Dealing with Unsolicited Proposals

Full Description

An unsolicited proposal (USP) is a proposal made by a private party to undertake a PPP project, submitted at the initiative of the private firm, rather than in response to a request from the government. By managing USPs appropriately, governments may benefit from this approach while reducing potential risks. However, unsolicited proposals may also create challenges that risk providing poor value for money, particularly if the government chooses to negotiate a PPP directly with the project proponent; and they may risk diverting scarce financial resources to non-priority projects.

- Benefits and Pitfalls of Unsolicited Proposals discusses strengths and weaknesses and describes how some countries have introduced specific policies for dealing with unsolicited proposals for PPPs. These policies are designed to provide incentives to private proponents (to varying degrees) to submit high-quality PPP proposals; to deter poor quality proposals; to introduce competitive tension; and to promote transparency.

- Creating Competitive Tension describes how competition can be introduced, while rewarding the original proponent with some form of advantage or compensation.

- Dealing with Intellectual Property and Confidentiality provides guidance and resources on dealing with requests for confidentiality.

- Defining Clear Policy and Processes describes and provides examples of processes for receiving, appraising, and implementing unsolicited proposals for PPP projects.

Subsections

1. Benefits and Pitfalls of Unsolicited Proposals
2. Creating Competitive Tension
3. Dealing with Intellectual Property and Confidentiality
4. Defining Clear Policy and Processes

Key References

Dealing with Unsolicited Proposals


- PPIAF. 2014. Unsolicited Proposals—An Exception to Public Initiation of Infrastructure PPPs: An Analysis of Global Trends and Lessons Learned. Washington, DC: Public-Private Infrastructure Advisory Facility. Recommends measures that countries can adopt to better manage USPs, recognizing that countries have different levels of capacity to identify, prioritize, prepare and procure projects; competency in PPP project implementation; and maturity of their PPP markets and frameworks.

- WB. 2009a. "Toolkit for Public-Private Partnerships in Roads and Highways." World Bank. URL. Module 5: “Implementation and Monitoring, Stage 3: Procurement” includes a section on unsolicited proposals, which describes their benefits and challenges, and provides examples of both successful and unsuccessful PPPs from unsolicited proposals.

describes the World Bank’s view on unsolicited proposals, and provides examples from and links to
some countries’ relevant law and policies.

  Nations Commission on International Trade Law.** Section E provides guidance on both policies and
  procedures for dealing with unsolicited proposals. Distinguishes between proposals that do or do not
  require proprietary technology.

### Dealing with Unsolicited Proposals (Examples)

- **ZA. 1999a. *Policy of the South African National Roads Agency in Respect of Unsolicited Proposals*
  . Pretoria: The South African National Roads Agency.** Describes the policy and sets out the procedure
  for dealing with unsolicited proposals for national roads PPPs. Includes a description of the required
  content of the proposal, the process for detailed preparation of the PPP and tender documents, and the
  tender process that will apply.

- **ID. 2005. *Peraturan Presiden Republik Indonesia Nomor 67 Tahun 2005*. Jakarta: President of the
  Republic of Indonesia.** Chapter IV states that unsolicited proposals will be accepted for projects not
  already on a priority list, and briefly outlines the process and procurement approach. The English
  version of regulation 56 is available on Bappenas’s website, (ID 2011).

- **CL. 2010b. *Ley y Reglamento de Concesiones de Obras Públicas: Decreto Supremo MOP Nº 900*
  . Santiago: Gobierno de Chile, Ministerio de Obras Públicas.** Title II of Regulation Number 956 of the
  Public Works Concessions describes in detail the process and for dealing with unsolicited proposals,
  including the required content of initial proposals, how detailed studies will be managed, how
  proposals will be evaluated, and procured.

  153–155 describe when unsolicited proposals are accepted, how they are evaluated, and the
  procurement process that applies.

  Partnership Infrastructure Projects: Case Studies from the Republic of Korea*. Volume 1, Institutional
  Arrangements and Performance. Manila: Asian Development Bank.** Pages 61–69 describe the
  implementation procedures for PPP projects, including those originated as unsolicited proposals.

  2006*. Manila: Public-Private Partnership Center.** Rule 10 states that unsolicited proposals will be
  accepted for projects not already on a priority list, sets out how proposals should be evaluated, how
  competing bids will be invited (under a Swiss Challenge process), and how the government may
  negotiate with the proponent in the absence of competing bids.

  Virginia Department of Transportation.** Sets out the process for developing and implementing PPPs,
  both from solicited and unsolicited proposals. Includes detailed guidance on the required content of
  unsolicited proposals.

- **UY. 2011. *Ley Nº 18.786: Contratos de Participación Público-Privada para la Realización de Obras*
  de Infraestructura y Prestación de Servicios Conexos. Montevideo: Gobierno de la República Oriental
  del Uruguay, Poder Legislativo.** Article 37 discusses the advantages granted to the proponent
  submitting an unsolicited proposal.

- **VIC. 2001. *Practitioners' Guide*. Melbourne, Australia: Victorian Department of Treasury and
  Finance, Partnerships Victoria.** Section 21: “Unsolicited Proposals” sets out how intellectual property
  in unsolicited proposals will be dealt with.

- **CO. 2012a. *Ley 1508 de 10 de enero de 2012*. Bogotá: Congreso de Colombia.** Title III discusses the
  treatment of unsolicited proposals.

- **MX. 2012. *Ley de Asociaciones Público Privadas*. Mexico City: Gobierno de México, Cámara de
  Diputados.** Chapter 3 outlines the unsolicited proposal selection process.

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