

Cofece investigates public tender procedures for the acquisition of electoral material and documentation

- *The Investigative Authority has indications of the possible realization of conducts that might constitute absolute monopolistic practices, such as the manipulation of prices, restriction of the supply, market segmentation between competitors or coordination of bids in tenders.*
- *Public procurement is a priority economic activity for Cofece, due to the direct negative impacts that collusive agreements have on the treasury.*
- *The investigation focuses on public procurement procedures through which electoral material and documentation are acquired.*

Mexico City, July 07, 2022.- The Investigative Authority of the Federal Economic Competition Commission (Cofece or Commission) published today on its website and in the Federal Official Gazette, the notice of initiation of an ex officio investigation for the possible realization of absolute monopolistic practices in the market of the public procurement procedures for the acquisition of electoral material and documentation in the national territory.

The investigation covers the procedures for the acquisition of electoral material and documentation by public authorities through tender procedures, at the three levels of government and in all the national territory. The acquired products considered are electoral ballots, indelible liquid, booths, desks, modular elements, manuals, labels and any other good acquired within the framework of an electoral procedure.

The *absolute monopolistic practices* object of this investigation are contracts, agreements, arrangements or combinations between competing economic agents, whose purpose or effect is the manipulation of prices, restriction or constraint of supply or demand, division or segmentation of markets, concertation or coordination of bids in tenders, as well as the exchange of information between them to carry out any of the above conducts.

It is important to mention that, in accordance with the Commission's 2022-2025 Strategic Plan, public procurement is a priority economic activity, given that taxpayers resources are used and must be allocated effectively and within the framework of competition. Thus, since the creation of Cofece in 2013, more than 10 conducts of this type have been investigated, and sanctions have been imposed in at least seven cases totaling more than 968 million Mexican pesos in fines. This seeks to protect the patrimony of the acquiring authorities, who, according to the Organisation for Economic Co-operation and Development ([Guidelines for Fighting Bid Rigging in Public Procurement](#)), lose up to 20% of their resources when there is a collusive agreement by participants in their tender procedures.

This investigation, identified with the file number IO-003-2021, shall not be understood as a prejudgment on the responsibility of any economic agent, since so far no violations to the regulation on matters of economic competition have been identified, nor the subject(s) who, if applicable, would be considered as probable responsible at the end of this investigation.

The timeframe for this inquiry is up to 120 business days, counted from the date in which the investigation began, which may be extended for an equal term up to four times. If at the end of the investigation no elements are found that presume the realization of said anticompetitive practice, the Board of Commissioners could resolve its closure. In case there are grounds that presume an infringement of the Federal Economic Competition Law (LFCE), those who result probable responsible will be called to a trial-like procedure to present their defense.

In accordance with the Federal Economic Competition Law, if the existence of an absolute monopolistic practices is proved, economic agents could be fined with up to 10% of their income. Also, those who have collaborated, facilitated or induced the realization of these practices could be sanctioned economically. Natural persons that could have participated in the celebration, execution or ordering of this type of agreements between competitors, could be sanctioned with prison for up to 10 years in accordance with the Federal Criminal

Code. Nonetheless, it is important to mention that those who have participated in this type of conduct, can adhere to the benefits of the *Immunity and Reduction of Sanctions Program*, offered by the Commission.

Extract of the investigation initiation (In Spanish)

What is an absolute monopolistic practice? (in Spanish)

Know the Immunity Program (in Spanish)

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The Mexican Federal Economic Competition Commission is responsible for ensuring competition and free market access. In this way, it contributes to the people's welfare and the efficient functioning of the markets. Through its work, it seeks better conditions for consumers, that more services are offered with higher quality and that there is "level playing field" for companies.