

Technical note:

Estimated harm from bid rigging in public procurement



Context

- 1 Bid rigging in public procurement contracts is a significant issue in New Zealand and around the world.
- 2 Bid rigging is a form of cartel conduct when there is an agreement among some or all of the bidders about who should win a tender or have an unfair advantage in the tender. This may involve potential bidders not bidding for a tender to support the proposed winner, or bidders may agree the prices that each party will bid. This often occurs in the form of “cover pricing”.¹
- 3 Public procurement is particularly susceptible to bid rigging because government contracts are often high-value, recurring, and awarded through formal tender processes, the benefits of which are undermined if suppliers collude rather than compete. The OECD identifies bid rigging in public procurement as a significant competition risk and has issued specific guidelines to help public agencies prevent, detect, and report it.²
- 4 Cartel detection and enforcement are a priority for the Commission, and we are particularly concerned when we see conduct that targets taxpayer-funded projects.³ NZ’s first criminal prosecution for cartel conduct, in 2025, involved bid-rigging of public roading contracts.⁴

How we arrived at our estimates

- 5 We have estimated the annual harm to New Zealand taxpayers from bid rigging affecting public procurement using the following approach:

$$\begin{aligned} \text{Annual harm} &= \text{NZ public procurement expenditure} \\ &\quad \times \% \text{ affected by bid rigging (prevalence)} \\ &\quad \times \text{cartel overcharge rate} \end{aligned}$$

- 6 Key inputs and assumptions are summarised in Table 1. We have aimed to take a conservative approach when selecting prevalence and overcharge values. We have included low and high sensitivities to allow for uncertainty.

Table 1: Key inputs and assumptions

	Mid-point	Low	High
Annual NZ Govt spend on procurement of goods and services	\$51,500m		
% affected by bid rigging (prevalence)	3.5%	2%	5%
Cartel overcharge rate	20%	15%	25%

- 7 Our approach is broadly consistent with the methodology recently used by the Competition and Markets Authority (CMA) when undertaking similar analysis in the United Kingdom (UK).⁵

1 Cover pricing is where one or more parties submit a tender bid or bids at an inflated price with a view to increasing the prospects that another designated firm wins the tender. Such an agreement prevents open and effective competition and means procurers are unlikely to achieve best value for money for their business, customers, and in some cases, taxpayers.

2 OECD *OECD Guidelines for Fighting Bid Rigging in Public Procurement (2025 Update)* (11 September 2025).

3 Commerce Commission *2025/26 Enforcement and compliance priority areas* (22 July 2026).

4 Commerce Commission “Cheating the system: Bid-rigging of roading contracts sees firm fined” (media release, 23 October 2025).

5 Competition and Markets Authority (CMA) *Rigged bids, real costs: A case for urgent action on bid rigging in UK public procurement* (8 September 2026).

NZ public procurement expenditure

- 8 Each year, New Zealand government agencies spend approximately \$51.5 billion on goods and services.⁶
- 9 Although some sectors are more susceptible to bid rigging than others, we have not separately estimated the likely impact of bid rigging by industry. Given uncertainty regarding key inputs, we have estimated the impact across all public procurement.

Prevalence of bid rigging

- 10 It is difficult to reliably estimate the prevalence of bid rigging affecting public procurement because cartels operate in secret to avoid detection.
- 11 We have used a conservative prevalence range of 2-5%, following the CMA's approach.⁷ Overseas cartel screening studies suggest the percentage of affected contracts could be significantly higher.⁸
- 12 One of the risk factors for collusive behaviour is a high degree of market concentration, which is expected to be more common in NZ (as a small, isolated economy) than the UK. This suggests that the CMA's 2-5% prevalence estimate may be particularly conservative in the NZ context.

Cartel overcharge rate

- 13 We have assumed a cartel overcharge rate of 20%, with a range from 15% to 25%.
- 14 The OECD has previously noted that elimination of bid rigging could help reduce procurement prices by 20% or more.⁹ This estimate is consistent with studies of cartel overcharges, including an extensive database published by Connor (2024).¹⁰

Estimated impact on NZ taxpayers

- 15 Combining these inputs results in estimated annual harm to NZ taxpayers of around \$360m per year, with a range from \$150m to \$640m.¹¹
- 16 Given we have focused on price effects, our estimate of harm excludes other adverse effects from reduced competition such as lower quality goods or services and reduced innovation.

6 New Zealand Government Procurement "Government procurement insights"
www.procurement.govt.nz/about-us/government-procurement-insights/

7 CMA, above n 5, at [6] and footnotes 11-12.

8 For example: Imhof, Karagök and Rutz "Screening for bid rigging - Does it work?" (2018) 14(2) Journal of Competition Law & Economics 235, identified between 13.5% and 28.4% of contracts as conspicuous, based on a Swiss road construction procurement dataset; Fazekas, Tóth, Wachs and Abdou "Public procurement cartels: A large-sample testing of screens using machine learning" (2026) 104 International Journal of Industrial Organization 103228, found that "about a third of public procurement contracts was awarded to firms engaging in potentially collusive behaviour", based on analysis of publicly available data from 7 European countries.

9 OECD *Fighting Bid Rigging in Public Procurement*.

10 OECD *Assessing the impact of competition authorities' activities* (OECD Roundtables on Competition Policy Papers No 320, 24 April 2025) at 22, table 4.

11 An alternative approach is to estimate harm as affected expenditure multiplied by the overcharge rate divided by (1 + overcharge rate). This would reflect cartel overcharges being measured relative to the competitive price rather than the actual price paid. Under this approach, estimated harm would around \$300m per year, with a range from \$130m to \$520m. Either way, the estimated annual harm is substantial and we also note our assumptions in our base approach are conservative.