Public Private Partnerships Unit

Procurement of new Correctional FPacilities for the South African Department of Correctional Services.

Date: March 2009

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Agenda

- Institutional and Legal Framework
- Background
- The new project
- Procurement process
- Assessing the bids
- Financial crisis
- The political stakeholders
- Interventions and Conclusion
- Questions

Institutional and Legal Framework

- Departmental mandate:
  - Correctional Services Act, Act 111 of 1998 as amended by Act no 32 of 2001
  - White Paper of 2005.
- Joint Venture Prisons
  - The Correctional Services Act, Act 111 of 1998, section 103 &105
  - Concurrence of Ministers of Finance and Public Works
  - Full spectrum of functions
    - Design, Build, Finance, Maintain and Operate
  - Operational Period to not exceed 25 years.
  - Controllers reporting to Commissioner

Background

- South Africa’s first two PPP prisons:
- Prior to TR 16
    - Bloemfontein/Mangaung – Group 4 Correctional Services
    - Louis Trichardt/Kutama Sinthumule – South African Custodial Management
    - Procurement started 1997
    - Contracts concluded March 2000 and August 2000
    - Operational July 2001 and March 2002
    - Running for 7- 8 years

- Achievements:
    - On budget and on time
    - Compliant to White Paper - rehabilitation outcomes
    - Operating cost per prisoner per day comparable to public sector.

- Problem areas:
    - DCS design and operating specifications to high – input specifications
    - High cost of financing (debt and equity)
    - No flexibility in numbers

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The new projects

- Four new projects: Paarl, East London, Nigel and Klerksdorp
- Design, Construct, Finance, Maintain and operate
- Facility to house 3000 male mixed classification offenders
- 18 -24 month construction period
- 25 years operating period
- 6 month ramp up period
- Project Finance Structure
- Capital contribution
- Unitary payment based on availability and compliance to BBBEE targets
- Penalty deductions for non performance

Stages of Procurement

- Regulated by Treasury Regulation 16 and the PPP Manual:
  - Feasibility study
    - Treasury Approval 1
  - Request for Qualification (RFQ)
  - Request for Proposals (RFP)
  - Treasury Approval 2A
  - Choose the Preferred Bidder
    - Treasury Approval 2B
  - Contract Negotiations
    - Treasury Approval 3
  - Implementation
  - Close out report and case study

Project procurement process

- Feasibility study approved September 2007
- Request for Qualification – October 2007
- Short listed bidders announced September 2008
- Request for Proposals issued – October 2008
- 2 stages – bidder comment and participation
- Final Request for Proposals – 1 December 2008
- Closing date 30 April 2009

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Challenges in procurement

- Readiness and capacity of institution to evaluate
- Replacement of project officer mid way
- Lack of senior management support for project officer
- Alignment of Supply Chain Management Policies to PPP procurement
- Availability and commitment of Bid Evaluation Committees
- Resistance to change and lack in urgency of department
- Uncertainty in political environment

Assessing the Bids

- Evaluation June 2009
- Two tier evaluation structure
- First Tier – Bid Evaluation Committee (BEC)and sub committees on finance; legal; technical and Black Economic Empowerment.
- Bid Evaluation Committee – score integrated solution and recommend to National Bid Adjudication Committee (NBAC)
- Second Tier –National Bid Adjudication Committee responsible for the final decision on preferred and reserve bidders
- Approval by Treasury of value for money report
- Announcement of preferred bidder – November 2009
- Negotiations
- Construction planned to start July 2010
- Service Commencement 18 to 24 months (January 2012)

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Role of political stakeholders

- Negative perceptions surrounding the current 2 PPP prisons
- Multi departmental task team - a technical analysis and evaluation in 2002
- National Treasury interaction with the Departmental Portfolio Committee in terms of it over sight role
- Pressure to ensure that the next 4 are affordable and owned by Department of Correctional Services as part of their service delivery mechanism
- Change in Commissioner in October 2008
- Constant intervention required
- Tender irregularities in department; environment of distrust; investigations ongoing
- Negative media reports
- Pressure on secure evaluation environment
- Impact of the elections

Financial crisis

- Impact on our market:
  - Liquidity problem
  - Lending costs are up
  - Tenors are down
  - Fully underwritten bids not available

- Request for Proposals amended via Briefing notes to ensure VFM.
  - Partial underwriting for a compliant bid
  - Variant bids for greater % underwriting
  - Credit margin fixed
  - Variant bid on shorter tenor
  - Refinancing undertaking by Government
  - 100% of refinancing gains on debt financing to Government
  - Pre Financial close Debt Funding Competition for non – underwritten portion or arrangement by underwriting bank.
  - Validity periods of bids – rolling on financing costs.

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Interventions and Conclusion

- Ensure that bids is affordable –
- Comprehensive feasibility
- Output specifications vs. input specifications
- Government contribution to capex
- Debt Funding Competition to ensure competitive financing cost
- National Treasury intervention at senior official level
- Project Officer appointed at senior level
- Steering Committee appointed
- Stakeholder committee and meetings
- Communication Strategy
- Ministerial reporting and interaction on regular basis

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