



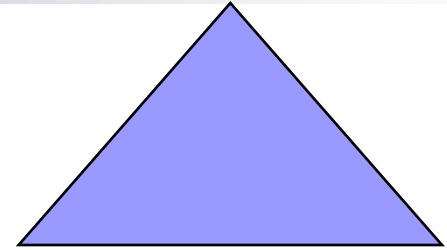
# Tendering and Procurement

- Tendering and Procurement
- Negotiating and Contracting

# Definitions

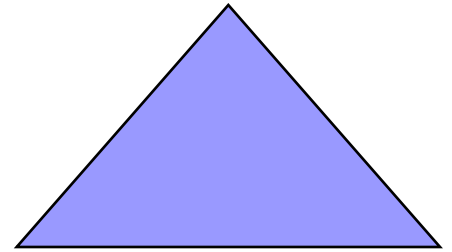
- **Procurement** is the process of buying goods, works or services
- **Tendering** is a bidding process aimed at selection of the provider able to meet its requirements.
- Competition is important to insure:
  - *Accountability* in the spending of public money.
  - *Transparency* in the steps of the decision-making processes.

# Triangle of actors



- **Promoter/Client**, otherwise known as the Employer, specifies, authorizes and pays for the work to be undertaken;
- **Engineer**, acts as an agent on behalf of the Employer. The duties of the Engineer include:
  - Evaluation of tenders
  - Supervision of the work of the Contractor
  - Confirmation of whether the work has been completed to specification
  - Mediation between the Employer and the Contractor in case of dispute;
- **Contractor (the Bidder)** successfully bids for a contract and carries out the work required.

# Triangle of objectives



- **Cost:** has the work been completed within the costs agreed in the contract?
- **Quality:** has the work been done in accordance with what was specified?
- **Time:** has the work been satisfactorily completed within the time specified?

# Competitive bidding process generally consists of:

- **Public notification** of the government's intention to seek a private partner for the provision of services, including prequalification or a request for expressions of interest from private companies;
- **Distribution of bidding documents** and draft contracts to potential bidders;
- A formal process for **screening** potential bidders and finalising a list of qualified bidders; and
- A formal public process for **presenting proposals**, evaluating them, and selecting a winner.

# Necessary components of different processes of procurement

- ***Invitation to tender*** is issued, when the promoter generally knows exactly what it wants and how it wants to achieve its goals. Most often the tender is issued and the lowest bidder is awarded the contract.
  - Reduces the cost involved in developing a PPP but may limit the Promoter's opportunities to view other, more efficient cost-saving options for delivery of the service.
- ***Request for proposal*** (RFP) is usually used when the promoter knows what it wants to achieve, but would like prospective partners to use their experience, technical capabilities and creativity to identify how the project objectives can best be met.
  - In an RFP the promoter is looking rather for value, (i.e. operating efficiency, cost-saving measures, innovations) than the lowest bid.

# Procedures for requesting the proposal

*One-Stage Process* appropriate in the following circumstances:

- parties are known to the local government to have the capability to be successful partners;
- only a limited number of suppliers have the resources and capabilities to be a successful partner;
- the project must be implemented under a tight timeframe and budget;

*Two-Stage Process*

- the project is large and complex or of special nature;
- the required proposal will be time-consuming and expensive for the proponent to prepare;
- qualified firms would not take the time and expense of preparing a response to an RFP if there were too many other firms submitting;
- there is an advantage to initially inviting a large number of firms and then narrowing the field to those most qualified;
- the RFP process will involve the divulgence of information that is sensitive or even confidential

# Initial stage fir two-stage process: screening

- **Request for Expressions of Interest (RFEI)** is intended to provide the promoter with sufficient information to draft a clear RFP in cases when it local government has identified its objectives but may not have fully defined the project or service to be delivered.
  - it reduces the time and expense involved in evaluating a larger number of proposals;
  - it improves the quality of proposals.
- **Request for Qualifications (RFQ)** is used in situations where the promoter and the project team have a more defined project but do not know if there are any private sector partners with the resources, experience or interest to undertake the project.
- Consists of the verification of certain formal requirements, such as adequate proof of technical capability or prior experience in the type of PPP, financial and human resources, equipment and other physical facilities, managerial capacity, reliability and experience necessary to carry out the project.
- The bidders answer RFQ with the **Expressions of Interest**.



# Pre-qualification

- Pre-qualification is a step within a contract awarding procedure in which the party inviting the tenders selects the companies to participate in competitive bidding for the contract.
- Potential participants in the competition are requested to submit information on their companies. Based on the prequalification results, a shortlist is drawn up of the companies eligible to compete.
- Depending on the pre-qualification requirements set out in the documents different groups of companies will be selected.
- Often the company needs to prove the recent experience with assignment of similar nature and outcomes.

# Levels of competitive bidding

- **National competitive bidding (NCB)** is utilized when:
  - Domestic production or construction facilities are available at reasonable cost, are efficient and adequate in terms of prompt delivery;
  - The government has specifically requested the adoption of local competitive bidding;
  - The advantages of international competitive bidding are clearly outweighed by the administrative or financial burden involved.
- **International competitive bidding (ICB)**, the objective is to provide a wide range of choices in selecting the best bid from competing suppliers/ contractors.
  - Need to observe certain guidelines in preparing bidding and contract documents and follow certain procedures in advertising bid invitations and in accepting, opening, and evaluating bids.

# Procurement documentation

- Invitation to tender letter
- Instructions to bidders
- Bid data sheet
- Standard forms for technical and financial proposals
- Terms of reference
- Draft contract:
- Form of tender
- Specifications
- Drawings
- Bills of quantities and schedule of rates



## 2. Negotiation steps

- Preparing for negotiation
- Debating
- Making proposals
- Bargaining
- Coming to an agreement (the contract)

# Contracting stages

## ■ Pre-bidding Phase

- consider the type of PPP that is most appropriate to the local situation and consider the needs of the poor

## ■ Procurement Phase

- how the contract can incorporate the needs of the poor (type of supply and level of service, financial conditions such as cost of upgrading, tariffs, definition of areas)

## ■ Operation Phase

# Categories of contracts

- **Legal contracts** are designed to be enforced by court ordering and need to be used if urban government is involved.
- **Relational contracts** rely on self-enforcement or 'private ordering'.

# Types of contracts

- **Verbal contract:** generally the mode in the informal sector; also common in formal sector sub-contracting.
  - *Specified* - there is a mutual verbal agreement between the stakeholders.
  - *Unspecified* - there is no specific verbal agreement, but an understanding exists between the stakeholders as to their expected roles.
- **Written informal contracts:** a simple legal contract.
- **Written formal contracts:** typified by the standard contracts used by urban government in the tender contract method of procurement.