



ФЕДЕРАЛЬНАЯ АНТИМОНОПОЛЬНАЯ СЛУЖБА

ELECTRONIC BIDDING IN PUBLIC PROCUREMENT: THE FEATURES OF DETECTION OF COLLUSION

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SYSTEM OF ELECTRONIC BIDDING

Unified procedure of bidding on state and municipal property is established, the single web site to provide information about tenders is identified- www.torgi.gov.ru.

The single national web portal brings into action for publication information about state and municipal tenders – www.zakupki.gov.ru.

Electronic bidding procedure came into force, 5 specialized e-bidding platforms are established for placing of state or municipal tenders.

Registration on e-bidding platforms is performed electronically.

Contracts in electronic form are signed by electronic signatures.

The FAS Russia takes an active part in developing and improving the Federal Contract System (FCS)

POWERS OF THE FAS IN THE FIELD OF PUBLIC TENDERS

The FAS Russia has broad powers to control the observation of competition and reduction of collusion risks in public procurement for state and municipal needs.

The control of observation of the competition principles is made in two ways:

Control for the procedure of placement of state or municipal order

Control over observation of competition legislation and ceasing various types of conspiracies in the course of a bid

The FAS Russia have powers to make injunctions to customers and order changes in bid documentation, to request an extension of the terms of a contract or bid to eliminate violations, to annul the results of bids and to apply to a court for a recognition of the results of a bid and the relevant contracts as annulled.

The FAS Russia can initiate an antitrust investigation if signs of limitation of competition in the course of a bid are present .

«TRADITIONAL» METHODS OF DETECTING COLLUSION

The FAS Russia in order to identify bid-rigging uses a number of traditional methods for obtaining information about a possible conspiracies that are used all over the world:

- 1 Complaints, applications officially received by FAS.
- 2 Information, received from law enforcement agencies.
- 3 Unscheduled inspections (dawn raids).
- 4 Leniency applications.
- 5 Media monitoring.
- 6 Monitoring of oligopoly markets and dominant manufacturers.
- 7 Monitoring of socially important markets (oil products, pharmaceutical products, foodstuffs, communal services, etc.).
- 8 Monitoring of associations of manufacturers, etc.



INNOVATIVE METHODS OF DETECTING COLLUSION USING THE ELECTRONIC TRADING SYSTEM

The FAS uses an innovative method of detection of cartels in electronic trading, which is based on the analysis of the results of the auction.

The analysis is carried out on an ongoing basis using the electronic resources of the Joint Information System (further – JIS)

JIS allows to process large amount of information in the shortest possible time.

Using some specific indicators or combination of indicators we can determine the state of competition in public procurement sector, as well as in specific markets the supply of goods and services, in particular.

We can detect risks or signs of collusion. In the case of simultaneous detection of several features, the competition authority may initiate an investigation.



INDICATORS OF ELECTRONIC TRADING SYSTEM

1. **What companies frequently win bids?**
2. **Companies winning bids sequentially.**
3. **Bids with minimum number of participants.**
4. **Bids resulting in minimum reduction of price.**
5. **Presence of bid participants who never submitted their offers.**
6. **History of company participation in bids.**
7. **Location of bid participants (sometimes cartelists use the same office building).**
8. **IP addresses of bid participants (sometimes cartelists use the same IP addresses).**
9. **Other identification data of bid participants and filters.**



«TRADITIONAL» AND «ALTERNATIVE» EVIDENCE

«TRADITIONAL»:

the same applications (text, font, handwriting, mistakes in the text, etc.);

the same place of dispatch of bids, identical envelopes, etc.;

the results of the analysis of paper auctions, etc..

«ALTERNATIVE»:

properties of the electronic file (the time and place of creation, the author), a unique electronic fonts, the number of electronic signs, etc.;

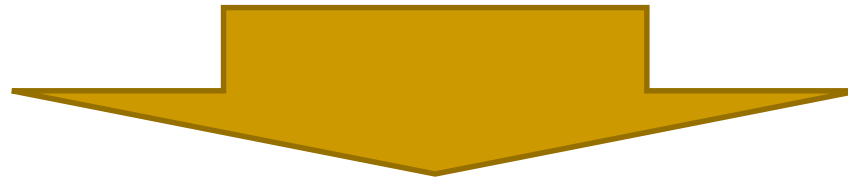
one IP address, one access point in the network (the Internet), etc.;

the results of the analysis of using electronic trading system, etc..

E-BIDDING FOR CARTEL PREVENTION

THROUGH THE SYSTEM OF E-BIDDING:

- It is more difficult to make agreements. One of the main requirements to the first parts of the bids in electronic bidding is anonymity, e.g. potential participants of bid rigging cannot know each other before the beginning of the auction. It means that they, as a rule, are not able to make a cartel.
- It is easier to identify an agreement. Information about all the tenders is placed in the same form, with a unified search and analytic systems.



GENERAL AND PARTICULAR PREVENTION
(prevention, aimed at protection against bid rigging)



BEST PRACTICE

An example of cases investigated by FAS Russia, 2012-2014

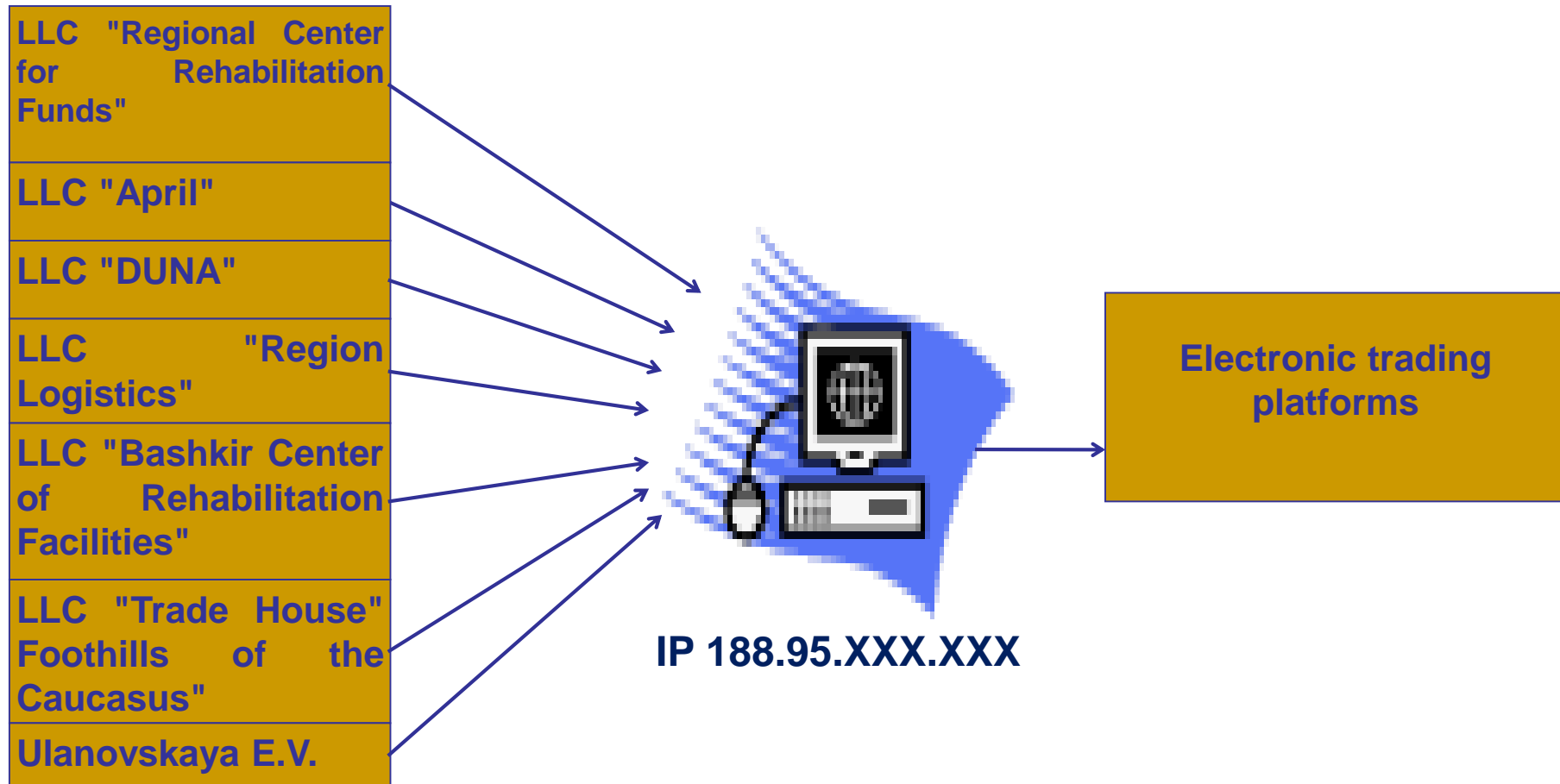
CARTEL SUPPLIERS OF CARE FACILITIES

Qualification: Violation of Clause 2, Part 1, Article 11 of the Law on Protection of Competition .

Case summary: During the electronic auction, cartel members (7 companies) used the model of behavior which, among people connected with public procurement, is known as «ram»: during the auction two members of the anti-competitive agreement, pretending to be actively trading among themselves, sharply lowered the price (up to 51% of the initial contract price). At the same time conscientious bidders lost interest in the bidding. Then, LLC "RSRFF" in the last seconds of the auction, bid slightly below the rate of conscientious participants or the initial (maximum) contract price. Next, cartel participants that took the first and the second places refused to sign the contract. Thus, a contract was signed with a third bidder of the cartel, which only slightly deviated from the initial price.

Cartel suppliers of care facilities: SOME EVIDENCE

During the time of the auction, Defendants signed into the electronic trading platform, placed and changed documentation and filled out applications using the same IP address. Moreover, defendants performed change of auction documentation from similar log-ins.



Prefecture of North - Eastern Administrative District (NEAD) of Moscow

Qualification: Violation of Clause 2, Part 1, Article 11 and Article 16 of the Law on Protection of Competition.

Case summary: The Prefecture of the NEAD of Moscow, LLC "PUBLICITY - BUILDING project №2" and LLC "Delta Stroy" (hereinafter - the defendants) have made and executed an agreement, aimed at eliminating competition in trading on the execution of works on extensive repair of yard playgrounds in the North - Eastern Administrative District of Moscow.

LLC "PUBLICITY BUILDING project №2" and LLC "Delta Stroy" created an agreement that resulted in maintaining prices at the auction.

At the request of the anti-monopoly authority, the electronic trading platform provided the tender documentation on this tender in electronic form.

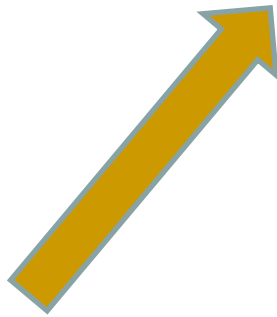
In the course of the analysis it was found that the company "PUBLICITY - BUILDING project №2 " prepared part of the claim of "Delta Stroy" in order to participate in the open auction in electronic form (file property of the claim indicates this fact).

This information was also confirmed by the anti-monopoly authority during the «dawn raids».

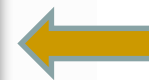
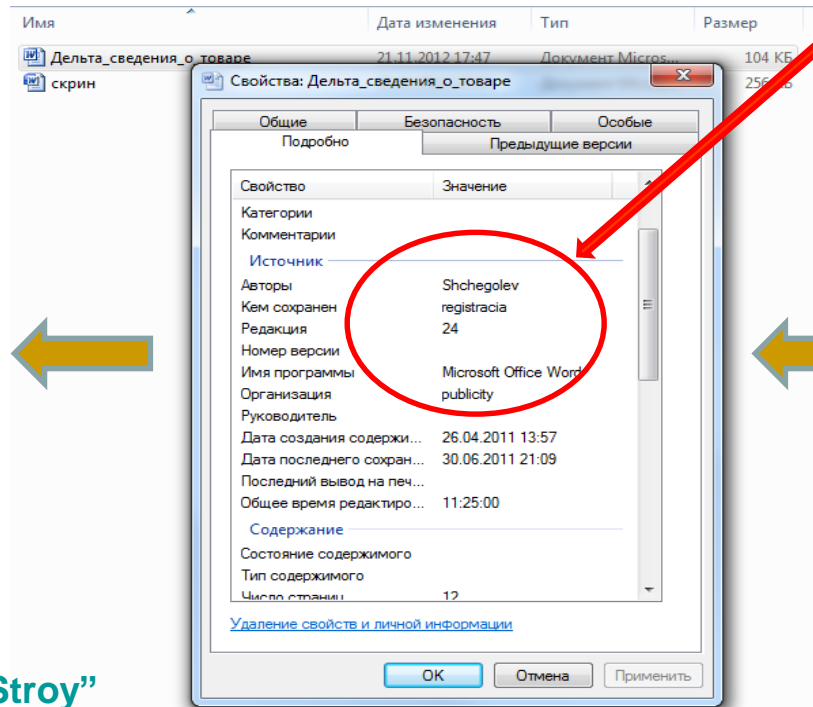
Prefecture of NEAD of Moscow: some evidence

Electronic trading platform

File which was sent to ETP and copied from the computer of LLC «Delta Stroy», was initially created on a computer of LLC «PUBLICITY-BUILDING project №2»



Computer of LLC «Delta Stroy» employee



Computer of LLC «PUBLICITY-BUILDING project №2»

THANK YOU FOR THE ATTENTION!



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FAS-book



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