PUBLIC PROCUREMENT PROCESSES

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Outline of Presentation

- Procurement
- Existing Instructions
- Procurement and Purchasing
- Public procurement
- Principles laid down by Supreme Court
- Way forward
- Works Contract Agreement
- Basic Features

PROCUREMENT

United Nations Commission On International Trade Law (UNCITRAL)

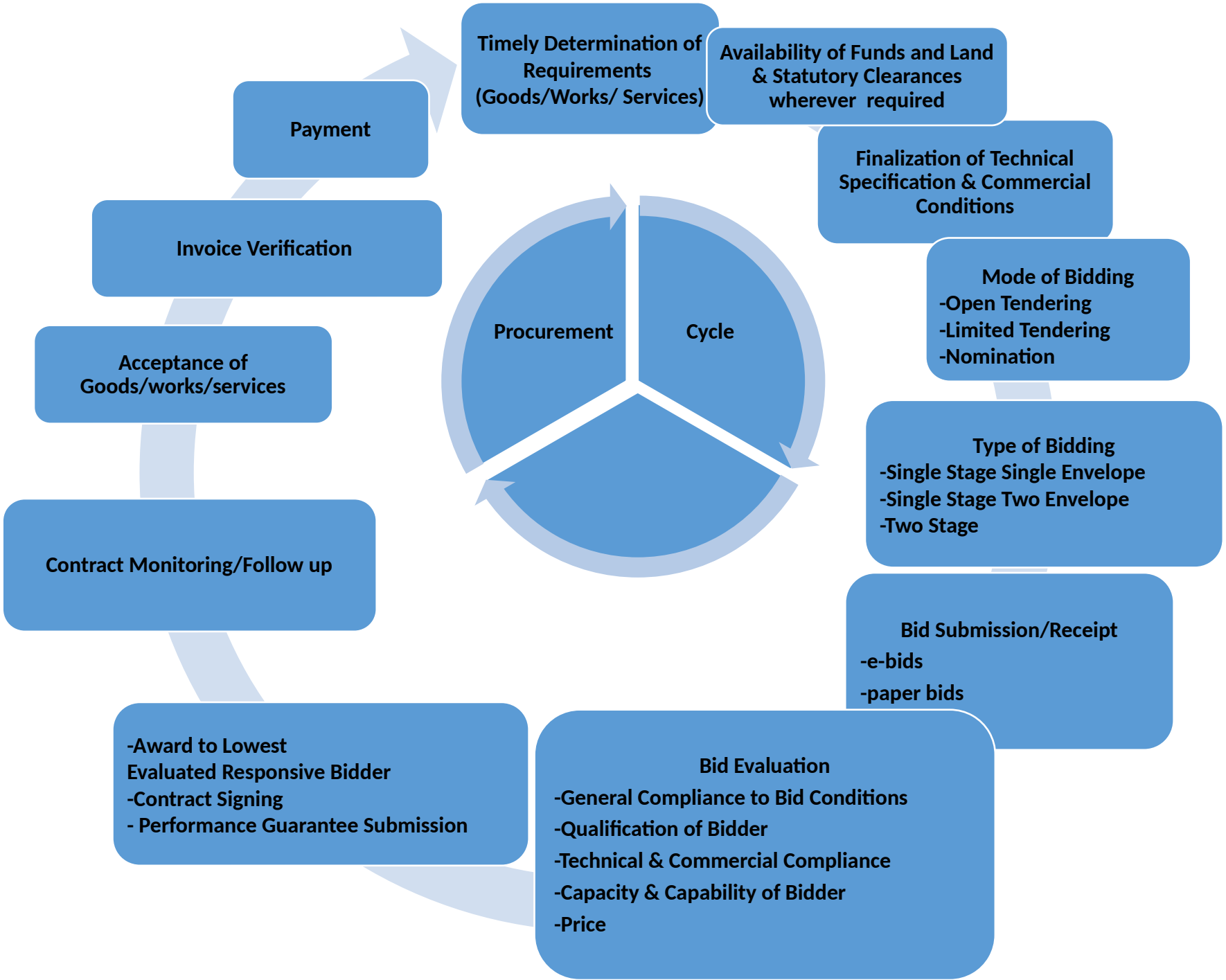
Procurement means the acquisition of goods, construction or services by a procuring authority.

United Nations

Procurement functions include all actions necessary for the acquisition, by purchase or lease, of property, including products and real property, and of services, including works.

Public Procurement Bill 2012

‘’Procurement’’ or ‘’public procurement’’ means acquisition by purchase, lease, licence or otherwise of goods, works or services or any combination thereof, including award of Public Private Partnership projects, by a procuring entity, whether directly or through an agency with which a contract for procurement services is entered into, but does not include any acquisition of goods, works or services without consideration, and the term ‘’procure’’ or ‘’procured’’ shall be construed accordingly.


Timely Determination of Requirements (Goods/Works/ Services)
Availability of Funds and Land & Statutory Clearances wherever required
Finalization of Technical Specification & Commercial Conditions
Mode of Bidding
-Open Tendering
-Limited Tendering
-Nomination
Type of Bidding
-Single Stage Single Envelope
-Single Stage Two Envelope
-Two Stage
Bid Submission/Receipt
-e-bids
-paper bids
Bid Evaluation
-General Compliance to Bid Conditions
-Qualification of Bidder
-Technical & Commercial Compliance
-Capacity & Capability of Bidder
-Price
-Award to Lowest Evaluated Responsive Bidder
-Contract Signing
- Performance Guarantee Submission
Contract Monitoring/Follow up
Acceptance of Goods/works/services
Invoice Verification
Payment
Procurement Cycle

Rules, Guidelines Governing Public Procurement

- General Financial Rules (GFR), 2005
- State GFRs
- Delegation of Financial Powers Rules (DFPR), 1978
- Guidelines issued by the Central Vigilance Commission (CVC)
- Guidelines issued by the Directorate General of Supplies and Disposal (DGS&D)
- Manuals on the procurement of goods, services and works issued by the Department of Expenditure, Ministry of Finance.
- Guidelines on procurement issued by individual Ministries / Departments, PSUs etc.
- Legislation on procurement enacted by individual states - Tamil Nadu and Karnataka

- KARNATAKA TRANSPARENCY IN PUBLIC PROCUREMENTS ACT, 1999: An Act to provide for ensuring transparency in public procurement of goods and services by streamlining the procedure in inviting, processing and acceptance of tenders by Procurement Entities, and for matters related thereto.

Procurement & Purchasing

- What is Purchase Section ?
- The Purchase section of ARIES is responsible for Procuring and purchasing of the goods, raw materials and services required to operation the institute effectively.
- Definition of Procurement (proactive process) : is defined as the planned strategy of the organisation to purchase the goods & services etc.
- Purchasing: (active process). purchase requisition- supplier quotation & evaluation- placement of order (PO) – Items receiving , quality checking – Payment. GFR 135 -LPC

Public Procurement?

What is public procurement?

Public procurement is the acquisition of goods, services and construction works to support government operations, and to provide public goods and services. Such services include: public transportation, utilities services, medical and educational facilities and services, roads, bridges and other public infrastructure, all of which are classified as either “hard infrastructure” or “soft infrastructure.”

Definition

The public procurement process comprises all the steps taken to obtain goods services and works with public funds. It begins with the assessment of what the entity needs and ends with signing a contract with a supplier, contractor or service provider.

- Steps:

The following are the steps in the public procurement process:

1. Assess needs 2.Identify requirements
2. Do market research 3. Allocate budget
3. Select procurement method
4. Develop procurement plan
5. Prepare scope of work or specifications for Goods, Services or Works
6. Prepare solicitation/bidding documents
7. Prepare and advertise procurement notice
8. Conduct pre-bid meeting and site visit
9. Accept and respond to bidders' queries
10. Receive and open bids/proposals
11. Evaluate bids/proposals
12. Award contract

Fundamental Principles of Public Procurement?

What are the seven fundamental principles of public procurement?

The seven primary principles of public procurement are:

- transparency,
- integrity,
- economy,
- openness,
- fairness,
- competition and

Fundamental principles

- Open tendering
- Effective Advertisement
- Non-discriminatory tender conditions & Technical specifications
- Public tender opening
- Award to most advantageous bidder

Principles laid down by Supreme Court

- Government organizations are not allowed to work in secrecy in dealing with contracts, barring rare exceptions.
- Reasons for administrative decisions must be recorded, based on facts or opinions of knowledgeable persons again based on facts.
- Tendering Process or Public Auction is the basic requirement for the award of any contract.
- Adequate publicity is essential.
- Officers engaged in public procurement have to perform fiduciary duty.
- There has to be fair play in the actions for procurement.
- Bid evaluation has to be strictly in accordance with the bid evaluation criteria stated while inviting the bid.

Way Forward

- Public Procurement Law
- Institutional framework preferably dedicated department/unit within the Ministry of Finance
- Standardization including the procedures, tender documents and general conditions of contract
- Competitive bidding should be the norm for procurement unless permitted and justified in special cases
  I. Evaluation criteria should be clearly spelt out in tender documents
  II. Evaluation as per the declared criteria
  III. Public opening of tendering should be mandatory
  IV. Introduce debriefing procedure
  V. Result of the tendering process in the Public domain

- Switch over to e-procurement regime (Korea Online E-procurement System)
- Reforms in works Procurement
  - For all development projects, the executing agencies shall carry out procurement planning (statutory clearances, land acquisition & availability), logistics, contract packaging, scheduling and firming up of funds before sanction.
  - Schedule of rates should be reviewed and revised
  - Contractors past performance data should be maintained
  - Bid capacity – Finance, equipment, personnel & past performance should be mandatory criteria
- Regular Training Programmes
- Performance Indicators

Clauses which can be modified in a Works Contract Agreement :

- Parties to the contract
- Definitions
- Scope / obligations of both Parties
- Terms of Delivery - Quantity ,Time , cost , quality
- Covenants / Obligations of both Parties
- Events of Default / Term and Termination
- Force Majeure Events and treatment
- Statutory / Legal Compliances by both Parties - Extent and liability
- Assignability ; modifications procedure and authorities etc
- Claims and Indemnification / Confidentiality
- Resolution Dispute Mechanism & Arbitration / Jurisdiction
- Miscellaneous – Special Conditions (Technical and Financial) ; Notices/ correspondence
- General Conditions of Contract (organization specific) - non negotiable

Cannot be modified

Can be modified

Basic Features

- Five Chapters(Preliminary ,Principles & Methods of Procurement ,Institutional Mechanism, Offences penalty& debarment ,Miscellaneous)
- To be supplemented by Rules for procurement of Goods, Works and Services. Separate sets of Rules for:
  - Procurement for the purpose of national security
  - Entering into Public Private Partnerships
  - Procurement by Central Public Sector Enterprises
- Exemptions from the law in certain circumstances
- Key transparency and accountability norms incorporated from international best practices
- Expeditious and streamlines grievance redressal procedure

Epilogue

Leadership and learning are indispensible to each other

John F. Kennedy

Epilogue

In the learning process, there is a bridge between the teacher and the learner, a Bridge of Love, through which kn0wledge passes both ways

RaBINDRANATH tagore on EDUCATION

Thank You ！