

MEXICAN FEDERAL GOVERNMENT PROCUREMENT, AN OVERVIEW

- This document briefly addresses the basic issues related to the Mexican Government Procurement market. It also describes the procedures of government procurement in Mexico, as well as the regulations and the steps that interested bidders will have to follow in order to participate in them.

HOW IMPORTANT IS MEXICO'S GOVERNMENT PROCUREMENT MARKET?

- The Mexican government requires:
- raw materials,
- repair parts,
- finished goods,
- and hired services.
- In 2005, government procurement equaled 27.5 billion, of which 31% was purchased goods, 44% were services and 25% were **construction services** (according to the Mexican Treasury Dept.(SHCP))

WHICH ARE THE MOST IMPORTANT ENTITIES AND ENTERPRISES IN MEXICO WITH REGARD TO GOVERNMENT PROCUREMENT?

In terms of the number of contracts and volume of procurements:

- Secretaría de Comunicaciones y Transportes (SCT)
- Secretaría de Educación Pública (SEP)
- Secretaría de Agricultura, Ganadería, Desarrollo Rural, Pesca y Alimentación (SAGARPA)
- Secretaría de Hacienda y Crédito Público (SHCP)
- Secretaría de Salud (SS).

ENTITIES AND ENTERPRISES (CONT...)

The public enterprises with the highest number of contracts and volume of procurements are:

Petróleos Mexicanos (PEMEX)

- Comisión Federal de Electricidad (CFE)
- Instituto Mexicano del Seguro Social (IMSS)
- Instituto de Seguridad y Servicios Sociales para los Trabajadores del Estado (ISSSTE).

AREAS WITH MORE INTERNATIONAL TENDERS

- PEMEX – Petroleos Mexicanos
- CFE – Federal Electricity Commission
- SCT – Communications and Transportations Secretariat
- IMSS – Mexican Social Security Institute

WHICH GOODS AND SERVICES ARE MOST PROCURED BY THE GOVERNMENT ?

- Consumption goods
- Capital goods (machinery & equipment)
- Services: Building, maintenance, surveillance, as well as services for system analysis, design and programming.

PEMEX

- Drilling off-shore platforms.
- Storage and re-gasification terminals.
- Oil, gas, mineral production & exploration services.
- Security systems

CFE

- Electrical Power Systems.
- Storage and re-gasification facilities.
- Hydroelectric plants.
- Cycle power plants.
- Wind power plants.
- Security systems

WHICH LAWS GOVERN OVER GOVERNMENT PROCUREMENT IN MEXICO?

- Article 134 of the Mexican Constitution establishes the basic ruling principle for procurement, asserting that contracting will take place through open tendering procedures. Specific procedures are provided in the Law for Acquisitions, Leases and Services and Law for Public Works. This law can be found in its Spanish version, by Internet, at the following electronic address:
www.funcionpublica.gob.mx

WHICH ENTITIES DICTATE THE GUIDELINES OF GOVERNMENT PROCUREMENT PROCEDURES IN MEXICO ?

- The Ministry of the Comptroller and Administrative Development (SECODAM) establishes the standards and regulations in order to promote equal conditions for all the participants and transparency in contract awards.
- The Ministry of Finance and Public Credit (SHCP) authorizes the budget for the "Annual Acquisitions Program of Goods, Leases and Services and Annual Public Works Program" . This budget is submitted by the Government entities and public enterprises each year.

ENTITIES (CONT...)

- The Secretaría de Economía (Ministry of Economy) also has money from the Federal Public Administration to promote the participation of small business in government procurement.
- All procurement programs may be accessed:
- SIEM: <http://www.siem.gob.mx>
- COMPRANET:
<http://www.compranet.gob.mx>

HOW CAN I FIND OUT ABOUT FEDERAL GOVERNMENT PURCHASING REQUIREMENTS?

- Currently, invitations to participate are advertised in the specialized section of the Diario Oficial de la Federación (Official Gazette), every Tuesday and Thursday of the year (except on holidays). Notices are also published in a local state newspaper where goods will be used, services hired or construction works executed. SECODAM divulges information about open tendering procedures on the Sistema Electrónico de Compras Gubernamentales (COMPRANET) : <http://compranet.gob.mx>

HOW DOES THE MEXICAN GOVERNMENT PROCURE ?

By open tender procedures with public notice. In the process of open tendering, any supplier that fulfills all the requirements specified in the tender and submits the bid documentation can participate.

The process of open tendering may be:

- a) National - When only Mexicans can participate, and the goods to be procured must have at least fifty percent of local content.

HOW DOES...? (CONT..)

- b) International - When foreigners and Mexicans can participate. These tenders take place under the following circumstances:
1. When it is mandatory by Free Trade Agreements.
 2. When the procurement is funded by loans from international financial institutions.
 3. When local offers cannot fulfill the tender requirements.
 4. When an International tender will have an advantageous price structure.

HOW DOES...? (CONT..)

However, participation can be denied to foreigners from countries that are not part of a trade agreement or that don't grant Mexico reciprocal treatment.

WHAT INFORMATION WILL I FIND IN THE TENDER'S NOTICE?

1. Name of the entity to which tenders must be submitted.
2. Address, date, and time-table to obtain the tender documentation, its cost and payment terms.
3. Address, date and time for reception and opening of bids.
4. Description of the nature and quantity of goods or services.
5. Date for the starting or completion of the delivery of the goods or services.

WHAT INFORMATION...? (CONT..)

6. Statement to whether tendering is national or international, and if so, if it is under the scope of a Trade Agreement.
7. Language or languages in which tenders may be submitted.

WHEN AND HOW CAN I OBTAIN TENDER DOCUMENTATION ?

Since the day the notice is published and up to six days previous to the date of closing and opening of tenders, in the entity office, or by Internet in the Sistema Electrónico de Compras Gubernamentales (COMPRANET) in the following electronic address:

<http://compranet.gob.mx>

HOW DO I SUBMIT MY BID ?

It should be submitted in writing, to the address provided in the notice, in two sealed envelopes, one including the technical proposal and the other one including the economical proposal and, if it is established in the invitation, by electronic means, through COMPRANET.

WHAT MUST I GUARANTEE AS A SUPPLIER?

The bid's viability through a bid bond and if the contract is awarded, a performance bond as collateral.

HOW THE OPENING OF TENDERS WILL TAKE PLACE ?

The opening of bids takes place in two stages:

1. The opening of the technical proposals takes place in a public meeting. Technical offers submitted in writing are opened first and then those submitted by electronic means. Proposals that don't meet all tender's conditions are rejected. Participants will sign all technical offers submitted. There is then a period of time for the entity to do an analysis of proposals.

HOW THE OPENING...? (CONT...)

Only the bids that comply with the technical requirements will be accepted in the following stage.

Second stage: Opening of economical proposals. If there are two or more suitable bids, the one with the lower price will be awarded. When all bids submitted do not comply with the terms & conditions established, none will be awarded and a new tendering procedure will take place.

WHEN AND HOW DO I FIND OUT IF I WAS AWARDED ?

The decisions are notified in a meeting in which all bidders can participate or will be notified in writing. The award decision is published in **COMPRANET**.

The Entity has an obligation to provide all suppliers with reasons why they were not selected.

A notice of the contracts awarded is published in the Official Gazette within 72 days after the tender is awarded.

WHERE CAN I APPEAL?

Appeals are made to the Secretaría de Contraloría y Desarrollo Administrativo (SECODAM), through the Internal Controller Organ of the government's entities and enterprises.

SECODAM is the only reviewing authority empowered to solve bid challenges.

APPEALS (CONT...)

The rulings on bid challenges may be the following:

- a. Nullification of the tender process as a result of the irregular actions.
- b. Issuing recommendations to the particular procurements office so that the procedure regains legality.
- c. Total nullification of the procedures.
- d. Dismissal of the complaint.

APPEALS....(CONT)

Against a given ruling issued by SECODAM an appeal can be filed for annulment, in accordance to the Federal Law of Administrative Procedures, or a suit can be filed.

APPEALS...(CONT...)

Bid challenges can be filed during any of the stages of tendering.

A bid challenge must be filed within 10 working-days from the date the basis of the complaint became known to the supplier.

APPEALS...(CONT...)

The bid challenge document can be delivered personally, by certified mail, or by specialized messenger services.

Facts stated in the bid challenge document must be declared under oath.

RECOMMENDED STRATEGY

- In theory, every participant has equal treatment.
- However, to really be competitive you need:
 - To get in early to the issuing authority so that the technical requirements are written broadly enough to allow you to bid
 - To educate the end user on your products
 - Have a good representative in Mexico
 - Be able to integrate your products and services and provide after sales service in Mexico.

STRATEGY...(CONT)

- Don't be afraid to file a protest and, the earlier the stage in which the protest comes, the better.
- However, avoid protests which are "nuisance" protests as according to law the Mexican Government has the ability to fine you for this.

MAJOR PROJECTS

- Every quarter, the U.S. Commercial Service Mexico publishes a report on the main infrastructure projects throughout Mexico. This report contains valuable data regarding the procurements made in the most important industry sectors, such as Energy, Transportation and Communications.
- To access this report, please go to:
https://www.buyusa.gov/mexico/en/major_projects_mexico.pdf

U.S. COMMERCIAL SERVICE

Manuel Jiménez

Commercial Specialist

US Trade Center

Liverpool No. 31

Col. Juarez 06600 Mexico, D.F.

Tel. 011-5255-5140-2670

Fax. 011-5255-5566-1111

e-mail: manuel.jimenez@mail.doc.gov