A view of the ALT issue from the contracting industry (EU aspects)

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Director General
1905 1st meeting
29 countries
33 federations
Enterprises
- of all sizes
- active in all fields of building and civil engineering

Full member
Observer member
Co-operation Agreement
ALT in EU procurement directives

- 1971/305, art. 29 (5)
- 1989/440, art. 29 (5)
- 1993/57, art. 30 (4)
- 2004/18, art. 55
- 2013/xxx, art. 69

Basis: reduce protectionism/barriers
ALT in EU procurement directives

Not covered: bad faith authority

- key priority: “value for money” *(at all cost!)*
- disregard clear indications
- check, if any, only formal aspects
- accept any explanation
Example: motorway A2, Poland
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- Stryków (Łódz) - Konotopa (Warschau)
- 91 km total length, 5 sections
  - A: 29 km, B: 17 km, C: 20 km, D: 18 km, E: 7 km
- client: GDDKiA (Dir Gen of motorways)
- 1st tender as PPP, 2nd traditional
- award criterion: lowest tender
- FIDIC Yellow Book ("Brown Book" 😊), i.e. contractor's design
time line of award procedure

- 14/8/2009  tenders opened
- 17/8/2009  ALT-requests to COVEC
- 19/8/2009  COVEC-explanations
- 7/9/2009   "protest" of 2\textsuperscript{nd} to GDDKiA
- 17/9/2009  appeal to nat. proc. office
- 28/9/2009  award to COVEC
- 9/6/2011   termination by GDDKiA
- 28/7 + 1/8/2011  new awards
A2: client’s estimation ./ award price
A2: award price ./. 2nd ./. 3rd

- Section A: COVEC
  - Award: 131.3
  - 2nd: 134.7
  - 3rd: 145.1

- Section B: COVEC
  - Award: 111.9
  - 2nd: 103.0
  - 3rd: 100

- Section C: COVEC
  - Award: 132.8
  - 2nd: 137.0
  - 3rd: 140.6

- Section D: COVEC
  - Award: 121.9
  - 2nd: 132.5
  - 3rd: 137.0

- Section E: COVEC
  - Award: 140.6
  - 2nd: 132.5
  - 3rd: 137.0

Legend:
- Award
- 2nd
- 3rd
- New aw.
A2: explanations given for low price

1. 100 million USD cash for tender phase, plus further payments after award
2. no need for expensive European credits
3. efficient organisation of work
4. no need for risk margins
5. use of own construction machines
A2: explanations given for low price

6. cheaper costs of Chinese staff
7. unique organisation methods
8. low benefit margin
9. price calculated on assumption of winning 2 lots, so advantage of scale

→ Conclusion: all is fine! ☺️
A2: other aspects (not covered here)

- State aid/ SOE
- Use of EU funds
  - no rule for fair contract conditions (contrary to art. 3.24 EBRD rules)
- External trade/ market access
  - symmetric market access, worldwide
- Professional project preparation and project management
Ideas what to do? → “ice”

**Identify ALTs**
- definition
- indications

**Check explanations**
- genuinely, not just formally!

**Exclude**
- unless ALT proven to be “LT”