

Program for Government Procurement Workshop

14-18 July, 1999, Kunming, China

Simulation Case: National Laboratory Construction Project

Background: Sanritoria is an economy located at the APEC region. It has little experience in internationally recognized GP operations but is willing to introduce the whole process.

Assume the Central Government is going to build a national laboratory for a scientific research project. Information is as follows:

Fund: 55% of the total needed funds is from national budget, 30% from Construction Bank and 15% from a scientific fund.

Procuring Requirements: master designer, civil engineering contractor, supervisor and equipment.

Other information: Two sets of needed equipment with estimated value at US\$ 5 million each can only be manufactured by two companies. One installation which is around US\$ 1.9 million should be ordered under 6 separate contracts in one year according to the progress of plan and amongst which 3 contracts value less than US\$100,000 . Two mainframes can only be produced by economy A which has restriction on export.

Requirement: Based on the above scenario, speakers are expected to consider what exact steps should be taken to accomplish the simulated procuring mission in line with the principles recently adopted by GPEG. Questions have been raised under four different stages according to the sequence of the simulated procurement. Each speaker is expected to give presentation on one stage of procurement procedure. Each of first three stages will have two speakers. After the presentation of each stage, the workshop will be followed by Questions and Answers.

Stage One: Preparation for procurement

Topic 1: **Development of GP law**

Q1: What are the main components of the GP law?

Q2: How does the GP law help achieve the social and economic objectives?

Q3: What are the responsibilities of the GP line ministry?

Topic 2: **Budget and evaluation**

Q1: What is the procedure of the government entity to apply for the national budget for the procurement?

Q2: What the procedure of ratification would be? How to accurately evaluate the budget? Is it necessary to consult with the Scientific Fund?

Topic 3: **Composition and responsibilities of procuring entity**

Q1: How should the procuring entity be composed of and what are its responsibilities? Is it necessary to include all the parts that have provided fund for the project?

Q2: What are the criteria for qualifying procuring officials at different levels?

Topic 4: **Selection of procuring method**

Q1: Since it is a mixed-funded project, each investor has its own requirements for procurement. If the assumed procurement can not be divided into appropriate portions as that of the fund are composed of, how to deal with this problem? How does each investor supervise the whole process of procurement?

Q2: In the given situation, there are goods, engineering and service procurements. How to select the most appropriate procurement method for each procurement/sub-procurement? What is the most acceptable threshold for goods, engineering and service respectively?

Q3: Based on the information given, how to select the most proper method for procuring equipment, installation and mainframe respectively?

Q4: What is the best method for small procurement? Under what circumstances could the request for quotation be used?

Q5: Is the two-stage tendering applicable to this case? If yes, how to proceed it? If not, then in what situation could it be used?

Q6: Under what circumstances could the negotiation tendering be used? Suppose the procuring entity realizes that some company is the most ideal supplier, is it possible for the procuring entity to invite the company to bid?

Q7: How to forecast and pre-warn the risks that might arise from the selected method?

Q8: For developing economies, such as Sanratoria, GP could be a main stimulation for the government to achieve its economic and social objectives. In the preparing stage, how to select the procuring method to promote the development of domestic industries through GP while the cost for preference margins could be at the minnum?

Stage Two: Implementation of Procurement

Topic 1: **Prequalification proceedings**

Q1: Under what circumstance is the prequalification needed? How to proceed the prequalification?

Q2: By which body the criteria of the qualification would be set up? If a supplier fails to get the access to the tendering, is it possible for him to appeal against the discriminatory treatment? If yes, to whom should the supplier appeal?

Q3: Should the prequalification documents be provided to all interested suppliers? What information should be included in the documents?

Q4: What is the reasonable timetable of prequalification?

Topic 2: **Solicitation of tenders**

Q1: What are the contents of solicitation documents? How could the information be best available to the public?

Q2: In non-English speaking economy, could the documentation be made in its own official language in the international tendering? Are there any requirements in the law on this specific issue?

Q3: In what case should there be a bottom price and how to develop the bottom prices for the goods, engineering and services?

Q4: Does the procuring entity have the right to modify the solicitation documents after published? Is there any restriction on the modification?

Topic 3: **Tendering proceedings**

Q1: How does the supplier or contractor deliver the tender to the procuring entity? How to deposit the bid bond?

Q2: After submission of tenders, is it possible for the tenderer to clarify, modify or withdraw the tender? If yes, should there be any restrictions on clarification, modification and withdrawal?

Q3: If prequalification or two-stage tendering are used, there are less than 3 qualified tenderers, could the tendering still proceed and how?

Q4: If the tendering terminates due to the collusion of several tenderers, who should be responsible for it? Is it necessary to compensate other tenderers for loss? If yes, then compensate by whom? Is there any stipulation in the law?

Q5: Under what circumstance could the procuring entity reject all or some of the tenders? Should the procuring entity be responsible for the any consequences caused by rejection?

Q6: Under what circumstance could the procuring entity suspend the tendering? If the suspension time exceeds the validity of tenders, how to deal with it?

Topic 4: **Opening of tenders**

Q1: What is the reasonable period of time from the closing tendering to opening tenders?

Q2: Under what circumstance could there be secret opening? If it is a public opening, what should be included in the declaration?

Q3: Is it allowable for the tenderer to withdraw the tender if he finds his quotation too low after the opening? If it happens, will the tender be punished?

Topic 5: **Evaluation and comparison of tenders**

Q1: What are the principles of the evaluation? Should these principles be declared in the solicitation documents?

Q2: According to the international practice, who should be in charge of evaluation? Are there any necessities for setting up an evaluation committee? If yes, how many members should the committee have and what are the qualifications for them? What is the responsibility of each committee member? Is it necessary to keep the composition of the committee as a secret before the opening of tendering?

Q3: Is it possible for the tenderers to make clarification and modification at the evaluating stage? Could the procuring entity or the evaluation committee have negotiations with tenderers at this stage?

Q4: If the committee have different opinions on the evaluation, how to make the decision?

Q5: If the unfairness or suspension of evaluation caused by the intervention of the government officials, do the procuring entity or the tenderers have rights to make an appeal? If yes, then to whom?

Q6: If the law permits, how could the preference margins be taken into account at this stage?

Topic 6: **Award of the contract**

Q1: How does the procuring entity conduct the lowest tender or the most advantageous tender? Assume there are two installations, one is of famous brand and the other is a general one, and both of them can meet the procurement requirements. But the price of the former is 3% higher than that of the latter. In this case, how to make the decision?

Q2: Should the decision on the award of the contract be reviewed? If yes, then by whom?

Q3: Should the outcome of an award be published? If yes, what contents should be included in the public notice of the award of the contract?

Q4: When the lowest price is pursued and the contract is awarded to the lowest tender, how could the procuring entity remedy if the total or part of the offered price then turns out to be too low to be reasonable?

Topic 6: **Signature of contract**

Q1: How many types of contracts are there? What are the applicable scope and contents of each type of contract?

Q2: Is the contract law applied to government procurement contract? Is there any contract law on government procurement? What are the main contents of it?

Q3: What is the appropriate duration between the declaration of award and the signature of contract?

Q4: In the given situation, who will sign the contract?

Q5: Is it necessary for the winning tenderer to deposit a performance bond? If so, then how?

Stage 3: Fulfillment of contract and project evaluation

Topic 1: **Fulfillment of contract**

Q1: Under what circumstance could the procuring entity terminate or rescind the contract?

Q2: What could be regarded as the Force Majeure and how to deal with it if it happens?

Q3: In the construction procurement, how could the procuring entity ensure that the whole process of the conduct meets the criteria of the contract/procurement requirement?

Q4: Could the contract be modified in this stage?

Q5: If one contractor breaches the contract or loses the capacity of fulfillment, how could its counterpart be compensated?

Topic 2: **Inspection and acceptance of supply**

Q1: Who would be in charge of inspection and acceptance? Should there be a special inspecting body?

Q2: If a supplier or contractor fails to meet the criteria of the procurement requirements, what could the procuring entity do?

Topic 3: **Settlement and registration**

Q1: What should be taken into account when making the settlement?

Q2: Who should make the payment, the procuring entity or the national treasury?

Q3: Since the procurement made by the government will finally become the state-owned properties, how will the body in charge of state-owned properties register the procured properties and manage them?

Topic 4: **Post-evaluation of project**

Q1: Who would be in charge of post-evaluation?

Q2: What should be the main contents of post-evaluation?

Q3: What will be the effects of post-evaluation result?

Stage 4: New method and future development

Q1: How would this procurement proceed if the information tendering is introduced?

Q2: What is the future development of tendering method?