

Competitive bidding

The bidding process has one overriding objective: the selection, award and signing of a contract with the bidder having submitted the proposal that best meets the objectives of government and/or the best deal for users.

To an inexperienced observer, this stage may appear to be the simplest part of a PPP process. Yet, experience shows that this is where governments usually err, either as a result of inadequate earlier stages such as poor project preparation or poor bidding processes or both. Wherever the mistake(s), the result would be failed bidding procedures, selection processes that are denounced (rightly or wrongly) as fraudulent, or contracts which are disadvantageous to the government. Months of hard work, and years of implementation/operation, could be wasted through a single mistake or a few small mistakes during the procurement stage.

Due to the large size of many PPP highway contracts, the massive investments involved and the numerous stakeholders directly or indirectly involved government officials will often be under pressure. This pressure will come from politicians, the media, NGOs or contractors who feel that a particular potential bidder should be given preference. The best way to counter this pressure is to ensure that the bidding process is clear, fair and carefully thought out.

During both the design of the procurement process and the actual selection, the Government shall keep certain key bidding principles in mind:

Ensuring Competition and Transparency

Ensuring competition and transparency is crucial to avoid the process being challenged by the press, the public, legal authorities or some of the competitors.

Competition is a catalyst that stimulates PPP private actors in delivering efficiency gains. But it only works if it is conducted fairly. Corruption, graft or any asymmetric treatment of the competitors will not only result in additional cost for the community but could also lead to the selection of the wrong private firm who will be unable to generate the expected benefits.

Governments, in general, lay great emphasis on transparency in the procurement process. Any lack of transparency or even a perception of a lack of transparency may derail the process. This may result in public protest, investigations by Congress, graft bodies or law suits.

It is therefore vital to emphasize the need for transparency, even to the point of exaggeration, so that the transaction is not only transparent but is also perceived as being transparent.

Discretion and subjectivity

A natural result of the desire for transparency is the reduction of discretion and subjectivity, particularly in the pre-qualification and bid evaluation processes. Each time a civil servant is given discretionary power, the temptation to abuse this power to favor a particular bidder also exists.

Public information dissemination

While public participation and information should take place throughout the project development, this communication effort is of particular importance during the few months prior to the start of the bidding process. This will help build up public support and limit future excessive inquiries and investigations.

Attracting the best potential bidder

Attract bidders

Potential bidders will not necessarily rush to compete. Provision shall be made to ensure that private industry feels secure enough to risk entering the selection process.

PPPs are innovative in their essence. Competent firms with an optimum capacity to handle the project and deliver the expected benefits are not always numerous, not even on the international market place. To attract the best potential bidders, the Government should firstly ensure that the country environment fulfils their basic requirements. At the procurement stage, some further parameters will be essential to attract competent firms:

True commitment by the public party to carry out the project

Bidding for a PPP highway project is a very costly venture. In a fair number of countries, ambitious projects have been launched and then stopped in the middle of the selection process resulting in very large losses for the private firms involved. Most of those countries now face tremendous problems in attracting the private sector to participate in their next generation of PPPs. Potential bidders will only be willing to invest this money if they can be reasonably certain that the government is truly committed to the project.

Fair competition between bidders

Once a potential bidder is convinced that the government is serious in pushing through a bid for a toll road, the next question it asks is whether the process will be fair or not. If a bidder is not given a fair chance in a particular bid, it will look for another project to bid for.

In this regard, bidders will first consider the reputation of the country and of the government officials who will oversee the process, particularly those responsible for bid

evaluation. Secondly, they will examine the evaluation procedure itself to determine whether it is biased and likely to favor any particular bidder.

Set Clear rules of the game and Stick to Them

Most of the bidding process is conducted through documents. Dialog and opportunities for clarification are rare, at least in the early stages of the process. Any misunderstanding by the bidders of the rules and procedures for selection will discourage them from participating. Particular attention should be paid to the comprehensiveness, clarity and compatibility of project documentation issued by the Government.

Naturally, if the private sector knows that the government will stick rigidly to the rules, so will they, if they are not to waste time and money.

Minimized cost of bid preparation

The cost of preparing a bid for a PPP highway project, and particularly for a toll road concession, can be very significant. Historically, bid preparation costs have often been ridiculously high, reflected in the cost for the community either directly (preparation cost included in the bid price) or indirectly (private firms desperate to recover this cost during project implementation).

Before embarking on the selection process, private firms make an evaluation of the bidding cost. They now benefit both from sophisticated tools (databases, cost evaluation software) and from their experience and will compare the expected preparation cost to their potential profit, keeping always in mind that the cost is certain and immediate while the profit is only hypothetical and will be spread over a distant and lengthy period. Bidders will be particularly discouraged if they feel that most requirements are purely bureaucratic constraints and will not help in the selection process.

Marketing the project

Generally, the project needs to be marketed or sold to potential bidders. Often, bidders will consist of consortia of various actors from the project country or from abroad. Depending on the scope of work and the type of financing scheme, they could involve contractors, consultants, road operators, investors or lenders.

Particularly in the case of large toll road concession projects, there are often a relatively limited number of bidders. It is then important to market the project, primarily through the dissemination of a preliminary information memorandum (preferably for free and typically posted on a web site) to key private sector companies, particularly infrastructure-related firms and banks, either directly or through embassies.

It may also be necessary to conduct preliminary talks with some of the potential bidders and financing institutions in order to gauge their interest in the project and their expectations. This will help in the contract design process and in determining the minimum pre-qualification requirements.