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Contract Finalisation in Asset Recycling

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On this page: *Find key steps in selecting preferred bidders and contract signing. Read more below, or visit the Guidelines for Implementing Asset Recycling Transactions section and Content Outline, or Download the Full Report.*

Final Negotiations

With the preferred bidder identified, the final negotiation process will commence. The tender committee should take on the role of the negotiation team, with additional support from the Relevant Authority and its advisors (if required), at this point of the process.

Key steps in setting up negotiation framework are set out below**:**

- ***Develop a negotiation strategy*** – To negotiate effectively, it is important for the negotiation team, in consultation with its transaction advisors, to anticipate the preferred bidders' interests and anticipate any contentious issues. The negotiation team should develop a negotiation plan which considers the predefined positions of the Relevant Authority and set minimum negotiating parameters.
- ***Define negotiation issues*** - Issues to be negotiated should be clearly set out, together with the Relevant Authority's position on each of them. The issues that the preferred bidder seeks to negotiate should be confined to departures (if any) from the contract provided with the RfP and reflected in the bid. The representatives from the Relevant Authority should not introduce any new issues into negotiations (i.e., issues not raised previously in bids) and the parties will agree not to re-open issues already agreed.
- ***Documentation*** - All matters agreed upon during the negotiations will be recorded in meeting notes and agreed at the end of each meeting. This reduces the risk of issues being revisited and provides clear instructions for the finalization of the contract. The parties should:
    - Agree on timetable for negotiation. This is important to prevent delays and ensure the overall timeline for the transaction is adhered to.
    - Agree on the dispute resolution process. An agreed process for overcoming any impasse in negotiations involves seeking resolution from senior management. The parties need to ensure that the appropriate decision makers are accessible throughout the negotiations.
    - Appoint members with authority to commit. Both negotiation teams need to appoint members with the authority to make decisions on behalf of their organizations.

After the negotiation framework has been developed, a formal written communication inviting the preferred bidder for negotiations should be sent. This communication will include administrative details such as date, time, venue and expected duration of negotiations. It will provide the bidder with key points of discussion, objectives of discussion, the approach proposed by the Relevant Authority and any additional information required by the Relevant Authority.

The formal settlement between the two parties will happen subsequent to them reaching a compromise wherein both parties believe that the settlement is the best possible outcome under the circumstances.

Contract Signing

Once the procurement process is complete, the contract will be awarded to the successful bidder. A suitable date and venue are nominated for contract execution, where the Relevant Authority signs the contracts with the preferred bidder having incorporated a Special Purpose Vehicle for the project.

A public announcement of the contract and the successful bidder will be made, in ways that conform to the Relevant Authority's policy and procedures.

Related Content

- **The PPPRC Asset Recycling Section**
- **Executive Summary: Asset Recycling**
- **Asset Recycling Projects**
- **Asset Recycling Programs**
- **Table of Contents for Asset Recycling**

Additional Resources

- Managing PPP Transactions
- Managing PPP Contracts

The Guidelines have not been prepared with any specific transaction in mind and are meant to serve only as general guidance. It is therefore critical that the Guidelines be reviewed and adapted for specific transactions.

To find more, visit the Guidelines to Implementing Asset Recycling Transactions Section Overview and Content Outline, or Download the Full Report.

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