

FIDIC-ACEG European Regional Infrastructure Conference



Tbilisi, Georgia
6 -7 March 2018

*Central Eastern European and
Eurasian Countries group
breakfast meeting*

***Ukrainian practice
in adapting the FIDIC forms of
contracts and agreements to
national requirements:
trends, successes, challenges***

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The Infrastructure Market of Ukraine: Determining Factors

1. Support of a large number of projects in Ukraine by the international community:

- About 50 programs of IFO are being implemented for € 4.9 billion + \$ 3.1 billion
- 191 ongoing projects of international assistance for \$6.5 billion

2. Decentralization:

- Functions of the Client on infrastructure facilities are delegated to the local governments in the course of reforming

3. Lack of the Ukrainian big private investor

4. Weak investment attractiveness of infrastructure facilities for a powerful foreign private investor



New Changes to Laws and Bylaws of Ukraine:

- Using a consulting engineer for the independent quality assurance of works in road construction (the Law of Ukraine "On motor roads")
- Introducing the concept of a consulting engineer as an expert of the construction Industry in the National Occupational Classification (Bylaws of Ukraine)
- Introducing the concept of a consulting engineer as a business entity (Bylaws of Ukraine)



On the Immediate Agenda:

- ❑ The issue of establishing pricing for services of consulting engineers at the facilities built with the use of public funds
- ❑ Introduction of mandatory independent quality assurance of works in construction



Procurement and Contract Administration in projects funded by IFO in Ukraine: Problematic Point

- ❑ Unclear requirements and criteria in the procurement of works and services
- ❑ Non-transparency of decision-making in procurement
- ❑ Highly pervasive failure to comply with the deadlines of decision-making on completion of tenders
- ❑ Breach of payment terms for the executed works
- ❑ In practice a great number of ambiguous provisions and discrepancies in the Particular Conditions of Contracts are revealed due to lack of competence of parties
- ❑ Conflict between the national and international legislation



Insufficient information on the timing of consideration of documents for the project competition:

- From the submission of an EoI to the short list of applicants
- From the consideration of the technical proposal to the disclosure of the financial proposal
- From consideration of the financial proposal to making a final decision on the winner
- Contract award



Conflict between National and International Legislation:

- Restrictions in the national legislation for making modifications to the contract in force regarding a subject and scope of procurement
- Heavy regulations on pricing in construction with the use public funds in Ukraine
- Distinction in reporting forms necessitate carrying out double document flow both in accordance with FIDIC practice and the national legislation



Our challenges

- ❑ The lack of coherence in actions and authorities of the Ukrainian Ministries
- ❑ The lack of official Ukrainian translation of FIDIC books significantly reduces the application scope of FIDIC principles and rules in Ukraine



The Lack of Coherence in Actions and Authorities of the Ukrainian Ministries:

- **The Ministry of Economic Development and Trade of Ukraine** is responsible for the state policy in the sphere of **technical regulation and government, and public procurement**
- **The Ministry of Regional Development, Building and Housing and Communal Services of Ukraine** is responsible for the state policy in the sphere of **construction, architecture, urban development, housing and communal services**, and it also ensures the formation of state policy in the sphere of **architecture and construction control and supervision in the sphere of housing and communal services**
- **The Ministry of Infrastructure of Ukraine** is responsible for the **development, construction, reconstruction and modernization of the infrastructure of the aviation, marine and river transport, road economy**



The lack of official Ukrainian translation of FIDIC books significantly reduces the application scope of FIDIC principles and rules in Ukraine:

- A reform of local self-government of Ukraine in terms of decentralization gives a new motivation to spreading the practice of application of a consulting engineer in the regions. But without the Ukrainian version of the books it is impossible to convincingly promote the FIDIC toolkit among new Clients - local authorities, because of their lack in personnel with the necessary expertise and knowledge of the English language



Expression of Thanks for Interchange of Experience:

- ✓ **German Association of Consulting Engineers (VBI)**
- ✓ **Association of Consulting Engineers of Moldova Republic (ARMIC)**
- ✓ **Association of Consulting Engineers of Serbia (ACES)**
- ✓ **Association of Turkish Consulting Engineers and Architects (ATCEA)**
- ✓ **Bulgarian Association of Consulting Engineers and Architects (BACEA)**
- ✓ **Association of Consulting Engineers Georgia (ACEG)**
- ✓ **Lithuanian Association of Consulting Companies(LPIA)**
- ✓ **Moroccan Federation of Consulting Engineers (FMCI)**
- ✓ **Romanian Association of Consulting Engineers (ARIC)**
- ✓ **Czech Association of Consulting Engineer (CACE)**
- ✓ **Slovak Association of Consulting Engineers (SACE)**
- ✓ **Korea Engineering & Consulting Association (KENCA)**
- ✓ **Portuguese Association of Project Designers and Consultants (APPC)**
- ✓ **Polish Consulting Engineers and Experts Association (SIDiR)**



Expression of Thanks

- World Bank
- EBRD
- FIDIC
- All our partners



Thank you for your attention!

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