Public Private Partnerships Unit

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

Date: March 2009
• 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

- **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
• 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
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
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)
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 its oversight 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.
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
Elsa Strydom
Senior Project Advisor
PPP Unit
National Treasury
240 Vermeulen Street
Pretoria
South Africa

Tel:  +27 12 315 5371
Fax: +27 12 315 5477
elsa.strydom@treasury.gov.za
www.ppp.gov.za
www.treasury.gov.za