

Low Tenders

The Azerbaijan Experience

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Azeryolservis ASC

- Azeryolservis manages the Azerbaijan 17,520 km road network
- Part of Ministry of Transport
- 13 billion USD of rehabilitation, new roads and maintenance planned for the next 10 years
- Financing from State Budget, IFIs and commercial banks
- Contractors from Azerbaijan, Turkey, EU and Asia.

Objectives for Road Construction

- Quality is essential
- Time is important
- Cost is the least critical constraint
- Increased competition and competitiveness
- Profitable contractors
- Realist rates
- Unrealistically low prices do not benefit Azeryolservis in the long-term



Problems

Consequence of contractors minimizing costs and maximizing payments

- Delays: very common
- Claims and Disputes: increasing
- Poor quality material and work
- Increased risk of contract failure

Low rates increase contract problems

Low and Abnormally Low Tenders

Procurement Rules – lowest bid wins

Average winning bid is 78% of the average bid price

Winning bids significantly less than detailed cost estimates

Some bids (4 from 16 international tenders) are “abnormally” low using typical guidance criteria:

- 25% below average
- 15% below second ranked bidder

PROBLEM IS LOW BIDS, NOT JUST “ABNORMALLY” LOW BIDS

Case Study 1

A Major Italian Contractor building 48 km of new motorway

- Low Bid – but not abnormally low by usual definitions
- About 15% less than average of other bidders
- Failed to source materials and subcontractors at rates which ensured a profit
- Progressed at less than half the necessary rate for 2 years
- Contracts terminated
- Unprofitable rates given as a reason for failure

Outcome - Retender and long delays to the project

Case Study 2

An Italian Contractor building 37 km city bypass

- Abnormally Low Bid – 74% of average
- Subcontracted most of the works
- Failed to pay subcontractor due to financial problems in Italy
- Works failed to progress
- Direct payments made by Azeryolservis to Sub-contractors (agreed with ADB, and contractor)

Outcome – Delays but project completed

Case Study 3

A Chinese firm bidding for 16 km of new motorway

- Abnormally Low Bid – 71% of average and >15% lower than next lowest
- Bid was 67% of Engineer's estimate
- Showed a Time for Completion longer than stated the bidding documents.
- Bid rejected by Tender Commission
- Bank did not accept evaluation
- Outcome – Tender cancelled. Delays due to retendering

Reasons for low bids

- Competitive market conditions
- Shortage / cost of quality materials not foreseen during bidding
- Expectation of compromise with Employer
- Skill shortages in the supervision and management of contracts

Azerbaijan National Procedures

State Procurement Guidelines of the Azerbaijan Republic

- Low tenders may be rejected
- Clause 2.7.4: *“In case of a large difference between the price of any tender proposal and estimated cost of relevant goods (services and works) the Client has a right to reject the proposal. This decision should be confirmed by relevant Executive Agency.”*

AYS Action to Address Low Bids

- Warning bidders of material constraints (e.g. bitumen)
- Reducing incentives for delay (cost adjustment, delay damages)
- Improving contract supervision and management
- Improving designs to reduce variations and opportunities for claims
- Careful analysis of bids at evaluation stage (action limited to clarification – impossible to reject)
- Increasing Performance Security ? (no evidence of any effect)

Other Ideas to Address Low Bids

Azeryolservis and Financing Institutions

- Rigorous Shortlisting –proven capacity and resources in country
- Reject contractors with poor performance for Azeryolservis ASC
- No cost adjustment (indexing) for changes in cost
- Include rate breakdowns in bids and reject bids with unrealistic rates
- Clear guidance and procedures for dealing with insufficient tenders
- Harmonization of rules and application between financing institutions
- Consider other procurement and selection methods rather than lowest ICB – e.g. Limited International Bidding.