



Myths, Legends and Fairytales About Public Sector Procurement

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Introduction

- BPSPD in force 04/01/11 (“PD”)
- Long roll out
 - BPSSCG
 - BPSPDG book
 - Road show/toolkit
- New obligations require expertise
 - Few new resources available
 - Many questions from owners
 - Many misconceptions exist

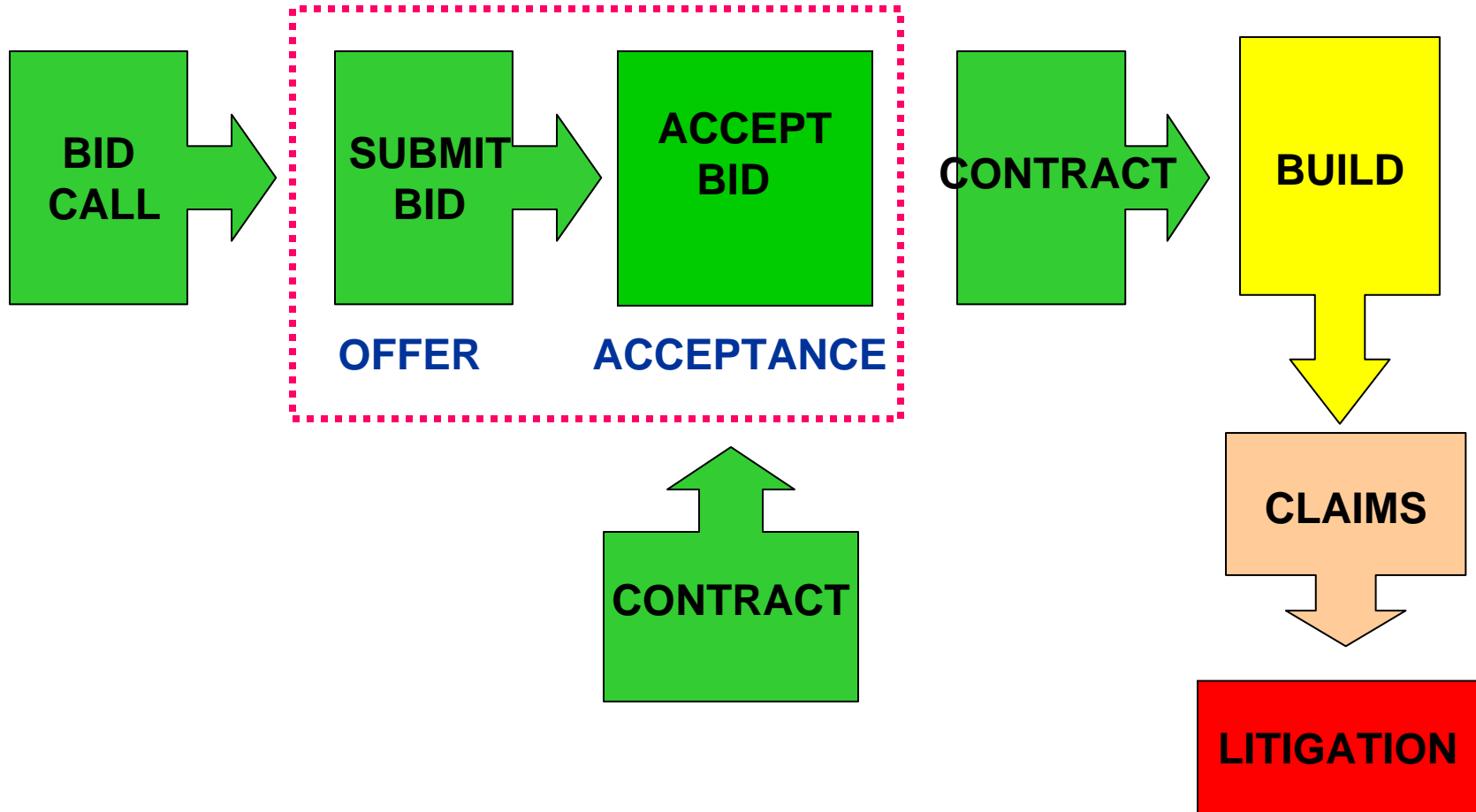
WILL ADDRESS “MYTHS”: OUR TAKE

Glossary

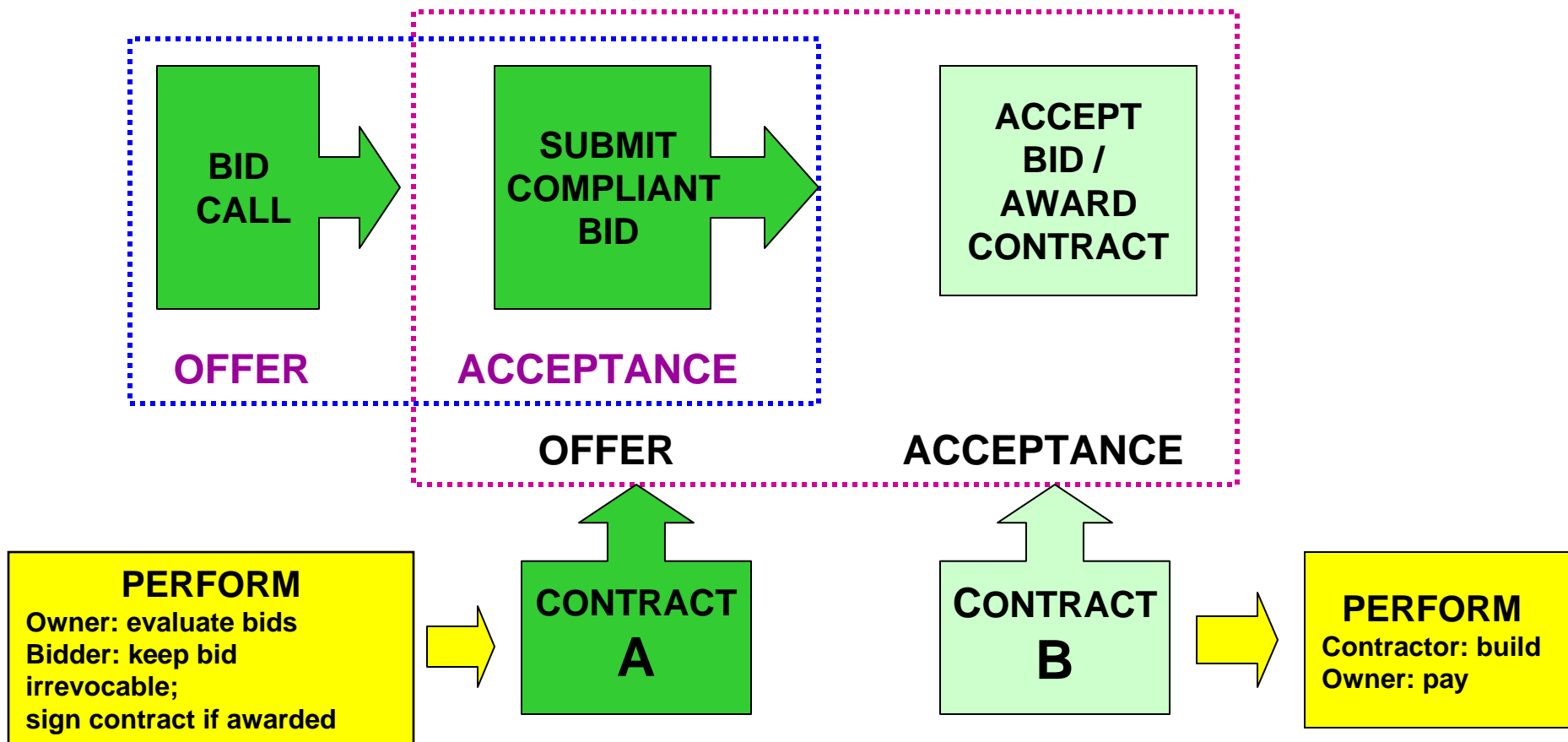
- The term RFP includes
 - Tenders
 - Bids
 - RFQ
 - RFP
 - RFT

ALL USED IN “COMPETITIVE PROCUREMENT”

Bidding Until 1981



1981 - The Rise of the Bid Contract



RFSQ Must be Like “Competitive Procurement”

- “Competitive procurement” (M-3)
 - Over \$100K
 - “Consultants” are special
 - Activates most procurements
- RFSQ or pre-qual OK (M-5)
 - Not buying anything
 - Use MERX for RFSQ
 - MERX optional afterwards

You Must Always Use the “Bid Contract”

- Preferred under PD (M-16)
- Opt out permitted
 - M-16 and M-21
 - Guidebook, Sn. 11.2.6
- “Bid Contract” doesn’t suit
 - True RFP
 - Request for solutions
 - Mix and match purchase

PD LETS THE BUY DRIVE THE DECISION !

You Never Have To RFP Professionals

- PD, Sn. 5, incorporates AIT
- Annex 502.4 (Sn. L)
 - Non-application
 - Accountants/architects/lawyers etc.
 - Own policy may override
- Myth is true provided
 - Professional not “consultant”
 - Own policy allows

WHAT’S A CONSULTANT?

You Always Have to RFP Professionals

- What's a consultant/consulting services?
 - \$1 threshold for C (M-3)
 - Very broad definition
 - Lots of issues arose
- Handled in “Toolkit”
 - “NCSP”, or
 - “C”

What's A Consultant?

- PD DEFINITIONS IN “TOOLKIT”
- “Consultant” means a person or entity that under an agreement, other than an employment agreement, provides expert or strategic advice and related services for consideration and decision-making
- “Consulting Services” means the provision of expertise or strategic advice that is presented for consideration and decision-making.

What's An "NCSP"?

- "TOOLKIT" DEFINITIONS (NOT IN PD)
- Non-Consulting Service Provider (NCSP)
- A "Non-consulting Service Provider" is an individual/company who contracts to provide services, other than consulting services to another individual or business. Examples may include "consultants" such as property brokers, headhunters or trainers.

Price Must Always Be The Highest Point Evaluation Item

- PD says (M-9):
 - “maximum justifiable weighting”
- Somewhat rigid sounding
 - Value for money thrust
- Can produce unwanted results
 - Ok for pre-qual construction bids
 - Concern with poor technical winner
- Approach
 - Don’t accept myth
 - Model evaluation
 - Interpret PD liberally
 - Document decision (why?)

IS EMPHASIS “MAXIMUM” OR “JUSTIFIABLE”?

You Can Never Negotiate!

- PD, no prohibition
- Addressed by implication (M-16)
- Ok if:
 - Over budget (not concurrent)
 - AIT exempt/non-app/exception
 - RFP specifies/requires
 - Contract not issued with RFP

IF NEEDED, DISCLOSE IN RFP?

If Process Has Problems, You Must Cancel

- Assume “bid contract”
 - O must follow process
 - Most RFPs include cancellation clause
- Nothing in PD
 - Requiring cancellation
 - Preventing adjustment/re-negotiation
- “Bid contract” is a contract
 - Contracts can be amended
 - Consider option to negotiate/change

SAVING PROCESS = TIME AND MONEY

Wrap Up

- PD is still fairly new
- Users/V getting accustomed
- PD will cause process consistency
- Flexibility is available
 - In PD
 - In what you put in RFP

OVER TO YOU - QUESTIONS