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Chapter 10

Public Procurement

Introduction

It is the duty of the government to provide basic services for the population, however, many times because of a scarcity of financial resources, that obligation is too great and the increasing demand of the population requires that health, infrastructure, and education needs are met.

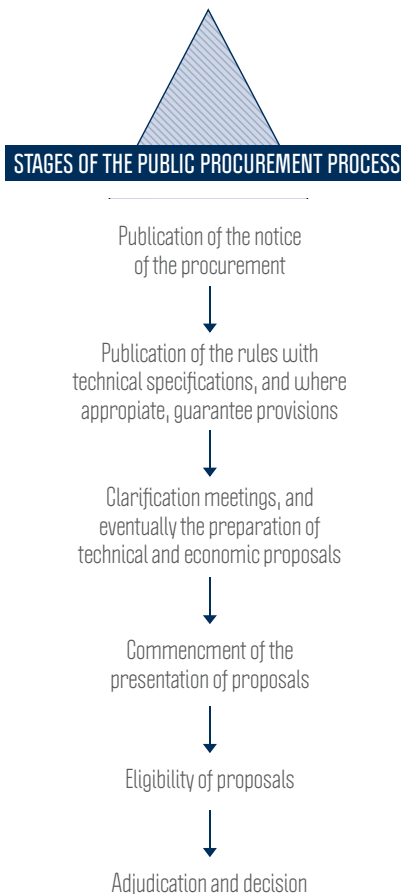
As a result, the government must hire individuals and private entities to collaborate with in order to meet the demands of the population. Some of these public procurements are arranged through a public bidding process, an invitation of at least three people (a private bid), the direct award of a contract, an auction, or through a competition.

There are other mechanisms for public-private partnerships, such as projects to provide services (PPS), which seek to meet collective needs through the joint participation of the private and public sectors, with each party sharing a portion of the risk. Thus, the private sector becomes a government services provider, with obligations to build the necessary infrastructure for the service provided when required.



KEY POINTS

- The general procedure for public procurement is through a process of public bidding, through which the government seeks to obtain the best price, quality, and financial conditions.
- Public expenditure and the principles that govern public procurement are guided by: efficiency, effectiveness, economy, transparency, and honesty.
- When a public bid is not the most convenient way to contract, procurement can take place through a private bid, involving at least three parties, or through the direct award of a contract.
- A concession is a title issued by the government to a party or a contract entered into by the government with a party which is non-transferable, subject to termination, and revocable, which allows that party to: (i) exploit and take advantage of state-owned assets (a property concession); or (ii) to operate a public service (a services concession).
- Industries in which concessions are granted are: telecommunication, telephone, radio and television, ports, airports, roads, bridges, drinking water, and mines, among others.



QUESTIONS AND ANSWERS

1. How can companies participate in the process of procurement for goods, services, leases, and public works for the departments and agencies of the Federal Government?

Either through: (i) the website of the Federal Government's Electronic Government Procurement System (COMPRANET); (ii) the websites of the purchase or acquisition departments of states or municipalities; or (iii) notifications which are published periodically in the Federal Official Gazette, and the official gazettes of the states and municipalities.

2. Who can enter into a concession contract with the government?

Any individual or corporation, foreign or domestic, involved in a public procurement proceeding who wins the public bid as a result of meeting all the requirements, and because their proposal presents the best price, quality, and financial conditions, as well as the best opportunity for the Mexican government.

3. How can an individual or corporation, foreign or domestic, contract with the government?

Individuals and corporations can participate, either directly or through a consortium, in a procurement proceeding initiated by the government. A consortium is a group of individuals or corporations, foreign or domestic, who join to participate in a procurement proceeding.

4. Can proposals be submitted after the submission deadline?

The principle of fairness which governs the bidding process means that the agency running the bidding process cannot grant privileges to some bidders and deny privileges to others. Therefore, it is inadmissible to receive an offer submitted after the deadline. If a winning bid is accepted under these circumstances, this situation will create fatal defects in the proceeding because the bid was not disqualified.

CASE STUDY

The only way to reach the Cocos Island is via a nearly 50 year old one-lane bridge. Local inhabitants, service providers, and investors want a more efficient and safer bridge built, and in order to do so would be willing to pay a toll.

The state government wants to make Cocos Island a tourist destination and an anchor for the regional economy. In order to achieve this, the government wants to build an eight-lane bridge utilizing the most advanced construction techniques, but lacks the necessary resources to do so. Therefore, the government wants to grant a concession to a domestic or foreign company for the construction and operation of the bridge to Cocos Island.

The government first issues an invitation to all interested companies to participate in the bid for the construction of the bridge to Cocos Island, and for the operation of the bridge for a term of 50 years.

Once the participating companies submit their proposals, the government will determine the winner and award the contract for the construction and operation of the bridge.