

Working Group on Cross-Border Cartels
UN Trade and Development

**Effective inter-agency cooperation in the planning and
implementation of dawn raids in the Superintendency of
Competition's fight against bid rigging**

Presented by:

Superintendency of Competition of El Salvador
25 April 2024

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Effective inter-agency cooperation in the planning and implementation of dawn raids in the Superintendency of Competition's fight against bid rigging

Superintendency of Competition of El Salvador
Second substantive meeting WG on Cross-border Cartels
April 25th 2024





"Success is not about the resources you have, but the resourcefulness you exhibit in pursuit of a shared vision."

Jeannette Portillo.



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1. Background
2. Experience with inter-agency cooperation in planning and executing dawn raids for cartel investigations.
3. Results obtained in 2021 and conclusion of the “Guacotecti’s cartel” case.

1. Background

- ✓ In 2021, the municipal council of **Guacotecti**, Cabañas, requested proposals for the services of construction, maintenance, repair and design for road structures, through simplified procurement procedures.

- ✓ 6 competitors submitted bids in 5 public procurement processes:
 1. J&M Group
 2. COINVELC
 3. WILCONS
 4. D&A Constructors
 5. WALTERVENEZ
 6. Jorge Martínez

Cabañas



Guacotecti



1. Background

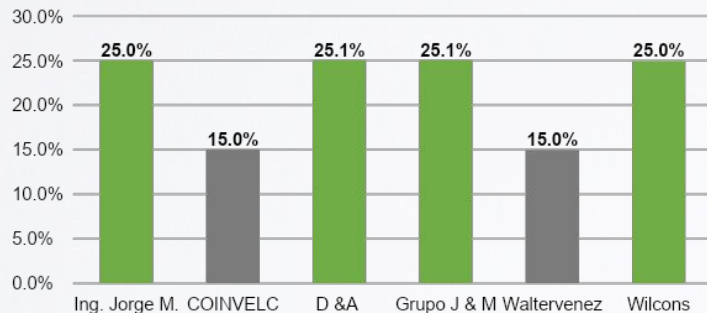
- ✓ Alert about suspicions of collusion among competitors
- ✓ Superintendency of Competition (SC) started its investigation
- ✓ Indicators of alleged cartel

Indicators of alleged cartel

A. Price breakdown of the economic offer

1. Identical average fixation of the percentage of indirect costs with respect to direct costs

Graphic 1. Percentage of indirect costs compared to direct costs

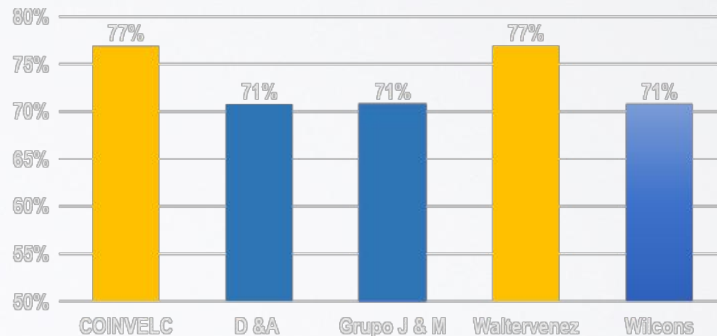


6 alleged cartelists divided into 2 groups:

- a) D & A, GRUPO J&M, Jorge Martínez, WILCONS – 25%
- b) COINVELC, WALTERVENEZ – 15%

2. Similarity and atypical closeness in the proportion of direct costs with respect to the unit price

Graphic 2. Proportion of direct costs to the unit price



5 alleged cartelists divided into 2 groups:

- a) D & A, GRUPO J&M, WILCONS – proportion of 71%
- b) COINVELC, WALTERVENEZ – proportion of 77%

Signals of the alleged cartel

- ✓ Important coincidences were found:
 - i) similarities in wording,
 - ii) similarities in spelling errors,
 - iii) similar formats;
 - v) coincidences in personnel.
- ✓ It became imperative to gather evidence concerning the communications and coordination among the suspected cartel members
- ✓ The SC decided to carry out 2 simultaneous dawn raids.

KEY POINTS:



1. Article 25 of the Competition Law: Agreements among competitors, such as price-fixing and bid-rigging, **constitute an administrative offense**, punishable by a maximum fine of 5,000 smmui (USD \$1.8 million). For particularly serious offences, the SC can impose the greater of:
 - ★ Up to 6% of a company's total annual sales in El Salvador;
 - ★ Up to 6% of a company's total assets in El Salvador;
 - ★ Between two and ten times the estimated gain resulting from the unlawful practice.
2. Raids are conducted with prior judicial approval.
3. Cartel suspicions probably would not have been detected without the collaboration of Guacotecti's municipal council.

2. Experience with inter-agency cooperation

AT THE NATIONAL LEVEL (2019-2021):

- Technical assistance from the **General Attorney of the Republic**
- Coordinating and arranging logistics for the dawn raids with the **National Police**



AT THE INTERNATIONAL LEVEL (2019-2021):

Technical assistance with **COFECE**/Mexico on the following topics:

1. Forensic tools
2. Market intelligence tools
3. Verification visits.
4. Evidence collection, preservation, and chain of custody



2. Experience with inter-agency cooperation

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AT THE NATIONAL LEVEL:

Since 2023 an agreement allows collaboration with forensic experts of the Investigation Center of the National Police.



3. Results obtained in 2021 and conclusion of the bid rigging case.

As a result of effective interagency collaboration in both planning and execution, the Guacotecti case of 2021 allowed us to prove the existence of two cartel groups:

Group 1: Waltervenez and Coinvelc

Group 2: D&A constructors; J&M group and Wilcons

Group 1: Waltervenez and Coinvelc

Receipt by which Walter Castro, legal representative of waltervenez, delivered a certain amount of money on behalf of Coinvelc

RECIBO \$ 300.00 USD EUR

Recibí de COINVELC, S.A. DE C.V.
la cantidad de TRESCIENTOS 00/100 (US \$300.00)
DOLÁRES DE LOS ESTADOS UNIDOS.
por concepto de PAGO DE 25 VOLQUETADAS
DE TIERRA

CANCAQUE, 06 de DICIEMBRE de 2024.

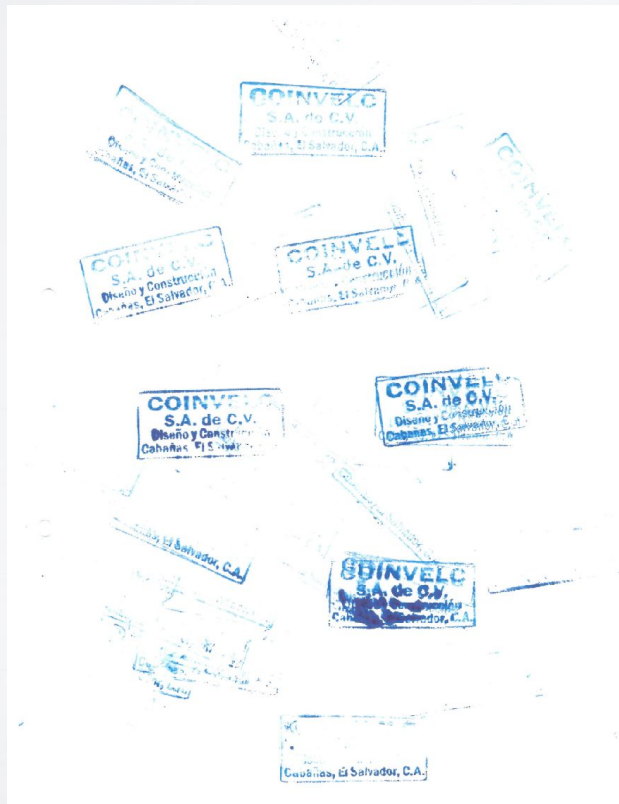
[Signature]
Recibí conforme
DNI:

[Signature]
Entregué conforme
DNI:
WALTER CASTRO

Saldo pendiente
\$400.00

Fuente: Evidencia recibida en sede de WAL TERVENEZ

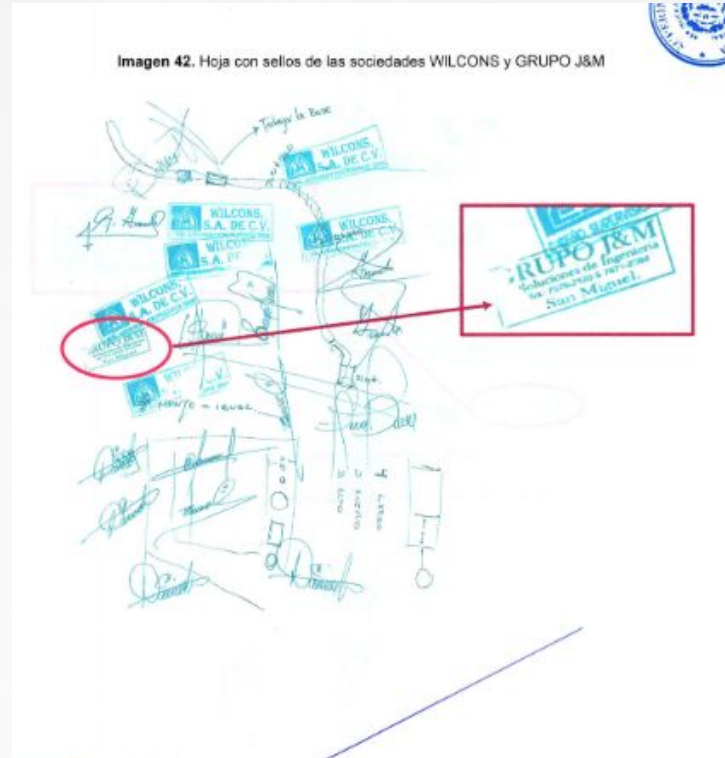
Group 1: Waltervenez and Coinvelc



A sheet with COINVELC's seals
found at WALTERVENEZ
premises

Group 2: D&A constructors; J&M group and Wilcons

A sheet with signatures
drafts and seals from
J&M Group and
WILCONS



Source: Physical evidence
gathered from D&A enterprises

Group 2: D&A constructors; J&M group and Wilcons



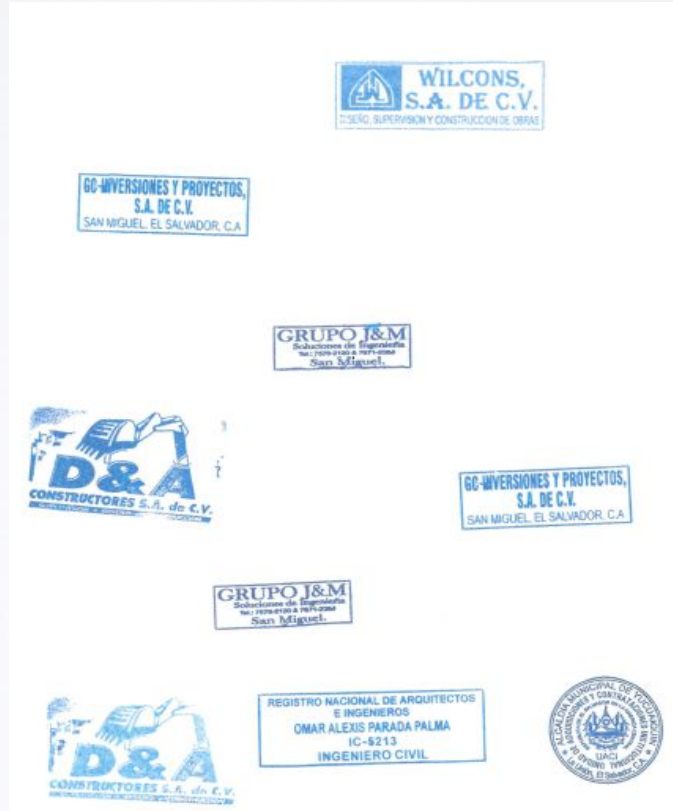
Envelope with
Wilcon's bid

Source: Physical evidence
gathered from D&A enterprises

Group 2: D&A constructors; J&M group and Wilcons

Sheet with seals from
D&A, J&M Group,
WILCONS and others

Source: Physical evidence
gathered from D&A enterprises



Seal of a Municipal
Mayor's office

SANCTIONS IMPOSED

1. Coinvelc USD \$30,417.00
2. Waltervenez USD \$30,417.00
3. D&A Constructors USD \$38,021.25
4. J&M Group USD \$38,021.25
5. Wilson USD \$ 19,771.05

JORGE MARTÍNEZ: Based on the evidence gathered from the dawn raid, it was not possible to verify that Jorge Martínez had any communication or price coordination with the other economic agents under investigation.



The 2021 Guacotecti case succeeded due to:

1. Overcoming dawn raid challenges with limited resources.
2. Establishing effective collaboration between national and international institutions for technical support and training.
3. Gathering evidence to prove cartel involvement among competitors
4. Compelling evidence from raids resulted in five sanctions paid without appeal.

IN SUMMARY:

1. The effectiveness of inter-agency cooperation during dawn raids in combating bid rigging is essential for successful investigations and prosecutions.

2. By fostering a culture of collaboration and coordination among agencies, such cooperation can be optimized to effectively combat bid rigging, thereby enhancing the prominence and reputation of a competition authority among both the public and other governmental bodies.



For more information about the details of the sanctioning resolution:

https://www.sc.gob.sv/index.php/sala_multimedia/investigacion-de-oficio-sobre-procesos-libre-gestion-relacionados-con-construccion-sc-037-o-pi-nr-2021/



GOBIERNO DE
EL SALVADOR