

Briefing Notes

ADB Presentation 7th September 2012

Charles Kendall & Partners

i) History

- Founded in 1946
- 3rd generation family firm – very proud of its long and successful history
- Started with procurement for the Government of Oman and still over 60 years later working as the government's Procurement Agent. There are not many companies that can claim to be working for the same client for over 60 years.
- The core business is still procurement and related services and we manage all stages in the Procurement and Supply Chain process
- We work in the Public and Private sectors but the majority of our work is for the public sector, providing services direct to Governments, international agencies and the international donor community

ii) Scope of Services

Procurement Agency and Procurement Advisory and Technical Assistance services:

- In addition to acting as a Procurement Agent procuring Goods, Works and Services, for and on behalf of our clients, today we also provide a wide range of procurement advisory and technical assistance services including:
 - Procurement Assessments
 - Procurement Capacity Building and Training
 - Procurement Reform
 - Procurement Monitoring and Auditing

- In order to have better control on the entire supply chain the Charles Kendall Group established some years ago Charles Kendall Freight which acts as an international freight forwarder.

iii) Country experience and major Clients

CKP today is active worldwide and over the last 60 years we have provided procurement services for projects in over 100 countries around the world. In addition to working directly for governments CKP also provides procurement support to the development community including for bilateral and multilateral donors such as: The Global Fund, EU, DFID, Sida, Danida, WB, EU, AusAID and the Millennium Challenge Corporation etc.

Why use a Procurement Agent ?

Using a Procurement Agent has many benefits for a client including:

i) Protection

A Procurement Agent acts for and on behalf of its clients and is responsible for representing the best interest of its clients through all stages of the procurement process. Thus a client can be assured when using a Procurement Agent that it has an experienced and professional organisation working on its behalf and protecting its interests.

ii) Efficiency

A Procurement Agent can assure greater efficiency through having established procurement systems, resources and expertise. Also where a Procurement Agent is appointed to act as a centralised procurement unit for a number of procuring entities there can be significant efficiency savings. A Procurement Agent also provides a central point of contact and a one-stop shop covering the complete procurement and supply chain process.

iii) Probity

Use of a Procurement Agent can give assurance to government, donor and supplier that procurement processes are transparent and free from corruption and can ensure that activities are undertaken in full accordance with applicable laws, rules and regulations.

iv) Value for Money

Use of a Procurement Agent can maximise value for money for a client in that the Procurement Agent can secure a more favourable response from the global supply community due to its position in the marketplace and can keep transaction costs down through use of well-established systems and procedures. Savings can of course be direct and indirect. Examples of indirect savings can include, for

example, saving due to speedier delivery times or savings achieved through assistance to improve specifications to encourage a better response from the supply market etc.

v) Administrative ease of management

Each organisation has its own requirements for procurement. Where procurement is a major part of the business then it makes sense to build up, over time, a strong in-house capability. However, for many organisations where procurement is a core activity initially using a Procurement Agent can lead to significant savings in administration and management time and expense and be the first step along the road of procurement capacity building for the organisation concerned.

vi) Lack of Procurement Capacity

There are many reasons why an organisation might have limited procurement capacity. For example, in a new operation or project there may be weak procurement capacity in the start-up phase or, an organisation may take over responsibility for a major new project and simply does not have in-house the necessary procurement resources to cope with the increased workload, or the nature of the business activity leads to peaks and troughs of workload. In such circumstances being able to bring on board (often at short notice) a Procurement Agent can provide essential support at such crucial times. Also a Procurement Agent can provide a client with access to professional procurement resources and expertise that it might not have within in its own organisation.

vii) Procurement Capacity Building

A Procurement Agent whilst working for and on behalf of a client can at the same time fulfil a valuable capacity building role. The Procurement Agent is often in an ideal position to work alongside a client's own procurement organisation providing on the job procurement training and capacity development.

viii) Donor Requirement

Donors sometimes specify under grant or loan agreements that an internationally recognised Procurement Agent is appointed. Where a client is perhaps in receipt of funding from a number of sources it may be faced with having to operate under a number of different procurement systems and may not be familiar with these. Using a Procurement Agent under such circumstances can be very beneficial in that they are fully familiar with and able to operate under many different donor and national procurement laws, regulations, directives and procedures.

ix) Government and Private Sector Policy

An increasing trend in the public and private sectors is the outsourcing of services including procurement.

Two main ways in which Procurement Agents are used

1. The traditional role of a Procurement Agent

- In this role the Procurement Agent is an integral part of the Client's Team and works in close association with the Client throughout all stages in the procurement process.
- Both procurement Agent and Client are together involved in all procurement functions, including the drafting and issuance of bidding documents, evaluation of bids and recommendation of contract award.
- In some cases the Procurement Agent assists in contract management.
- This arrangement is advantageous in terms of capacity building for counterpart Client staff.

2. The Independent Procurement Agent

- In this role the Procurement Agent is contracted by the Client but carries out the crucial procurement functions independently. The Independent Procurement Agent is truly "Independent" and maintains a strict demarcation of duties between itself and the Client.
- Although there is close cooperation between the Independent Procurement Agent and the Client the core procurement functions of drafting and issuing of bidding documents, evaluation of bids and recommendation of contract award are the sole responsibility of the Independent Procurement Agent with only peripheral participation of the Client's procurement entities.
- The Client procurement entity does have input in terms of providing specifications and TORs, it also has sight of bidding documents to ensure adherence to National Law and to check that technical requirements have

been represented as they wish – but that is all. The evaluation process is carried out by the Independent Procurement Agent without the client.

The Ghana Example – A Traditional Procurement Agent's role

CKP was appointed to act as a traditional Procurement Agent in 2006 for the Millennium Challenge Corporate (MCC) programme in Ghana. This programme was completed in 2012 and over the course of the programme Goods, Works and services to a value in excess of US\$500 million were procured on behalf of the Government of Ghana.

1. Challenges

- i) **Timing of appointment of the Procurement Agent** – the Procurement Agent was appointed before the establishment of the body in Ghana responsible for managing the implementing of the MCC programme.
- ii) **Standard Bidding Documents** – there were no Standard Bidding Documents available and the Procurement Agent had to prepare these documents for initial procurement.
- iii) **Procurement Planning** – there was no effective procurement planning in the initial stages and the Procurement Agent had to work closely with the procuring entities to prepare initial procurement plans.
- iv) **Contract Management** – the client had little experience of contract management and the Procurement Agent had to prepare suitable guidance and systems i.e. a contract administrative system and a contract administration manual.

2. Successes

- i) **Compliance** – using the Procurement Agent ensured compliance with MCC procurement rules and procedures.
- ii) **Efficiency and Value for Money** – over 800 procurements were managed effectively and efficiently through to successful completion valued at over US\$500 million.
- iii) **Capacity Building** – the Procurement Agent was able to transfer skills and knowledge to the clients procurement department throughout implementation.
- iv) **Market Development** – the Procurement Agent was able to assist in development of local and international supply markets by encouraging potential suppliers to respond to invitations to bid.

The Cambodia Example – use of an Independent Procurement Agent

CKP were appointed in 2009 by the Ministry of Economy and Finance in Cambodia to act as Independent Procurement Agent to undertake procurement of Goods, Works and Services for selected World Bank funded programmes.

1. Challenges

I. Change and the introduction of an Independent Procurement Agent

Change is always difficult to manage whatever the situation and even more so when there is a current system in place which most people within it are perfectly satisfied with. There will be suspicion. There will be resistance. There may even be hindrance.

This has to be overcome quickly and diplomatically by building trust and creating a good relationship with the stakeholders concerned and persuading all parties of the Independent Procurement Agent's role and the advantages of the new system. The Independent Procurement Agent must cement a good working relationship that re-assures the Client's procurement staff. The Independent Procurement Agent has to convince their counterparts that they should not be viewed as an unwelcome imposition, but as a positive contribution and a first step in the enhancement of the counterpart's capacity and responsibility. The counterparts must be won over and sign up to the new system.

II. Bidder reluctance to participate

Three main reasons for Bidder reluctance to participate in invitations to bid:

- a) Historic – some bidders traditionally only work for certain procuring entities. Bidder's perception is that regardless of the merits of their bid the contract award will only go to traditional suppliers and contractors.

- b) Some Bidders find Donor bidding documents too complicated and the qualifying requirements too demanding. Too many have put several weeks of work into a bid only to be rejected at preliminary examination stage because one form was not submitted exactly in the way stipulated in the bidding document. There is plenty of work around in the private sector which is easier to secure.
- c) Suspicion – The Independent Procurement Agent is an unknown quantity. Who are they ? What is their role ? What is their objective ?

III. Bidder ignorance of bid requirements

All Donor bidding documents are complex in the eyes of the layman. In countries such as Cambodia for example, the market is relatively young and inexperienced and limited in size. What there is however, is perfectly capable of building rural roads and constructing buildings, they have been doing this to everyone's satisfaction for some time. What they are not good at though, is interpreting complex bid requirements in a second language. It is very frustrating to evaluate bids from bidders who are competitive and capable but have failed to understand what exactly is required from them as documentary submissions in their bid. We have used pre bid meetings and workshops in order to mitigate this situation and although there has been a substantial improvement it still remains an issue.

IV. Technical evaluations of bids

As mentioned above when acting in the role of an Independent Procurement Agent the evaluation of bids is undertaken solely by the Independent Procurement Agent. When the technical specification of the requirement is complicated or very high tech, this can pose a problem for the Independent Procurement Agent. For example, High tech IT requirements, sophisticated medical equipment, complex power generation equipment, all require specialist expertise when evaluating the equipment being offered. This is not insurmountable for the Independent Procurement Agent but it poses cost and

logistical challenges because that expertise has to be brought in for that particular procurement exercise. It is not perfect. The Client procurement entity would have probably employed technical advisers to assist in preparing the technical specification and their solutions and technical decisions may not match those of the technical expert the Independent Procurement Agent employs for the technical elements of the evaluation.

v) Variation in capacity of client procuring entities

In any big organization there are Departments that, for one reason or another, are not as proficient as others. This may not be the fault of the Department concerned; it may just be due to circumstances. Government is no different and when one is dealing with over twenty different projects under various ministries and Government organizations there will always be a degree of disparity in experience, knowledge and capacity. This impacts on the Independent Procurement Agent in terms of timeliness, accuracy of estimates, and the inadequacy of technical specifications. These issues can cause delay and in the extreme, re –bids.

2. Successes

I. Greater procurement efficiency in terms of “first time” No Objection Letters

In a perfect world all submissions to the Donor would be approved without comment immediately. But of course it is not a perfect world and this does not happen. However, using an Independent Procurement Agent improves the success rate dramatically, especially where the alternative is the submission of approvals from a large number of disparate entities with mixed ability and capacity. Over time the Donor gets to know the Independent Procurement Agent and the Independent Procurement Agent gets to know the Donor. A relationship is

established and it is so much more efficient to have one relationship than manage over twenty relationships. The “one shop stop” and the high approval rate level was certainly a success in Cambodia.

II. Increased confidence of the Donor

A more confident Donor leads to a better and more trusting Donor/Project/Independent Procurement Agent relationships. This leads to more cooperation, easier management and a more efficient work flow. This has occurred in both the examples quoted in this presentation.

III. Quicker procurement cycles and increased disbursements

The number of contracts issued and the level of disbursement have both increased in Cambodia during the tenure of the present Independent Procurement Agent.

IV. Increased market participation and expertise in bids leading to greater competition.

A lack of bidder participation was quoted earlier as a challenge. It was and still is to a certain extent. But it is also a success story. At the beginning of our tenure as Independent Procurement Agent the bidders were somewhat reluctant to participate, especially for client entities they had no track record with. They were also reluctant for other reasons that were explained earlier. However, over time, and by way of word of mouth, evidence of contract awards to non-traditional contractors and suppliers, preaching the word at pre-bid meetings and the general dissemination of the new order, the situation has improved and continues to improve. Not only are more Bidders participating but their expertise in putting together the documentary requirements of the Bidding Document has improved radically over the last two years.

Summary

The use of a Procurement Agent; whether in a traditional role or, as an Independent Procurement Agent, can add significant value, efficiency and probity to a client's procurement activities.