

Benefits and Pitfalls of Unsolicited Proposals

Full Description

Considering unsolicited proposals allows governments to benefit from the knowledge and ideas of the private sector. For example:

- USPs may allow governments to identify and prioritize projects, help overcome challenges related to early stage project identification and assessment, and generate innovative solutions to infrastructure challenges.
- An appropriately designed USP process that allows private entities to propose project ideas that are in line with a government's infrastructure plan can harness the private sector's interest in developing commercially viable project solutions.
- When governments do not have the technical and financial resources to develop preliminary feasibility studies, a well-designed USP process can require the USP proponent to include these studies as part of the USP submission. This can reduce bottlenecks at an early stage of the PPP process.
- USPs also can also widen the range of potential solutions available to address infrastructure gaps. Private providers of technology often possess greater knowledge about potential solutions to infrastructure challenges than public sector officials leading the planning process.

However, unsolicited proposals also create substantial challenges:

- Most PPPs require government fiscal support: the government typically accepts risks, and the associated contingent liabilities, even if direct subsidies are not needed. As described in the **PPIAF Toolkit for PPPs in Roads and Highways** ([WB 2009a](#), Module 5, Stage 3: "Procurement"), experience suggests that proposals submitted by private companies often do not adequately assess the risks associated with the project, which may be borne by the government.
- Unsolicited proposals do not originate as part of a government planning process, and, in some cases by definition, are not part of sector plans. This raises the question of whether the service proposed is sufficiently integrated with other sector plans for demand and benefits to be robust to changing circumstances and priorities.
- Unsolicited projects may divert government attention from a planned approach to infrastructure as a whole. In a government planning process, public agencies identify projects that respond directly to infrastructure plans and previously identified societal and economic needs. The primary motivation of a private entity submitting a project idea is, however, to further its own interests, which may not be aligned with those of the government or society. The role of the government is to ensure that the proposed USP project is structured to meet societal needs and can be tendered to ensure fair terms, conditions and pricing.
- Negotiating with a project proponent based on an unsolicited proposal in the absence of a transparent or competitive procurement process can create problems. It could result in poor value for money from the PPP project, given a lack of competitive tension, or provide opportunities for corruption. Even if there are no clear indications of corruption, if a company is seen to benefit from a PPP without opening the opportunity to competitors that could nonetheless give rise to complaints about the fairness of the process. This lack of transparency can undermine the legitimacy and popular support for the PPP program.

Box 3.14: *Costs of Direct Negotiation—Independent Power Tanzania* provides an example of a power project in Tanzania that was directly negotiated following an unsolicited approach by the private investor, which under arbitration was found to have provided poor value for money, and possibly been corrupt.

Costs of Direct Negotiation—Independent Power Tanzania

The government of Tanzania and the Tanzania Electricity Supply Company entered into contractual agreements with Independent Power Tanzania Limited (IPTL) of Malaysia for the supply of 100 megawatts of power over a 20-year period. This transaction was directly negotiated following an approach by the private investors during a power crisis. The transaction was contested by some government officials, the international donor community, and other interested stakeholders. The grounds of the contest were that the wrong technology (heavy fuel oil instead of indigenous gas) was used, that it was not part of the least-cost generation plan, that it was not procured on a transparent and competitive basis, and that the power was not needed.

The government ultimately submitted the case to arbitration. Under the final arbitral ruling, the project costs were reduced by about 18 percent. Even so, the costs remain well above international comparators. In the arbitration hearings, the government alleged that the contract award had been corrupt, but failed to produce evidence to satisfy the Tribunal of this. The government has not subsequently pursued the corruption investigation. However, legal disputes between the IPTL and the government continued.

Sources: ([WB 2009b](#)); ([Eberhard and Gratwick 2010](#))

The **PPIAF Toolkit for PPPs in Roads and Highways** section on unsolicited proposals ([WB 2009a](#), Module 5, Stage 3: “Procurement”) further describes these challenges of unsolicited proposals. It sets out the view of the World Bank as follows:

"...there is a place for genuine and innovative [unsolicited] proposals, but these are the exceptional case. The private sector must put up strong independently analyzed cases for unsolicited proposals at an early stage, before governments are sucked in to supporting projects that are financially weak, high risk, will take up significant human resources of the government, and will likely take a longer than normal time to implement because of these difficulties."

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