

Unclassified

English - Or. English

9 June 2026

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE**

Competition and Corruption in Public Procurement – Note by Korea

26 June 2026

This document reproduces a written contribution from Korea submitted for Item 10 of the 149th OECD Competition Committee meeting on 24-26 June 2026.

Ori SCHWARTZ
Email : Ori.Schwartz@oecd.org

JT03588966

Korea

1. Introduction

1. Public procurement spans economically and socially critical sectors, including infrastructure, healthcare, and education. In Korea, the public procurement market reached KRW 225.1 trillion in 2024, accounting for approximately 8.8% of GDP.
2. As noted by the OECD, the scale and attractiveness of public procurement create strong incentives for firms to evade competitive pressure through bid rigging. The Korea Fair Trade Commission (KFTC) addresses this risk by investigating and sanctioning bid-rigging conduct. It also operates the Bid Rigging Indicator Analysis System (BRIAS) and an inter-agency consultative body to ensure close coordination with relevant institutions.

2. Enforcement of the Act on Contracts to Which the State Is a Party by Procurement Authority

3. The Act on Contracts to Which the State Is a Party governs contracts in which the State is a party. It was separated and enacted in 1995 from its predecessor, the Budget and Accounting Act of 1961, in line with the entry into force of the WTO Agreement on Government Procurement (GPA). Its key principles and provisions are incorporated into, or applied *mutatis mutandis* to, other public procurement-related statutes, such as the Act on Contracts to Which a Local Government Is a Party, thereby serving as the foundational legal framework for public contracts.

2.1. Principle of Open Procedure and Procedural Design

4. The Act on Contracts to Which the State Is a Party establishes open procedure as the general rule, while allowing exceptions—such as restricted bidding, selective procedure and direct award—depending on the purpose, nature, and scale of the contract (Art. 7(1)). This principle has been maintained since the enactment of the Budget and Accounting Act in 1961, and as of 2024, approximately 60% of all public tenders are conducted through competitive tendering.
5. The Enforcement Decree of the same Act strictly limits the grounds for restricted procedure (e.g., construction experience, possession of specific technologies, regional requirements) and selective procedure (e.g., where it is impracticable to accomplish the purpose of a contract without a person that has special equipment or technology), thereby seeking to balance the achievement of procurement objectives with the need to ensure competition. selective procedure, in principle, requires the designation of at least five bidders and the participation of at least two, so as to maintain a minimum level of competition.

2.2. Sanctions Against Improper Contractors

6. The Act on Contracts to Which the State Is a Party authorizes the head of each central government agency to restrict a contractor's eligibility to participate in tenders for a period of up to two years on grounds such as defective or substandard performance,

fraudulent conduct, impairment of fair competition, or non-performance of contracts, and to notify other central government agencies accordingly (Art. 27(1)). Such sanctions are publicly announced through the Electronic Procurement System. In addition, where a violation of the Monopoly Regulation and Fair Trade Act (MRFTA) is identified, the KFTC may request the awarding authority to impose a restriction on the contractor's eligibility to participate in tenders.

2.3. Electronic Procurement System

7. The Enforcement Decree of the Act on Contracts to Which the State Is a Party establishes the use of an electronic procurement system as the general rule for tender notices (Art. 33(1)) and bid submissions (Art. 39(1)). As of 2024, 65% of all public contracts are conducted through KONEPS (Korea On-line E-Procurement System), and 96% when including individual agencies' own electronic procurement systems. The OECD Guidelines for Fighting Bid Rigging in Public Procurement (2025 Update) also recommend the use of electronic procurement systems.

3. KFTC's Response to Bid Rigging

8. The KFTC, the competition authority in Korea, is responsible for investigating and enforcing the law against bid rigging under the MRFTA. The first amendment to the Act in 1986 prohibited concerted practices that substantially restrict competition, and the 14th amendment in 2007 explicitly recognized bid rigging as a distinct type of anti-competitive agreement, separate from price-fixing.

9. Bid rigging effectively nullifies the purpose of competitive bidding—selecting the supplier offering the most favorable terms—by practically reducing the process to a single-bid situation, and is therefore regarded as a particularly significant restriction of competition. As bid rigging cases are considered to generate no efficiency-enhancing effects beyond their anticompetitive impact, they are deemed unlawful based solely on the existence of an agreement to determine the winning bidder or bid price, without the need for an empirical analysis of competitive effects. In addition, unlike other types of anti-competitive agreement under the MRFTA, where penalty surcharges are calculated based on sales, penalty surcharges in bid rigging cases are calculated based on the contract value. Even cover bidders that did not generate actual sales may be sanctioned on the same basis as the winning bidder, reflecting the strict enforcement against bid rigging.

3.1. Investigation and Sanctioning of Bid Rigging

10. The KFTC addresses bid rigging through investigations, remedies, the imposition of penalty surcharges, and referrals for criminal prosecution. As bid rigging may be carried out through non-participation (bid suppression), analysis of bid failures, re-bidding history, and bid-ranking patterns is required. Quantitative indicators—such as trends in successful bid rates, changes in the number of participating firms, joint bidding patterns, and the distribution of bid prices—are key tools for detecting signs of collusion.

3.2. Leniency Program

11. Leniency is a system under which firms involved in collusion may receive reductions or exemptions from penalty surcharges and criminal sanctions if they voluntarily report the violation and cooperate with the investigation, and it serves as a key tool for

detecting cartels. Given the covert nature of bid rigging, which makes it difficult to obtain direct evidence from external sources, voluntary reporting by insiders often provides the decisive trigger for initiating investigations and securing evidence. The KFTC grants full immunity from penalty surcharges and criminal referral to the first applicant, and provides reductions to subsequent applicants depending on the degree of cooperation. Leniency also deters the formation and maintenance of cartels by fostering mutual distrust among participants.

3.3. Cooperation with Judicial Authorities

12. The KFTC refers serious bid-rigging cases to the prosecution so that they may lead to criminal sanctions. Roles are delineated such that procurement authority are responsible for ex ante prevention by ensuring transparency in procedures, the KFTC undertake ex post enforcement against collusion that restricts market competition, and judicial authorities pursue criminal liability, thereby assigning prevention and enforcement to different authorities. The OECD also emphasizes that building networks among public procurement bodies, the KFTC, and prosecutorial authorities at the national (or international) level, and ensuring close cooperation through information sharing, are key to combating bid rigging and corruption in public procurement.

4. Bid Rigging Indicator Analysis System (BRIAS)

4.1. Introduction and Use

13. The KFTC has operated the Bid Rigging Indicator Analysis System (BRIAS) since 2006, which collects and analyses bidding data from public institutions online to detect signs of collusion and link them to investigations. It is currently connected to 16 electronic procurement systems and collects tender data from 1,042 awarding authorities. The system is used to produce semi-annual analytical reports and to identify priority items for monitoring and targets for ex officio investigations.

14. At present, the evaluation indicators are based on factors such as 1) successful bid rates, 2) the number of participating firms, and 3) whether participation in bidding has been restricted. Cases exceeding a certain threshold score are selected for further analysis and investigation.

15. The KFTC has, over the past eight years, identified 10 bid-rigging cases based on BRIAS analyses of collusive indicators, and imposed remedies and penalty surcharges. In 2022, it uncovered bid rigging in a manhole cover procurement tender issued by Korea Electric Power Corporation (KEPCO), and imposed remedies and a total of KRW 2.1 billion in penalty surcharges on five firms.

4.2. Advancement and Expansion of Analytical Scope

16. BRIAS is scheduled for a second round of system upgrades in 2026, including the addition of data sources, diversification of analytical methods, and improvements to evaluation indicators.

17. First, while the current system collects only final bid outcomes, the upgraded system will collect round-by-round bid data as well as patterns of bid failures and re-bidding. Second, although the current system lacks a unified method for assigning item codes and classifying goods across institutions, the upgraded system will employ a vector similarity search algorithm to enable more sophisticated, product-group-based detection of

collusive patterns, thereby identifying suspicious clusters that could not be captured under the existing approach. Third, the upgraded system will add indicators such as trends in successful bid rates, joint bidding patterns, and inter-firm network relationships to its evaluation metrics.

18. In addition, following the 2023 amendment to the Enforcement Decree, asset-sale tenders conducted by Korea Asset Management Corporation (KAMCO) have been added to the scope of BRIAS analysis, expanding both the range of participating institutions and the data collected. Full system integration is also scheduled to be implemented as part of the 2026 upgrade. As more awarding authorities are connected and the analytical algorithms become more sophisticated, BRIAS is expected to play an increasingly important role as a practical information base for cooperation between competition and procurement authority.

5. Inter-Agency Consultative Body

5.1. Operational Status

19. In March 2014, the first Inter-Agency Consultative Body on Bid Rigging was held under the leadership of the KFTC, with procurement officials from major public institutions connected to BRIAS—including the Public Procurement Service, the Defense Acquisition Program Administration, Korea Electric Power Corporation, and Korea Expressway Corporation—in attendance. Since then, regular meetings have been held twice a year, reaching a total of 24 meetings as of 2025.

20. Initially, the consultative body primarily served as a communication channel among institutions connected to BRIAS, focusing on gathering feedback on methods for data collection and system integration, as well as sharing best practices in bid-rigging detection. Over time, its agenda has expanded to include education on bid-rigging decisions, digital forensics training, the establishment of referral criteria for KFTC investigations, and measures to prevent abuse of discretion by awarding authorities (corruption on the procuring entity side).

5.2. Recent Discussions

21. At the 18th consultative meeting held in 2022, participants reviewed voluntary measures adopted by awarding authorities to prevent corruption on the procuring entity side. In June 2023, the consultative body, together with 14 major public institutions, announced voluntary improvement measures and signed a declaration of commitment at a ceremony on measures to address corruption related to bid rigging in the public sector. The declaration included commitments to establish reasonable bidding procedures, strengthen internal rules such as codes of conduct and personnel regulations, and enhance self-regulatory efforts through internal audits and disciplinary measures for employees.

22. At the 24th consultative meeting held in 2025, three improvement measures for awarding authorities were presented. First, improvements to bidding systems and operational processes, including rationalizing the requirements for direct award, standardizing bidding information management processes, and separating requesting departments from departments. Second, education to raise awareness that certain common practices may constitute corruption. Third, the introduction of Compliance Programs (CPs), under which awarding authorities establishing internal compliance systems may receive benefits such as exemption from KFTC ex officio investigations and reductions of up to

20% in penalty surcharges. In this way, the consultative body is evolving beyond a simple information-sharing channel into a practical platform for inter-agency cooperation within Korea's decentralized public procurement framework.

6. Conclusion

23. Public procurement covers socioeconomically important sectors. Korea has addressed related risks through two main pillars: ex ante control by procurement authority under the Act on Contracts to Which the State Is a Party, and ex post enforcement by the KFTC under the MRFTA.

24. Going forward, Korea should continue strengthening its capacity to address bid rigging and corruption in public procurement through the advancement of BRIAS, the strengthening of the consultative body's functions, and the expansion of international cooperation. Korea's experience is expected to contribute to improving public procurement governance in both OECD member and non-member countries.