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ICN Cartel Workshop

Mini Plenary #4

Challenges for fruitful cooperation aimed at enhancing deterrence in antitrust offenses ~ Taking bid rigging cases in public procurement as an example ~

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Importance of Non-Enforcement Efforts (1)

Huge public procurement activities in value

- Government & affiliated organs: 7.4 trillion JPY(FY2016)
- Local governments: 14.7 trillion JPY (FY2016)

The JFTC has only about 830 staff

- Law enforcement alone is not sufficient to secure effective deterrence to bid rigging.
- Supplemental measures are necessary.

Importance of Non-Enforcement Efforts (2)

Supplemental measures are designed to bring sound competition culture to:

- Businesses (cf. compliance promotion)
- Consumers, regulators, legislators and other stakeholders (cf. awareness raising)

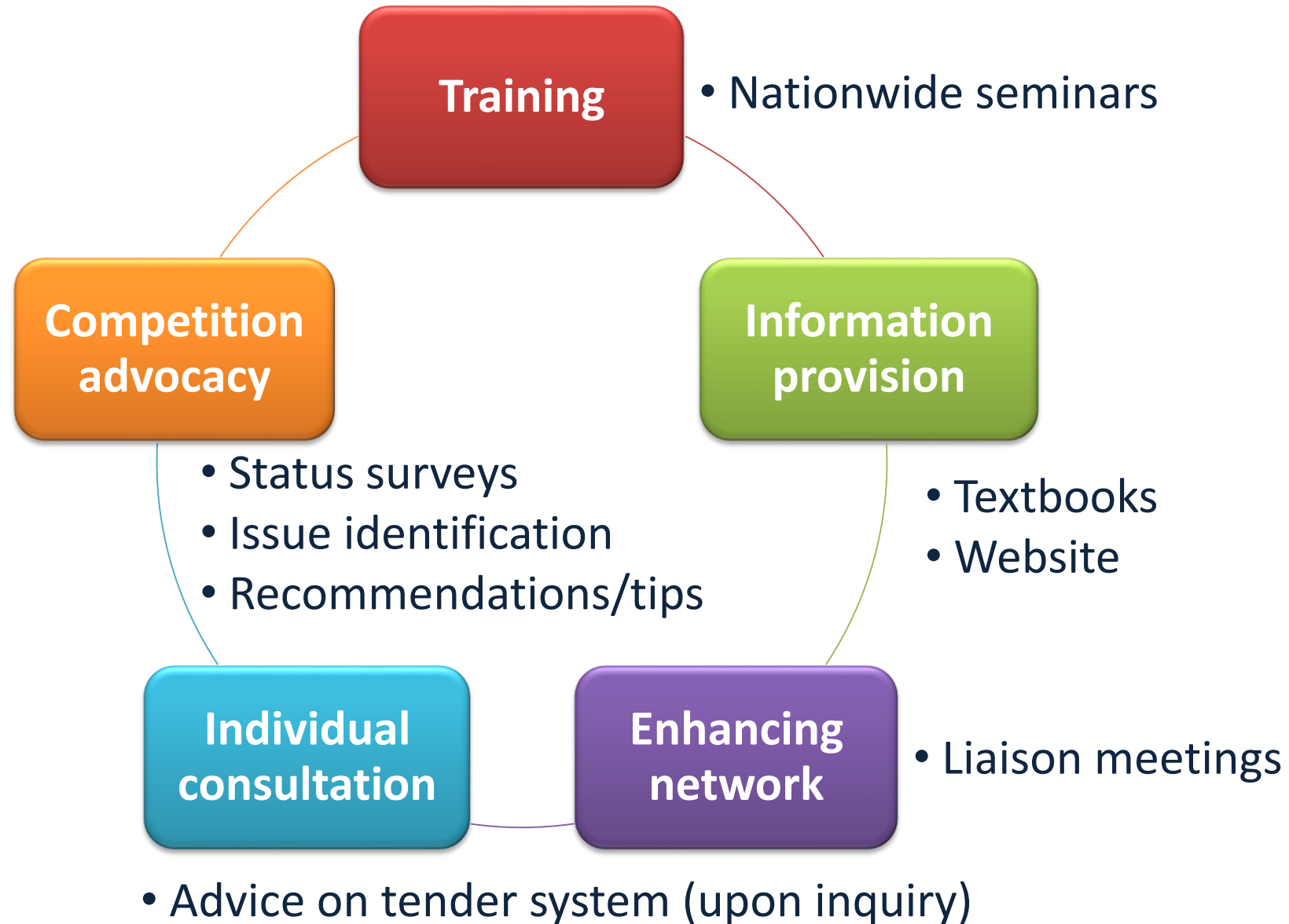
And, in bid rigging context,

- Procurement agencies
(= Designer and user of tender system)



“Shut off main valve” of bid rigging risks

Program Components of the JFTC's Outreach



Liaison meetings

- Set up annual meetings with procurement agencies for deeper channel and information exchange, since 1993
(FY2017: 9 places in Japan, 10 times)
- The JFTC staffers explain, in the meetings, how to detect the clue of bid rigging cases and how to report it to the JFTC

Training

Nationwide seminars

The JFTC hosts seminars and/or dispatches its staff members to seminars held by each procurement agency.

- The staff members of HQ office as well as 8 local offices assigned as lecturers
- No fees and expenses needed
- All materials (e.g. textbooks) provided by the JFTC
- Contents



Training (2)

Keep increasing from year to year

	Staff dispatched	Trainings hosted
FY2011	158	20
FY2012	214	21
FY2013	288	24
FY2014	294	24
FY2015	289	28
FY2016	258	29
FY2017	275	32

A total of about 22,000 officials participated in FY2017.

Positive feedbacks from trainees

97% says “it helps better understanding”

96% says “it is useful in practice”

Many repeat clients

Training / Information Provision



Textbook ...

- Updated annually
- 23,000 copies distributed a year
- Downloadable online
- Contains:
 - (i) Basic facts and cases
 - (ii) Skills & knowledge to prevent/detect bid rigging
 - (iii) How to report to the JFTC
 - (iv) Risks/costs of involvement in bid rigging

Status surveys

- Analyzing local public procurement market and competition issues
- Recommended measures:
 - To make tender systems more competitive and resistant to bid rigging (2003, 2004, 2006 & 2008)
 - To prevent officials from being involved in bid rigging (2005 , 2011 & 2018)
 - To strictly manage information on each bidding

Involvements of Procurement Officials

Part of bid rigging cases have been found to be instructed or assisted by officials of the relevant procurement agencies.

(Motives of the procurement officials to be involved in the bid rigging)

- Expecting golden parachutes
- React to lobbying
- To continue exiting contract
- To preserve interest of industry/local business etc.

⇒ Along with criminal & disciplinary penalties, high needs to improve awareness & culture among procurer side

The Involvement Prevention Act

The Involvement Prevention Act to prevent bid rigging involving government officials was enacted in 2002.

- The act grants the JFTC authority to require the head of procurement bodies to implement improvement measures when the JFTC finds involvement of procurement officials in the bid rigging.
⇒ So far, the JFTC has demanded that procurement agencies implement improvement measures concerning 11 cases based on the Involvement Prevention Act.
- With regard to the prevention of involvement in bid rigging, governmental agencies have to cooperate by coordinating with each other(Article 7).

Thank you for your kind attention !!



Japan Fair Trade Commission
(<http://www.jftc.go.jp/en/index.html>)