

Research on the Development Status of China's Tender Agency System

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I. The Scale of China Tendering & Bidding Market

The course of China tendering has witnessed 32 years of development since the very beginning of its establishment. After the implementation of Law of the People's Republic of China on Tenders and Bids, China tendering course has stepped on a road of legalization. Tendering and procurement has developed into an important means in promoting the growth of China's modern marketing system. In addition, it constitutes an essential part in creating a market atmosphere for fair competition, improving the cost-effectiveness and quality of tendering and procurement and maintaining public interests of both society and state.

At present, China tendering course covers an array of industries like, power supply, petrochemical, metallurgy & mining, water conservancy, railway construction, transportation, electronics, IT, health care, environmental protection, new energy, housing construction, light industry & textile and consulting services, etc.

The scale of China tendering market is closely connected with the size of investment value in national fixed assets. According to the statistics from National Development and Reform Commission (NDRC), the total volume of China's fixed assets investment amounted to 22459.88 billion RMB in 2009, with the volume standing at 27812.19 billion RMB in the next year.

With an overwhelmingly increase of 4223% over the past decade, the value of China's tendering market has jumped to 13,000 billion RMB today from 300 billion RMB in 1998.

1. Continuous Growth of GDP

Chart1: Growth Rate of China's GDP from 2006-2011 (unit:%)

图表4: 2006-2011年中国国内生产总值增长速度(单位:%)



Description: The growth of GDP plays an important role in the expansion of tendering and procurement market. The continuous growth of China's economy for the past several years in a row guarantees the annual growth of China's fixed assets investment, thus maintaining the annual growth momentum of China's tendering and procurement market.

2. Growth of Fixed Assets Investment Volume

Chart2: the National Railway Infrastructure Investment 2005-2010 (unit: 100 million RMB)

图表78: 2005-2010年全国铁路基本建设投资(单位:亿元)

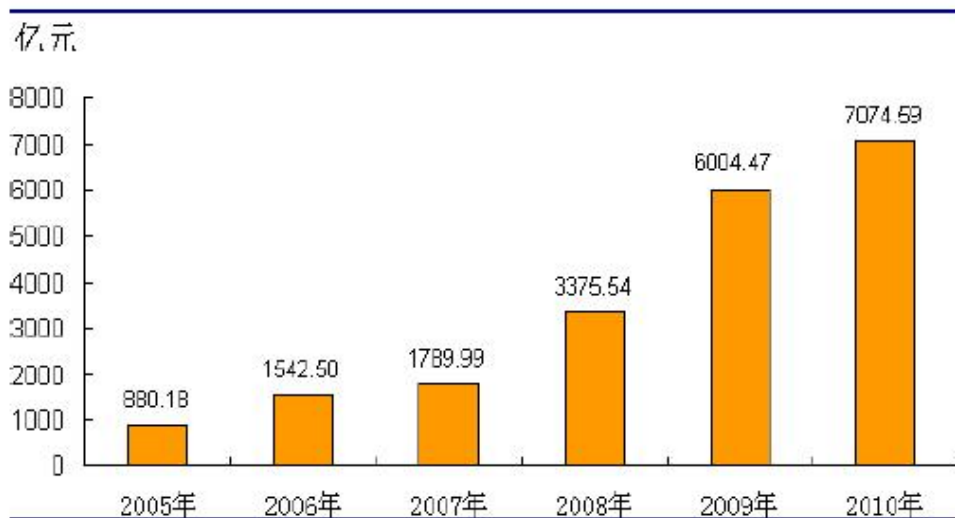
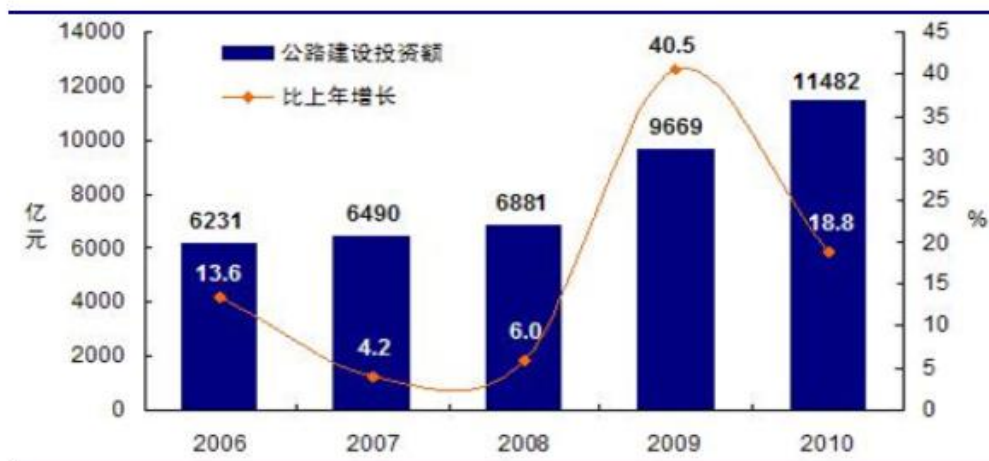


Chart3: Growth Rate of Highway Construction Investment Volume (unit: 100 million RMB, %)

图表87：2006-2010年公路建设投资额及增长速度（单位：亿元，%）



3. Scale of Government Procurement and Public Bidding

Chart4: Chinese Government Procurement Scale from 1998-2010(unit: 100 million RMB)

图表22：1998-2010年我国政府采购规模图（单位：亿元）

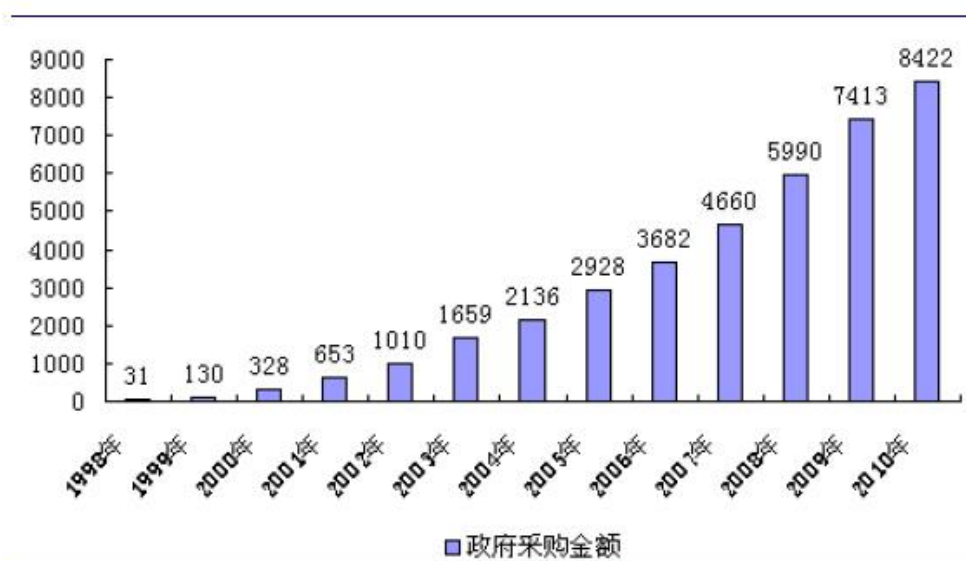


Chart5: Chinese Government Procurement Public Tender Volume and Proportion
(unit: 100 million RMB, %)

图表23：2005-2010年我国政府采购公开招标金额及占比情况（单位：亿元，%）



II The Practice Journey of China Tender Agency

The practice of China bidding and tendering originates from the early 1980s. At that time, Chinese government began borrowing money from the World Bank and Asia Development Bank. In this regard, China's bidding and tendering was driven by WB lending, ADB lending and multi-bank lending projects. To choose the winning bidding company, international tendering is required to obtain WB loans. There is no professional tendering agency at that time. China National Technical Import Corporation performs such function then. It could be said that China's competitive tendering stemmed from international competitive procurement.

- In 1984, Ministry of Commerce (MOC) issued Certificate of Procurement Agent, required in participating in international bidding to procure electronic equipments and machines, to CNTIC because of the WB financing programs. Subsequently, CNTIC became the first procurement agent which acquired certification in the mainland of China.

- In 1980s, there were already four companies engaged in procurement agent, with its number gradually increasing.
- The agents participating in early international competitive procurement bidding were mostly state-owned companies subordinate to various ministries and MOC growing with the development of international trade. To properly handle international competitive tendering and procurement required in multi-bank financing programs, specific departments were established to deal with procurement business. While still keeping foreign trade and other business in state-owned companies, such specific departments were transformed into specific institute, which is subordinated to these state-owned companies (parent company), majoring in international competitive tendering and procurement
- Among the 105 A-class agents acquired the certification from MOC, 30 take part in most of the procurement of the multi-bank financing projects (about 90-95% of the projects), with 10 of the agents covering 70-80% share of the market.
- While related tender system in international tendering was established, it has become the same case in engineering and construction industry and in the management of state-owned companies' procurement. From then on, domestic tender agent system gradually formed.

III The Role and Legal Status of Tender Agency

1. The Positive Role of China Tendering Agency

First, adopting tender agency could help enterprise agency (EA) acquire more convenient and cost-effective professional service. Since its long time devotion to tender business, PA boasts more professional tender knowledge, information and experience compared with EA.

Second, as a third party which doesn't subordinate to EA and government and taking into consideration of abiding by national laws and protecting EA interests, PA would make sure the tender procedure conducted in an legitimate and rational manner when providing tender service. When introducing China tender system, PA not only helps EA have better understanding about the tender system and establish formal

tender procedure management system, but also popularizes the awareness of tendering in accordance with the law and promotes the establishment and development of tender system. It could be said that tender agency is the earliest and most determined practitioner and explorer, making great contribution to the development of China tender system.

Third, facts of China's tender supervision have approved that if EA employed PA providing professional service when tendering, we could guarantee the efficiency of state-invested projects. More importantly, since there is much less PA than EA, we could reduce our supervision workload through PA service when a large number of EA were needed in projects investment.

2. Comparative Research on Agent Tender Model and Self-tendering

One

Chart6: Comparative Research on Project Operation of Agent Tender and Self-tendering

Agent Tender Model	Self-tendering Model
Tender agency is a intermediary service institute between EA and bidders, carrying out tendering within authority area on behalf of EA	No intermediary institute and EA conducts tender directly for projects.
Tender agency has long time experience in serving EA in various fields, possessing rich practical tender experience and high sense of enthusiasm. It is more professional and formal.	Although special tender department will be designated for tendering in large state-owned EA, it lacks enthusiasm and professionalism because operators are only responsible for tendering in this company and in this field, without much experience.
Tender agency has special site and professional team for opening bids	EA has no special site for opening bid and lacks professional team.

<p>Tender agency has large number of personnel and strong professional training capacity. It is much easier to form internal training system and relatively easy for government supervision to practitioners.</p>	<p>EA has less personnel and poor professional training capacity. It is difficult to form internal training system and many times of external training is needed. Also, it costs high for government supervision to practitioners.</p>
<p>When conducting tendering, Tender agency would pay more attention to professional ethics and reputation.</p>	<p>When tendering, EA pays more attention to project management and other related affairs.</p>
<p>When conducting tendering, PA is in charge of a large amount of paper work in strict accordance with the regulations. It is also responsible for logistical work with little technical content.</p>	<p>EA must deal with professional technical documents and make specific professional standards</p>
<p>Tender documents are jointly compiled by several agencies. PA is only responsible for the business part, with the technical part edited by EA or other people.</p>	<p>EA is responsible for all the parts included in the tender document</p>
<p>Tender agency could organize comprehensive bid assessment expert tank in the request of BTL and government</p>	<p>Although self-bid-assessment is ok, for the purpose of defining responsibilities, the bid assessment think tank founded by EA provides service to limited industries</p>
<p>Small intervention scope. Tender agency only intervenes for the management from opening bid to signing contract.</p>	<p>Large intervention scope. EA must be in charge of all stages from the feasibility study to the end of the contract</p>
<p>Tender agency must provide service to EA and bidders at the same time and is under supervision by related authorities and governments. Tender agency is very cautious when making decisions and has no rights for freedom of speech.</p>	<p>EA could make its self-decision with regard to the result of tender. However, EA must also be under supervision by government bodies.</p>

The pricing of Tender agency service is based on cost evaluation and the bid winning price of the project, goods and service required by the bidding projects.	No need to set service fee. However the human and material input and the cost of raw materials must be recognized.
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Chart7: Analysis of the Advantages and Disadvantages of China Tender Agency

Advantages
1. Strong service capability in Tender agency, with professional team and rich cross-industry
2. Tender agency has certain capability of anti-corruption as an intermediary service institute between EA and bidders
3. It is not necessarily for government to supervise and manage a large number of EA under the system of Tender agency, with few members, could also be selected to perform the supervision function, which is beneficial for government to reduce its workload.
4. The competition between Tender agency s is beneficial for EA to gain high-quality service and low tendering cost
5. It is more easy and rational to calculate the Tender agency cost based on the percent of bid winning cost.
6. Government could supervise the intermediary service institute—Tender agency through certificate approval mechanism. Compared with relatively loosely distributed EA tender department supervision without independent organization, the former way is much more formal and easier.
7. The management of the tender documents covered in Tender agency is relatively formal and concentrated. It is easy for government to get a large amount of tender documents from few PAs for easy examination by establishing tender documents archive system
8. Since the number of personnel in Tender agency is larger than that of EA and they are relatively more concentrated, it is feasible for government to expand tender supervision to personal behavior of the practitioners by establishing certificate

Advantages

admission mechanism and personal credit evaluation mechanism, which makes the corruption appeared in the tender process more difficult to survive.

Disadvantages

1. Since Tender agency carries out tender in accordance with framed procedures, it will produce bad effects like low-efficiency, time-consuming and large cost if adding procedures to tender process, temporary changes appear in overall demand and external factors intervene the procedures.

2. Tender agency is required to have more times of interaction and coordination with EA and bidders. If the operation capability for tender agency is poor, it will consume more time in project tender and delay the process.

3. In the process of operation, tender agency must consider not violating government regulations. However, in view of the few contacts between EA and government authorities, much more attention should be paid to tender result and efficiency. Subsequently, there is little understanding about the cautious behaviors of tender agency. For this reason, tender agency must strike a balance between EA requirements and government laws and regulations, which is easy to transfer the attention paid by government from the violation of tender laws to tender agency, making tender agency coordination room relatively narrow.

4. From a general perspective, although each is responsible for its own related bid documents compile, the experience of PA in compiling technical part and EA in business part will increase unceasingly.

5. Low-cost competition among tender agency s would lead to interior service quality. If high-quality tender agency compromises in the price competition, it will bring bad effect to normal tender service result. If high-quality tender agency adopts segmental tender manner to ensure service quality, it will make the process of tender too long and complicated, though much more service fees acquired. Therefore, it is much necessary for the government to intervene tender agency service pricing standard to some extent.

6. Different industry identification standards and tender agency identification process

Disadvantages
make the procedure very complex and reduce the efficiency. Also it increases the cost of EA and government, consuming much more time.

3. Legal Status of Tender Agency

Taking into consideration of the positive role of tender agency in tendering, it is for the first time to confirm the tender agency status and role from the legal aspect in the Law of the People's Republic of China on Tenders and Bids issued in 1st, Jan 2000. It is stated in the 13th articles: tender agency is a social intermediary organization established in accordance with the law and engages in tender agent business.

IV. Major Responsibilities of Tender Agency

1. Functions of Tender Agency

Generally speaking, tender agency has functions as following:

- Decision making and consultation service

Procurement is actually a kind of decision-making. It is especially true when it comes to non-professional procurement for most EA, which doesn't have much knowledge about relative laws, market and suppliers. In this process, PA makes appropriate decision through its own capabilities, including helping EA through capabilities in the field of law and business.

- Function of coordination

PA is responsible for coordinating relations concerned all departments involved in tender like EA, bidders, government supervision body and the public to finish tender. ◦

- Function of service

There is a lot of administration work involved in tender. Specification helps tender agency finish the job in a quicker and better way.

2 . Job Responsibilities for Tender Agency

- 1) Coordinate with EA for project requirements
- 2) Fulfill filing procedures
- 3) Make tender documents and credential deliberation and approval paper
- 4) Issue bidding notice

- 5) Invite and receive supplier to participate in bidding
- 6) Select bid assessment experts
- 7) Organize bid opening
- 8) Organize bid assessment
- 9) Recommend bid winning candidate
- 10) Announce bid winning notice and inform bid winner and others not win
- 11) Tender agency doesn't involve in pre-project research, feasibility study, design, bid confirmation and decision-making, nor does it participate in the later work concerned with contract signing, supervision and management, contract performance and acceptance of work. Tender agency enjoys no final say in the process of procurement. Tender agency is responsible for most of the procurement logistical work required by EA.
- 12) Tender and comparison and selection for Tender agency are conducted in many places.
- 13) Usually, Tender agency would designate a senior procurement specialist as a project manager for certain project. General manager or the person in charge take the lead, assisted by project manager assistant and other project team member. Project manager is the core of the whole team and constitutes a key part for the success of the project.
- 14) Service fees , which is usually lower than national standard, will be charged to project EA or bid winner in accordance with national charging rate. New regulations have been adopted to further lower the charging fees. According to the new regulation, interests must also be paid for bid security deposit. The trial of deposit guarantee has been conducted in some places.

V. The Management of China Tender Agency

1. The Credential Management of China Tender Agency

In accordance with Law of the People's Republic of China on Tenders and Bids, related departments in the state council are responsible for the certification admission and daily management of tender agency.

- 1) In 2006, National Development and Reform Commission issued tender agency certificate to the agencies participating central government financing projects

(referred to as central-government-level tender agency)

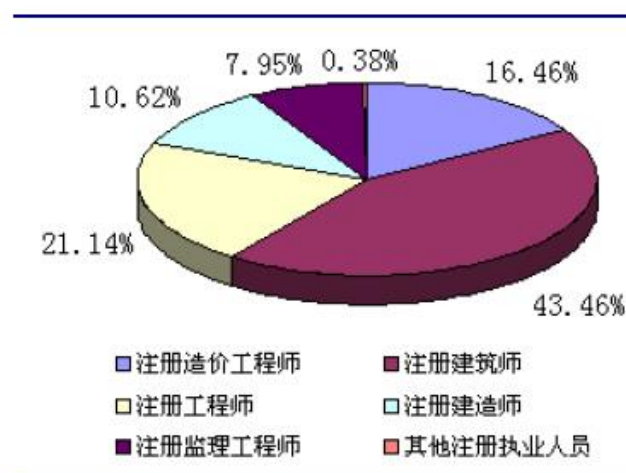
- 2) Ministry of Housing and Urban-construction Department (MHURD) issued 228 pieces of tender agency certificates for A-class project participation. However, the number reached 1195 by 2010.
- 3) In 2006, Ministry of Finance (MOF) began to issue tender agency certificate for GP participation. There are altogether 643 pieces of A-class certificate were issued in 2010, while provisional department of finance issued some 2,000 pieces of B-class certificate. Most tender agency with certificates for participating in ICB and central-level projects took part in the GP and tender agency contestant held by MOF and got related credentials.

2. The Credential Management for Personnel in China

According to the statistics from the Ministry of Housing and Construction, there are 328,168 PA personnel in the field of Chinese project construction, in which 46,732 of them acquired the senior title, and 123,435 with intermediate title. Considering the large number of PA people working in the field of China goods and service industry and the number of EA and people working with government supervision bodies, the number of people working with China PA should surmount 400,000. And the number of specialists in China's bidding industry should surmount 600,000.

Chart8: Diagram of Certified Professionals in National Project Tender Agency 2010(unit:%)

图表12：2010年末全国工程招标代理机构注册执业人员结构图（单位：%）



In order to enforce the skill level and management of tender staff, NDRC and

MOHRSS (Ministry of Human Resources and Social Security) unitedly brought out tender staff professional level exam system (briefly called tenderee exam) supporting with registration service system for certified tenderee who owns professional qualification and service system of further education.

Till now, tender exam has been hold nationally for three years. In over 50,000 exam participators every year, 15,000 staff get tenderee professional level certificate and finish tenderee registration.

Chart9: Tender Personnel Examination Pass Rate 2009-2011

Year	2009	2010	2010	Total
Candidates No.	65667	61322	46419	
Qualification No.	9868	8456	4894	23218

Source: www. Zbsonline.com

Most tender staff took full use of the tenderee exam chance and enhanced learning of tender professional knowledge and improved vocational skills. At present, NDRC, MOFCOM and china-MOR etc. issued relative rules on tenderee staff proportion that tender unit should have which make the skill and quality improvement of tenderee staff as the focus in all industries. The method promoted improvement of industry staff and make it possible to direct and manage tender staff through register service system.

VI Bidding Fees

1, the National Development and Reform Commission, "the tender agent service fees Interim Measures for the Administration of (total price of [2002] 1980), the tender agent fees are as follows:

Chart10: the Rates of Tender Agency Service

Bid Winning Price(in Million RMB Terms)	Procurement of Goods	Procurement of service	Procurement required by engineering projects
Lower than 1 Million RMB	1.5%	1.5%	1.0%
1-5 Million	1.1%	0.8%	0.7%

5-10 Million	0.8%	0.45%	0.55%
10-50 Million	0.5%	0.25%	0.35%
50-100 Million	0.25%	0.1%	0.2%
100-1000 Million	0.05%	0.05%	0.05%
More than 1000 Million	0.01%	0.01%	0.01%

VII. Suggestions

The purpose of the Asian Development Bank (ADB) is: to help developing countries in their efforts to reduce poverty, raise people's living standards thus realizing the ultimate goal of poverty-free Asia-Pacific (AP). As a regional financial institute in AP, ADB boasts remarkably advanced and valuable experience in the operation and supervision of bidding and tendering and the coordination of economic development policies. As a third information-service party which provides services to China's bidding and tendering market, Chinabidding.net is always dedicating itself in promoting cooperation and interaction among related parties and pushing the progress of China's tendering course. We are always ready to cooperate with parties concerned and increase interaction and consultation with ADB in our effort to promote China's experience in bidding agency and contribute to the bidding system formation and economic development for all Asian countries.

Specifically speaking, we would recommend China Association of Bidding and Tendering (CABT) being at the head of organizing senior experts in China tendering agencies, with the extensive participation of Chinabidding.net, to establish joint promotion agencies. Hopefully these agencies would be ideal platforms for China to introduce valuable experience and systems with regard to tendering agency to countries in Asia and the Pacific region. While at the same time, it is also expected that we could learn from the internationally advanced tendering management model and manner, thus promoting the common economic development in Asia at large.