

Japanese Contractors Show a Seamy Side

Bid-Rigging and Bribery Go Mostly Unpunished

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SHIZUOKA, Japan—A man got clobbered with a steel chair during a secret meeting of local contractors last October, and the heat's been on ever since for the construction industry in this otherwise quiet Japanese coastal city.

The construction bosses attending the meeting had been selected to compete for a municipal road contract, and all but one—the man on the receiving end of the chair—allegedly struck a deal with the eventual bid winner.

The brute attempt at persuasion failed. The dissenter's complaint to police sparked an investigation of bid-rigging that led to a dozen arrests early this year and propelled the seamy side of Shizuoka's construction industry, once again, into the national spotlight.

Investigation Triggered

It was also here that blatant abuses in public-works bidding triggered an investigation by the Japan Fair Trade Commission in 1981. The watchdog agency issued a benchmark ruling the following year that declared that the time-honored practice of *dango*, or prior consultation among public-works bidders, violated antitrust law.

The commission's ruling might have presaged new opportunities for the U.S., European and South Korean contractors now knocking at Japan's door, but its effect appears to have been cosmetic. Despite the unequivocal warning to the industry, bid-rigging of public-works projects remains deeply rooted in the business culture of Japanese construction.

The foreigners may be hoping for fair opportunities in a construction bonanza, intrigued by such huge public-works projects as the \$6.5 billion Kansai International Airport in Osaka. But what they'll find is an insider's world where business is cultivated through murky alliances with politicians, bureaucrats and competitors.

Last October, when a U.S. presidential delegation visited Japan to hold talks on opening bidding for the airport project, an informal conversation gave a glimpse of how the system works. A representative of a major Japanese contractor suggested to an American that the dispute over the bidding process could be resolved with a "secret promise" between the U.S. and Japanese governments. He reportedly said Japanese contractors would be willing to give up as much as 10% for the Americans to split up among themselves.

Everything Is Arranged

"The biggest problem is the *dango* system," a memorandum by the American quotes the executive as saying. "That is the Japanese way. Foreigners can't understand it. Without *dango*, there would be excessive competition in the construction business, driving down prices so that no work would be profitable. Under the *dango* system, everything is arranged. If foreigners come in, they will upset all agreements. They don't know how to participate in the *dango* system."

There's no question that competition is genuine and fierce in the private sector, so fierce that profits are shaved to next to nothing by an overcrowded field of players. And although there's much talk about stimulating domestic demand, government spending isn't expected to rise much. *Dango* is seen as the last line of defense in an industry on the verge of a shakeout.

The cases that recently came to light in Shizuoka represent the most extreme form of abuse, where a contractor agrees to make payoffs to his co-conspirators in exchange for the right to submit the "low bid."

But most cases of *dango* that come to light aren't prosecuted under Japan's criminal code because they don't involve substantial payoffs, says Hyogo Kikuchi, a senior investigator with the Japan Fair Trade Commission's first investigative division. Rather than dividing profits, the consultations more frequently center on rotating the role of the prime contractor and negotiating subcontractors, he says.

Rigging Remains

Yet, despite some arrests and investigative reports in the Japanese press, there are strong indications that some kind of bid-rigging mechanism remains intact for the most lucrative public-works projects. So far, authorities haven't prosecuted any *dango* cases involving major public-works projects. The Ministry of Justice says there were 50 criminal cases of fraud or coercion in government auctions or contracts bidding in 1985, the latest year for which figures are available. But only a small portion of the cases are believed to be *dango*-related.

Indeed, organized crime's encroachment in the industry seems of greater concern to authorities than *dango*. Police believe more than 500 construction companies are run by gangsters and about 400 more are under their influence. Next month, the Ministry of Construction will start using computers to screen renewal applications for contractor licenses with the aim of weeding out gangsters and other fraudulent operators.

Lean times ahead mean mounting tension within the construction industry. The industry is Japan's largest, employing 5.5 million people—nearly one out of 10 Japanese workers—and their political power is awesome. "They have influence from the top to the bottom," says Tokunosuke Hasegawa, executive director of the Research Institute of Construction and Economy.

The construction industry has long been a primary source of political financing in Japan. Close links between the industry and the ruling Liberal Democratic Party have been taken for granted since the era of former Prime Minister Kakuei Tanaka, who proposed "rebuilding the Japanese archipelago" and resigned in 1974 amid a fu-

ror over his fund-raising techniques.

Bribing government officials is also part of the fabric. Nearly half of all official corruption cases in Japan involve bribes from construction companies, according to the National Police Agency. Police arrested the mayor of Imaichi City, about 60 miles north of Tokyo, on Feb. 25, charging him with bribery for accepting campaign donations from a local construction company that won contracts to build school buildings last year. Three other mayors were arrested in similar cases late last year.

Industry critics also contend that questionable activities arise out of the practice of bureaucrats taking jobs after retirement in the construction companies they deal with in office. Masahiro Tanaka, an investigator with the Shizuoka prefectural police, notes that the "low bids" in both *dango* cases in the prefecture were remarkably close to the cost ceilings set by city authorities. Investigators haven't ruled out the possibility that information was leaked.

Ironically, while even defenders of the *dango* system concede that it contributes to low productivity in the industry, serious reform efforts aren't being made.

"With *dango*, the work eventually comes to you even if you don't make any special effort," says Toshio Koizumi, special adviser to the Shizuoka Construction Industry Association. "I think the Americans should let us go ahead and have *dango*. It weakens the industry and makes us less competitive in the long run. That should be to their benefit."