

Present Status & Development of the Tendering Agency System In China

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[Summary] The article introduced and analyzed present status & development of the tendering agency system in China for the practitioners in this industry, including the important role of the tendering agency on regulating bidding business, the tendering agency corporate and business development status, all kinds of elementary management systems and implementation conditions for regulating tendering agency industry development by our Government, and analysis of future development trend tendering agency in the industry, in order to solicit discussion and communication in the area.

[Key words] Tendering Agency System, Tendering Agency and business, Present Status and Development

I. Introduction

Undoubtedly, since the promulgation and implementation of Law on Tendering and Bidding of the People's Republic of China (hereinafter referred to as "Law on Tendering and Bidding") for 12 years, with the growing demand of China's market economy development and continuously expanding scale of investment, tendering and bidding career in various fields & industries developed rapidly. Practice has proved that the adoption and implementation of the tendering and bidding system played an important role in improving economic efficiency and ensuring project quality, etc. Tendering and bidding have gradually become an important trading ways and means of the optimal allocation of resources in domestic market. The establishment and implementation of the tendering agency have played an important role in promoting tendering & bidding system and regulating bidding business. Through national tendering agency system gradually standardize, improve and implement the tendering agency activities in China is moving standardized and specialized. Through gradual standard, improvement and implementation of tendering agency system, China tendering agency is toward standardization and specialization development direction.

I am honored to be the representative of the tendering agency to make a speech. Now, I'd like to introduce and analyze present status & development of the tendering agency system in China for the practitioners in this industry, including the important role of the tendering agency on regulating bidding business, the tendering agency corporate and business development status, all kinds of elementary management systems and implementation

conditions for regulating tendering agency industry development by our Government , and analysis of future development trend tendering agency in the industry in order to communicate with you.

II. the Role of China Tendering Agency in Tendering and Bidding Business

After the implementation of "Law on Tendering and Bidding" for 12 years, China Tendering Agency plays a positive role in legal knowledge propaganda, market competition behavior standardization, fair trade promotion, improvement of tendering efficiency, construction investment saving, corruption prevention etc. The implementation of tendering agency system, which speeds up the change of our project construction management mode to the socialized and specialized direction, established effective project management operation mechanism which mutual cooperation, mutual restriction and mutual promotion between all parties of engineering construction.

Professional tendering agency has been engaged in specialized tendering agency business for a long time, with institutional stability and strong professional base, huge amount of expert support system, wide and prompt sources of information, a more robust tendering management system and quality assurance system, which has accumulated a wealth of practical experience and other advantages, played an important role for the cause of China's bidding relying on the unique advantages, mainly in the following five aspects:

1. In the areas of positive propaganda & implementation of "Law on Tendering and Bidding" , related regulations and rules of the policy documents, China tendering agency plays an important role. In any case, complying with all relevant laws, regulations, rules is the basic bottom line of tendering and bidding activities, it's also the normative premise of these activities. As a professional tendering agency, its substantive work is that through the comprehensive, system and in-depth study and master of laws, regulations and rules on tendering, accurately understand the points and fully implement them during tendering agency process. Therefore, tendering agency is critical in the process of implementation of "Law on Tendering and Bidding" .

2. Played a crucial role in the general implementing tendering system and regulating bidding procedures & behaviors. In accordance with the bidding project, most of the projects are entrusted by way of bidding, besides a few tenderer who has the accord with to tender conditions. As a matter of fact, China's tendering and bidding process is basically organized the implemented by tendering agency and its practitioners' legal, technical knowledge and practice competence determine the effectiveness of the tendering. At present, tendering and bidding business have made great achievements in China, the achievements depend on procuratorial agencies' strict accordance with the norms of the tendering and bidding program operation.

3. The development of tendering agency industry promoted the reform of engineering construction management. The establishment and development of the tendering agency

system, not only created tender management system to the social, professional development, but also speeds up the change of our project construction management mode to the socialized and specialized direction, established effective project management operation mechanism which mutual cooperation, mutual restriction and mutual promotion between all parties of engineering construction. Promote the reform of the way on organization& implement of engineering construction.

4. Professional services greatly improved investment effectiveness and efficiency. As a professional team, tendering agency provided client with a full-service, avoid detours, reduced the project cost & purchasing cost, and improved the success rate of tendering and quality. According to incomplete statistics, with tendering agency's service, the average section rate of capital is more than 15%, which saved lots of investment for the client and the state and shortened the construction period.

5. Relying on intermediary to a certain extent, in order to reduce opportunities for corruption in tender. Compared with tender people bidding on their own, commissioning professional tendering agency and using the statutory tender process to control and standardize tender links and documents quality can effectively avoid randomness and tendency in tender documents and evaluation methods, to a certain extent to guard against the possibility of tendering a mere formality and insider operation, certainly inhibit to prevent the occurrence of corruption. At the same time, the national vocational qualification education and training for tendering agency employees further improve the sense of law and ethical standards of practitioners. Play the role of prevention and alert concerning tender corruption from source.

III. Present Development Status of the Tendering Agency and Business In China

1.The creation, nature and responsibility of tendering agency

(1)The creation of tendering agency. As we all know, tendering agency services created along with continual promotion and implementation of our tendering and bidding system. They are also the inevitable outcome of reform and open market economy development with international practice. In the early 1980s, China began to use World Bank loans to invest in construction, in accordance with its requirements, procurement bidding system must be implemented. Many project units know little of bidding knowledge, lack of professional talent and skills, so that tendering agency came into being. In 2000, the promulgation and implementation of "Law on Tendering and Bidding" formally established the legal status of tendering agency, the bidding system has been the fully implemented, and also provided an opportunity for the rapid development of tendering agency.

(2) The nature of tendering agency. According to "Law on Tendering and Bidding" , tendering agency established by law, engaging in the tendering business and providing related services, it's a social intermediary organization, which is the definition of the tendering agency on legal nature. The rights and obligations of tendering agency should be

organizing and completing the bidding and related consulting activities, and collect service charges in accordance with the contract and law. They must commission in accordance with the tenderer's contract and legal provisions for the bidding business. To ensure the healthy development of the industry, according to China's relevant laws and regulations, tendering agency and the executive authorities and other state organs should not have any affiliations or other interests, otherwise easily lead to responsibility confusions between the government & enterprise, which would arise unfair competition in agency industry.

(3) The responsibility of tendering agency. Tendering agency's responsibilities or scope of services mean that the tender work and responsibility during agency business of the tendering agency. According to the relevant provisions of "Law on Tendering and Bidding" and "Regulations on the Implementation of the Tendering and Bidding of the PRC" (hereinafter referred to as "Law on Tendering and Bidding") executed on February 1, 2012, tendering agency should be commissioned by the permission of their qualification and tender in accordance with the law within the bidding agency business. In actual operation, the tendering agency's scope of services generally including the preparation of the bidding program, the preparation and sale of tender documents (including pre-qualification documents), issuance of tender notice (including pre-qualification announcement) or issuance of the invitation to tender, the organizational review of bidders qualifications, arrange bidders investigate the site, clarification and modification, acceptance and organization of bid opening, bid evaluation, assistance in the tender man-marked, submitting bid evaluation report submitted and issuance of letter of acceptance, involved in consulting services which tender commissioned such as signing contract during latter stage. In addition, concerning a number of engineering tendering projects, according to the tender's commission, tendering agency would also provide services of establishing bills of quantities, control price or base price within the scope of the engineering cost qualifications.

2. Current status and trends of tendering agency & business development

(1) From the point of tendering agency and the number of its employees, the cause of our tendering agency has entered into the booming period. Tendering agency is increasingly becoming important advisory forces in bidding business. According to statistics of "Present Development Report of Tendering Agency " compiled by China Tendering and Bidding Association in 2011, so far, as identified by relevant government departments who have tendering and bidding agency qualification (including central government investment projects, construction projects, government procurement projects, international tender of electromechanical products and communications construction projects, etc.), there are about 6000 tendering agencies and millions of tendering procurement practitioners in China.

(2) From the development direction of view for tendering agency business, most of the tendering agency will gradually transit from single business transition to multi-business. According to the Construction Project Tendering Agency Report by the Ministry of Housing and Urban-Rural Development in 2007, within 4802 tendering agency in China, single bid invitation agency which engaged in the tendering and bidding accounted for 26.3% of the

total number of tendering agency, tendering agency which provides other projects advisory services on the side (such as cost, design, supervision, real estate appraisal, etc.) accounted for 73.7% of the total number. For example, after 12 years of innovation and development, Guoxin Tendering Group which grows simultaneously with the "Law on Tendering and Bidding" has been the top tender advisory with the largest scale & influence on the industry and the most comprehensive service capabilities. Besides main tendering agency business, our scope of services covers engineering consulting, project management, cost consulting, project supervision, international trade, auction, investment and financing consulting, software development and network information services, etc.

(3) From the point of tendering agency's tender qualification quantities, China tendering agency's business has transited from single class to integrated direction. According to the latest statistics of housing and urban and rural construction, there are 4799 national engineering bidding agencies in 2010, of which has two and more bidding qualification enterprise accounted for 3339, accounting for all project tendering agencies 70 %. On the basis of research statistics of China Tendering and Bidding Association, among 6000 tendering agencies in China, 36 of them have more than four bidding qualifications.

(4) From the increasing tendering agent amount and coverage to see, the tendering agency business in China has basically covering the scope of the legally required bidding, including housing construction and municipal infrastructure construction project tendering agency with the highest rate. The report from China Tendering and Bidding Association in 2011 shows that, according to preliminary estimates, the current national tender amount of tendering agency was 13.9 trillion yuan, compared with the total amount of national fixed asset investment (22.46 trillion yuan) in 2009, the tendering agency rate went up to 61.89% or so. The latest data from the Ministry of Construction indicate that, there are nearly 5000 various types of engineering construction engineering tendering agencies at present, employing 330000 people, the annual engineering tendering agencies' bidding amount is 5 trillion yuan and match with annual construction scale in construction industry. In 2010, the annual engineering tendering agencies' bidding amount is 4.95053 trillion yuan, an increase of 51.8 % compared with last year. Among them, the bidding amount of the house construction and municipal administration infrastructure project went up to 4.044179 trillion yuan, accounting for 81.69% of the winning bid amount for tendering agency; Bidding for the government and state-owned enterprises and institutions, engineering bidding agent is in the amount of 3.511839 trillion yuan, accounting for 70.94% of the winning bid amount for tendering agency.

(5) From the point of tendering agent revenues and profits, vicious competitions and very low agency fees caused low profit margins in the whole industry. The latest statistical data of the Ministry of Housing and Urban-Rural Development shows that, in 2010, the annual business revenue of project tendering agency go up to 126.775 billion yuan, total operating costs are 108.87 billion yuan, total profit is 14.554 billion yuan, total liabilities are 505.531 billion yuan. So that the industry average gross profit rate is 11%. According to the general calculation rule of industry, if gross profit rate is under 30%, its net profit rate should be

under 7%. Thus it can be seen, overall revenue of tendering agent industry is not optimistic in recent years.

III. Problems in Development of Tendering Agency Industry

Of course, in practice, because of the industry protection and regional blockade in a certain extent of the tendering field in China, tendering agency and their business normal development are limited seriously. The right of important tendering agency and their employees doesn't match with their responsibility. The marginalization problem of tender employees is very prominent. Bidding agency work often subject to the tenderer, multiple administrative supervision institution and local respective system, the independence of the law practice is not enough.

Meanwhile, there are problems of tendering agency still need to be further corrected and standardized, such as low quality and professional service capacity of the employed personnel, the agency behavior is irregular, lack of professional ethics, take vicious bidding means and so on. How to correctly guide the healthy development of the tendering agency industry, to re-establish a new image, promote healthy competition within the industry, this is the management focus of our countries in future.

IV. Basic Management System for Regulating the Development of Tendering Agency Industry in China.

1. Qualification Management System for Tendering Agency

On the basis of the Implementation Regulations of law on Tendering and bidding, tendering agency's qualification is recognized in accordance with the law and the relevant departments of the state council. In our country, concerning the tender project's attribute and the management of tendering agent qualification, tendering agency can be divided into five class procuratorial agencies-the central investment project, the engineering construction project, international bidding of mechanical and electrical products, government procurement, communication construction project agencies. Relevant industry departments respectively formulate the corresponding qualification management measures for them, such as "Tendering Agency Qualification Method on Construction Project "(the Ministry of Housing and Urban-Rural Development) and "Implementation Opinion for Tendering Agency Qualification Method on Construction Project", "Tendering Agency Qualification Administration on Central Investment (National Development and Reform Commission) and "Tendering Agency Qualification Administration on International Bidding of Mechanical and Electrical Products " (The Ministry of Commerce) and so on. Measures above includes restrictive provisions for all kinds of tendering agency qualification, qualification level and business scope. In fact, it is very common for some of the large tendering agencies to have many qualifications above-mentioned.

It can be said that the regulations and implementation of bidding agency qualification

management improved the overall quality of the tendering agency and standardized bidding agent market effectively.

2. Management System of Tendering Agency Service Charge

At present, tendering agency service charge is managed unifiedly in our country, National Development and Reform Commission formulated and promulgated " the Experimental Measures of administration for Tendering Agency Service Charge ", "Notice on Relevant Questions of On Reducing Part of the Construction Project Fee and Standardizing Charge".

According to the documents, China bidding agent service charges are guided by the government, charging base for the project subject to tender bid amount, charging mode is balance constant rate progressive system, floating range is not more than 20% of the prescribed rate. The principle is "who entrust who pay", if tenderer, bidding agency and bidder have agreed otherwise, they should comply with the agreement; Documents above set the fee standard on goods, engineering and service, and the highest limit of a bidding agent service charge for all kinds of project; The documents also prescribe that tendering agent service fee does not contain the establishment expenses of bill of quantities, engineering pre-tender or the highest bidding price fixing.

In practice, the three sides in the tender documents and the bid documents agreed, generally the winning bidder would pay the agency service charge. At the same time, under the pressure of the competition, illegal situation that ultimate charge standard below the legal floating range tends to be universal. According to the application of the tendering agency industry and general opinions, specific measures for the administration and criterion of the charges need to be modified and implemented.

3. Illegal Behavior Record and Announcement System of Tendering Agency

In order to improve the tender and bid disciplinary mechanism and promote construction of the tendering and bidding credit system, ten departments such as National Development and Reform Commission, the Ministry of Housing and Urban-Rural Development, jointly issued the Proposed Regulation for Illegal Behavior Record and Announcement of Tendering Agency on June 18, 2008. Illegal Behavior Record and Announcement System of Tendering Agency was established. Which must make an announcement on the bidding, including the tendering agency involved in the main violations with the administrative decision of the record. One of the most severe decisions may suspend or cancel the tendering agent qualification. It's a direct the warning to further standardization of tendering agent behavior.

4. Information Statistical System for Tendering Agency

At present, there isn't unified bidding agency information statistical system in China. Certain procuratorial agency statistical rules were only established in a few places or industry. For example, the Ministry of Housing and Urban-Rural Development issued " Notice on

Submitting Construction Tendering Agency Statistical Statements of 2008" in September, 2008. It formally established the system of the construction tendering agency statistical statement with national nature. This system is consistently executed now. It can not adapt to and meet the needs of government regulators and tenderer to identify and dynamic understanding. It is reported that China Tendering and Bidding Association is setting System of Tendering Agency Statistical Statements for the industry members and in September 2009, it solicited opinions from the member unit in public, but at present has not been released and implemented yet.

5. Access System of Tendering Qualification

In order to improve the quality of the employees, NDRC and Ministry of Personnel approved implementation of the tenderer's professional assessment system in 2007. CTBA is responsible for the specific organization and implementation. Since 2009, the level exam of tenderer has been held three times, and more than 20000 people obtained the certificate.

The professional assessment system will plays an very important role in improving the overall quality of tendering industry.

Since May 2010, the state has implemented the registration system of tenderer's professional assessment certificate, and established the tenderer registration system which provides some services on online registration, test result inquiry, electronic certificates and supervision. CTBA, entrusted by NDRC, made the regulation on Tenderer' s further education in 2011, and set up tenderer' s further education system. The professional ethics of employees are ensured by all these measures.

In order to implement the requirements of Law on Tendering and Bidding, further improve the employees' professional quality of the tendering agency, regulate professional behavior, the article 12 of the Implementation Regulations of law on Tendering and bidding explicitly stipulates the tendering agency should have a certain number professionals who get tendering qualification. This marks the nation has formally established access system of tendering qualification .The establishment of the qualification access system promote the mechanism of Tendering Agency qualification standards and mutual recognition.

V. Analyze industry trends of our country's tendering agency

According to the status quo of tendering agency, industry regulations and new management directions, in my opinion, tendering industry' s trend will have the following characteristics: Along with the full implementation of the electronic bidding system and improvement of standardization management in China, Tendering Agency should foster professional and innovation capability to adapt to survive. Some small and medium-sized business, single bidding qualification single tendering agency will no longer have a competitive advantage. Large comprehensive and innovative tendering agency will become the main force of the tendering industry. Meanwhile, the supervision and management on tendering industry will tend to centralized and unified. Tendering industry's development should be more standard,

healthy, sustainable and orderly.

VI. Summary

In short, as a tendering agency, we will seriously implement the national laws, regulations and policies, the determination, obey the regulations on tendering agency, and contribute our due share to the country's tendering cause.