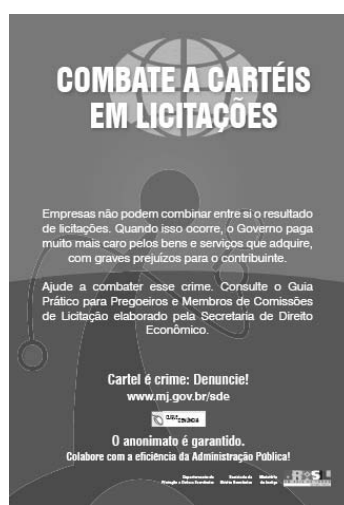
30. In 2008, SDE launched a brochure on preventing and fighting bid rigging, especially designed to procurement agents and authorities. It explains what bid rigging is, the antitrust laws, suspicious behaviour and bidding patterns, and how to contact the competition authority (especially through the SDE's e-tool "click here to report a violation").

31. The document is based on OECD documents, such as the *Roundtable Report: Public Procurement – The Role of Competition Authorities in Promoting Competition* (2007).³ It also presents some relevant tips on how design procurement processes in order to enhance competition and minimise the risks of bid rigging.

32. The brochure as well as the folder and posters about fighting bid rigging contributed to increase awareness of the harms caused by cartels that fraud competition in public bids, stressing that it is also a crime in Brazil. SDE handed out these materials in related-events and sent them all States of Brazil and to different audiences, including procurement authorities, business community, courts, prosecutors, consumers, and schools.



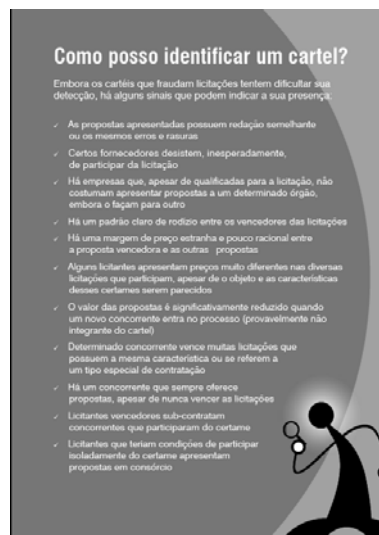
Brochure “Fighting Bid Rigging”



Poster “Fighting Bid-rigging” (back)



Folder “Fighting Bid-rigging” (front)



Folder “Fighting Bid-rigging” (back)

³ OECD Report, Public Procurement – The Role of Competition Authorities in Promoting Competition, <http://www.oecd.org/dataoecd/25/48/39891049.pdf>.

4. Outreach Programmes

33. In addition to these efforts, since 2007, there has been a significant increase in outreach to front-line public procurement agents. A significant goal of the outreach programme was to increase the willingness of procurement agents to report bid rigging.

34. There were two main elements to these outreach efforts. First, both general and customised events were held for important public procurement organisations. More general events simply involved inviting public procurement agents from a variety of agencies, and raising awareness about the harm from bid rigging as well as how to detect it. In August 2008, for example, around 200 public procurement agents from more than 40 agencies participated in a major event in Brasilia.

35. Outreach events for specific agencies have targeted SABESP (Sao Paulo basic sanitation company), the Ministry of Health and the National Agency for Terrestrial Transport, among others. In addition, the Transport Agency was also advised that it should take steps to increase the uncertainty about both the number and identity of the bidders during an upcoming tender process for an interstate bus transportation concession in order to reduce the chances of collusion.

36. Second, thousands of brochures, folders and other materials have been distributed to public procurement officials in order to increase awareness. Feedback from the distribution was very positive, and has led to many tips on possible anticompetitive practices (see below).

4.1. Road Show “*Fighting Bid Rigging in Public Procurement*”

37. In July 2009, as a conclusion of the “OECD Latin America Bid-Rigging Programme”, SDE and OECD organised the event “Fighting Bid Rigging in Public Procurement”, which received financial and technical support from the OECD. It took place in five Brazilian cities: Recife in the Northeast, Brasília in the Centre-West, Belém in the Northern Region, São Paulo in the Southeast and Curitiba in the South. It was fundamental to spread around the country the benefits of fighting collusion among competitors in public tenders.

38. The events consisted of two training sessions: one for procurement officials and another for criminal investigators responsible for fighting bid rigging in the criminal area. A senior-economist of the OECD Competition Committee, also participated in the Roadshow, which helped SDE to spread to prosecution and procurement authorities a valuable amount of knowledge, founded on the international best practices on fighting bid rigging. Over 600 public procurement agents and criminal enforcement officials attended the event and highly complimented the initiative. More than 2,500 copies of the “OCDE Guidelines for Fighting Bid Rigging” and the SDE’s Brochure on Fighting Bid Rigging were handed out.

39. After that, a number of presentations in other cities were requested and provided by the SDE. In August 2009, SDE attended an event on how to prevent bid rigging to public prosecutors of the State of Rio de Janeiro. After, SDE attended an event in the State of Espirito Santo, where about a hundred of procurement officials of that State were updated on how to prevent and detect bid rigging in the public tenders they conduct.

40. Finally, in November 2009, SDE participated in the meeting of the National Council of the Brazilian Internal Controllers⁴, which congregates the State authorities responsible for auditing the public

⁴ Conselho Nacional dos Órgãos de Controle Interno dos Estados Brasileiros e do Distrito Federal (CONACI).

tenders around the country and, as a consequence, may also detect evidence of collusive behaviour among bidders during that process.

5. SDE's Opinion on Amendments to the Procurement Law

41. In the context of the OECD Project above mentioned, the Organisation prepared several briefs for SDE on a variety of topics, which undoubtedly contributed to enhance the Brazilian enforcement against bid rigging. For example, a short brief was submitted to SDE in February 2008 examining several proposed amendments to the procurement law which may impact the construction industry.

42. Based on this brief, SDE submitted a report to the Presidency of the Brazilian Republic⁵ in March 2008 proposing significant modifications to the amendments, particularly regarding rules that facilitate the identification of bidders at early stages of the procurement processes and bid bonds and collaterals. In April 2009, a modified version of the report was sent to key congressmen involved in the Bill.

6. Guidelines for the Analysis of Complaints Involving Public Procurement and the Certificates of Independent Bid Determination (CIBD)

43. On July 3rd, 2009, SDE released its Guidelines for the Analysis of Complaints Involving Public Procurement (SDE's Ordinance No. 51 of 2009), together with a recommended Model of Certificate of Independent Bid Determination (CIBD), in order to help procurement agents fight bid rigging in public procurement and to encourage them to take steps to reduce the risk of collusion in the procurement process.

44. The Guidelines clarify the limits of the application of Brazilian competition law in public procurement proceedings, and also indicate how the Secretariat will analyse cases of anticompetitive conduct by bidders, such as bid rigging, facilitating practices by trade associations and some kinds of bid consortia. It is considered an important measure to SDE rationalises its works and it also grants predictability to the companies which may be investigated by the SDE.

45. By its turn, as suggested in the context of the OECD Project, SDE recommended in that Ordinance, a Model of CIBD, in order to assist procurement agents to increase deterrence of bid rigging in Brazil.

46. Based on this SDE's initiative, on September 17th, 2009, the Brazilian Ministry of Planning published the Regulatory Instruction No. 02 of 2009 that obliges participants in federal public bids to present the CIBD. As stated before, the Ministry of Planning is responsible for regulating the bidding processes in federal level as well as operating *ComprasNet*, which is the e-procurement unit for the Brazilian government. This important measure can be seen as the turning point in the fight against bid rigging in Brazil. As far as SDE is concerned, Brazil is the only country in the world to systematically require CIBDs in all federal procurement.

47. The CIBDs require each bidder or a consortium to sign a statement that it has not (i) agreed with its competitors about bids, (ii) disclosed bid prices to any of its competitors and (iii) attempted to convince a competitor to rig bids. There are a number of advantages in adopting the CIBDs: they not only inform

⁵ The Presidency of the Brazilian Republic is the chief body of the Federal Executive Power. In the Presidency's structure, there is the Presidential Staff Office (Casa Civil), which is recognised as essential and works in the coordination and integration of governmental actions. This body is also in charge for analysing the merit and opportunity of the bills of law pending in the National Congress, according with the governmental guidelines.

bidders about the illegality of bid rigging, but they also make prosecution of bid riggers easier, adding other criminal penalties for the filing of a false statement by the conspirator.

48. Furthermore, in this context, in 2009 a Congressman presented a bill before Congress (Bill No. 5506/2009), which amends Brazil's Procurement Law (Law No. 8,886/93), making mandatory the signature of CIBDs in all government procurement (Federal, State and local levels). The bill is still pending before Congress.

7. Example of a Bid Rigging Case Condemned in Brazil

49. In October 2003, one of the members of a bid rigging cartel involving security service provider companies with activities in Rio Grande do Sul applied to the Brazilian Leniency Programme. The target of the cartel was a number of public tenders organised primarily by the Superintendência Regional da Receita Federal in Rio Grande do Sul and Secretaria Municipal de Saúde of Porto Alegre.

50. In order to obtain full immunity from administrative fines and criminal sanctions, the leniency applicant submitted direct evidence of the bid-rigging, including employees' testimonies and audio records of telephone conversation held between the leniency applicant's employees and the other cartel participants.

51. The leniency applicant provided sufficient information to enable SDE and the Public Prosecutors to run simultaneous dawn raids in four companies and two trade associations allegedly involved in the bid rigging. Approximately 80 people were involved in the dawn raids, including officials from the Federal Police. Seized evidence showed that the defendants held weekly meetings to organise the outcomes of bids for public tenders.

52. There was an intense cooperation with the Public Prosecutor Office throughout the case and, as a result, criminal proceedings were also opened before the Judiciary against the individuals allegedly involved in the conspiracy, with exception to the beneficiary of the leniency agreement.

53. After reviewing SDE's investigation and conclusion for the existence of a hard-core cartel, CADE issued its decision in 2007. It imposed a fine on 16 companies ranging from 15 to 20 per cent of their 2002 gross turnover for cartel conduct. Executives of the condemned companies and three industry associations were also found guilty of cartel offense and fined by CADE. The total amount of fines imposed is in excess of R\$40 million.

54. In addition to that, companies were prohibited to take part in bidding processes sponsored by the government and to engage in contracts with official financial institutions for the period of five years⁶. The decision had to be published in a major newspaper at Rio Grande do Sul State, at the expenses of the convicted trade associations and labour union.

55. At the same occasion, CADE recognised that the beneficiary of the leniency agreement fulfilled all the conditions imposed in the agreement with SDE and, therefore, no sanctions were imposed.

⁶ Pursuant to Law No. 8,884/94, Article 24, besides fines, companies may be condemned as ineligible for official financing or participation in bidding processes involving purchases, sales, works, services or utility concessions with the federal, state, municipal and the Federal District authorities and related entities, for a period equal to or exceeding five years.

8. Recent Bid Rigging Investigations

56. As stated above, a noticeably closer working relationship with important government agencies has been established. Thousands of procurement agents, public prosecutors, members of the Federal Police and other government officials have learned about bid rigging, why it is harmful, and how to report it.

57. Tips from procurement agents have provided solid leads and have led to numerous investigations.

58. For example, in two matters, anonymous tips and analyses of procurement data led to a dawn raid of four companies involved in providing information technology services to the Brazilian government and to a dawn raid of four companies providing services for public banks. Many other cases are currently under investigation.

9. Conclusions

59. As observed, the competition and criminal authorities, as well as the internal and external audits are investing in effective ways to prevent and detect fraud schemes in public procurement, especially collusion and corruption schemes. The enhanced cooperation has been very effective, and a number of cases have been initiated after SDE received leads from authorities involved in public procurement.

60. SDE's Antitrust Division has made important improvements on the mechanisms to analyse and better prosecute bid rigging cases, considering its peculiarities. Today SDE adopts more efficient analysis methodology, in cooperation with other authorities.

61. Furthermore, SDE has been promoting more competitive tenders by publicising steps that procurement agencies can take to promote more effective competition in public procurement and reduce the risk of bid rigging. This includes explanations on how to design the tender process to effectively reduce communication among bidders and to maximise the participation of bidders. All these efforts will certainly result in saving significant government resources.

**ANNEX 1: PUBLIC SPENDING OBSERVATORY -
ODP (OBSERVATÓRIO DA DESPESA PÚBLICA):
A TOOL AGAINST BID RIGGING¹**

1. In the last years, the Brazilian Federal Government has invested in new technologies to identify suspicious patterns of illegal behaviour in the context of public expenditure which were, at first glance, not perceived and, therefore, hidden. These tools have been developed and used to reveal cases of corruption, fraud and collusion in public procurement. The major focus of this initiative is on the Public Spending Observatory – ODP (acronym from the Portuguese *Observatório da Despesa Pública*), a newly created unit within the Office of the Comptroller-General - CGU (Controladoria-Geral da União).
2. The Office of the Comptroller-General (CGU) is a federal agency responsible for assisting directly and immediately the President of the Republic regarding matters related to the defence of public assets as well as increasing the transparency of administration. CGU's main focus is internal control through auditing and disciplinary actions against civil servants. In addition, CGU also devotes efforts to research and develop new techniques to prevent and fight corruption in Brazil.
3. This challenge requires CGU to monitor and detect potential frauds in relation to the use of federal public resources by devising solutions in order not only to expose current corruption cases, but also to prevent future events.
4. In 2008, CGU established the Public Spending Observatory - ODP, a permanent unit of intelligence, based on a modern and innovative concept: combine the practical knowledge and experiences of auditors with the use of advanced tools of information technology to speedily process an enormous volume of data.
5. The main goal of the ODP is to foresee fraud-risk situations. This knowledge-building exercise is quite useful in designing public policies aimed at preventing and combating corruption. Based on systematic information and periodic updates, the ODP provides CGU and some other government agencies with elaborated knowledge, analytical statements about the quantity and quality of public spending as well as with indications of sensitive areas of public spending, in terms of corruption risk.
6. The novelty of the ODP derives from the fact that it consolidates all the available public expenditure information - fragmented in several computerised systems from different bodies and constructed in a variety of technology platforms, from the oldest to the latest - in only one database. As a consequence, ODP transforms these disaggregated data into knowledge of high added value, contributing to the efficient management of public resources as it may help the authorities to identify, prosecute and prevent cases of misappropriation and other frauds.
7. ODP is built around a multi-disciplinary environment composed by auditors and IT staff. In addition, specific task forces are formed depending on the matter to be investigated, which might include other authorities other than CGU officials.
8. As an important example of the capabilities of the Observatory, it is noteworthy the use of its analysis tools to fight cartels and collusion schemes in public procurements.

¹ Annex I was prepared by the Office of the Comptroller-General.

9. Originally, the basic elements of a bidding process and its bidders were already available in a federal database. ODP processes and compares this information with other comprehensive databases maintained by other agencies, such as: tax administration system provides information about the corporate structure of bidder companies and its partners; family relationships and jobs are known by the social security service, and multiple databases register addresses.

10. Crossing these data, the ODP identifies “trails” indicating atypical situations, which do not a priori constitute evidence of misappropriation or irregularities, but do require further attention, such as: the participation of companies with common shareholders in the same procurement procedures, different bidders with the same address, family bonds and past and present employer-employee relationship between partners and directors of the bidder companies. Internal analysis of the procurement databases may also indicate suspicious patterns of bid-rotation and market division among competitors by sector, geographic area or time, which might indicate that bidders are acting in a collusive scheme.

11. Those “trails” are automatically followed in a daily basis, resulting in “red” or “orange” warnings to the administrative or criminal authorities or even to the federal agency responsible for the problematic procurement process. Once detected a suspicious pattern, it is loaded in an OLAP (Online Analytical Processing) tool which results in reports and management review panels. The main objective is to analyse the distribution of bidding processes of a product or service by geographic area, government agency, amount of resources involved, per year during a certain period of time.

12. It is noteworthy that the work of the ODP has already been used in cooperation with the Secretariat of Economic Law (SDE) of the Ministry of Justice in some concrete cases still under investigation regarding alleged cartels in public procurement.

13. The joint work between CGU and SDE is presenting some quite positive results, especially concerning the exchange of valuable information and expertise in public procurement. Corruption prevention and fighting cartels are too complex and too broad to be dealt in a single front. The protection of public treasury cannot be separated of the discussion of efficiency and efficient purchases in public procurements. Bid rigging schemes make government spends more money than it should be necessary if the competition in public procurement was effective. Additionally, in some cases, the cartel may sponsor the corruption scheme. Consequently, if the authorities tackle the corruption, but not the cartel, the next procurement official or agency, for example, may be negatively influenced by the cartel.

14. Criminal punishment of corruption cases is quite important, but it is not enough. To deal with corruption in a modern way, comprehensive techniques are required, as long as a broad comprehension of this phenomenon. To this extent, the activities performed by state control agencies, like CGU, and competition authorities, like SDE, are essential to fighting cartels and corruption efficiently. Due to the impossibility of continuous human presence and overseeing on all fronts, modern technologies and initiatives to maximise the capabilities of these bodies, as the ODP, shall also be of paramount importance in this way.