

IPFA comments on Grattan Institute report¹ “Megabang for Megabucks”

- The report recommends that the government award all infrastructure projects through an open tender process and not via the market led (unsolicited) proposals pathway. This is not practical in some cases.

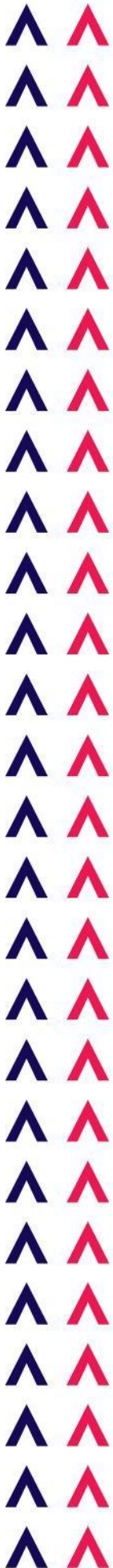
One of the main criteria in determining if the project could be delivered via an unsolicited proposal pathway instead of an open tender pathway is when the proponent is in a “unique”² position compared to other participants. Proponent’s ownership of property related to the project proposed is considered “unique”.

For example, Transurban currently holds the concession for the M5 Motorway and for the extension of the M5 Motorway, Transurban is in a “unique” position to deal directly with the government. Should the government decide to go to the open market for the extension of M5 Motorway instead of doing a deal directly with Transurban, the government would then need to buy back the existing concession from Transurban.

- The report states that the larger contract packages are typically undertaken by Tier 1 contractors and recommends breaking the contract packages into smaller sizes in order to attract Tier 2 contractors. However, this increases the interface risk between these smaller contract packages.
Furthermore, Tier 1 contractors have economies of scale competitive advantage over Tier 2 contractors. Tier 1 contractors have larger financial capacity and capability enabling them to take on more financial risk than the smaller Tier 2 contractors.
- The report tends to focus on cost reduction. It also suggests that local experience does not carry significant value. However, in a typical evaluation in selecting winning bids for infrastructure projects, greater weightage is given to prior experience in similar projects in the jurisdiction in question and the experience of the project team than the price.

¹ <https://grattan.edu.au/wp-content/uploads/2021/05/Megabang-for-megabucks-Driving-a-harder-bargain-on-megaprojects.pdf>

² https://www.nsw.gov.au/sites/default/files/2020-05/Unsolicited_Proposals_Guide.pdf



- The report contradicts when in one section, it mentions that “claims made by industry that that it’s hard to turn a profit and that the future of local firms is in jeopardy are overblown”³ and in other section it mentions that “an Australian study of contractor profitability claimed that the largest firms in Australia have had disastrous financial results for 17 years.”⁴

Furthermore, the report mentions that insolvency is only a bad outcome for the firm involved but it does not make it a government problem. We disagree with this statement. A healthy and profitable construction sector is vital for the government to deliver projects successfully at the present time and in the future. This is because a healthy and profitable construction sector will attract new construction players which will promote innovation and competitive bids.

- IPFA agrees with the recommendation that the governments should do sufficient discovery of site conditions before going to the market and certify to potential bidders what they have discovered. This would enable the bidders to price their bids accordingly and reduce any potential disputes in the future.
- If the key elements of the project are genuinely unknown, IPFA agrees with the recommendation that the governments should explore “collaborative contracts” such as alliances, where parties share the upside and downside risks.
- IPFA agrees that the recommendation that the government should not rush the projects which makes it harder for the government to negotiate with the proponent.
- IPFA agrees that the recommendation that the government should enforce the contract signed and make it harder for the contractor to renegotiate. Otherwise, it sets a precedence where the contractor is tempted to game the system by underbidding and winning the contract first and then later attempting to make it up with renegotiation.
- IPFA agrees that the recommendation that the government should co-ordinate their own schedules and collaborate with neighbouring states to minimise bottlenecks on major infrastructure construction.

³ Page 3 in the report. <https://grattan.edu.au/wp-content/uploads/2021/05/Megabang-for-megabucks-Driving-a-harder-bargain-on-megaprojects.pdf>

⁴ Page 17 in the report. <https://grattan.edu.au/wp-content/uploads/2021/05/Megabang-for-megabucks-Driving-a-harder-bargain-on-megaprojects.pdf>