**FINANCIAL AND BUSINESS MANAGEMENT TRAINING FOR ROAD CONTRACTORS**

**MODULE SIX SESSION TWO**

**Prequalification.**

1. **INTRODUCTION**

This session introduces trainees to pre-qualification process for road works, supply of goods and services in the road sector.

* 1. **Training Objectives**

1. To appreciate the need for prequalifying providers in the road sector
2. To prepare Expression of Interest (EoI) or prequalification documents
3. To fully understand the pre-qualification
4. To practice for preparation and compliance with the pre-qualification requirements
   1. **Understanding prequalification**

Pre-qualification means a screening process designed to ensure that invitations to bid are confined to capable providers as defined by the employer. Prequalification is basically short listing of providers and may be done for:

* A specific procurement requirement
* For specified categories of procurements to cover a given period
* Pre-qualification used under open domestic or international bidding processes.

Prequalification is part of the procurement process intend to sieve bidders before the main bidding process. All local governments prequalify road contractors on an annual basis and if you are not on the short listed contractors you will not be invited to bid for road works.

* 1. **Importance of prequalification**

Prequalification is aimed at ensuring that only contractors who have the required experience, technical and financial resources bid for a **c**ontract. Prequalification screens potential providers.

* 1. **Why prequalify?**

Prequalification is necessary for large contracts, particularly those that are complex or specialised with strict quality or registration requirements or that have to be designed or custom made for the procuring and disposing entity. It is also needed when the works, supplies or services to be procured require that contracts are awarded only to firms that are suitably experienced in designing, manufacturing or distributing the type of works, services or supplies required, have sufficient production, technical and financial capacity to provide the required quantity within the required delivery period, have adequate quality assurance systems and are financially and managerially sound. The assessment by a procuring and disposing entity of the suitability of firms to carry out a particular contract **prior** to being invited to submit a bid is a process called **short Listing.**

Short Listing can also be used where the same type of contracts need to be procured a number of times i.e. there will be a group of contracts. Conducting a Short Listing enables the PDE to obtain a list of firms that are qualified for that type of procurement and that list can then be used for preparing shortlists over a certain period of time. For example, a hospital could pre-qualify providers for its major pharmaceutical requirements for a period of a year. The existence of the pre-qualified list saves time and effort for both the PDE and Bidders, as a single Short Listing process can be used as the basis for a number of bidding or quotation processes. The PDE will also have a list of suitable firms to choose from in the event that it needs to select a single Bidder under the Direct Procurement method.

* 1. **Content of prequalification/expression of interest**

A pre-qualification notice or document contains:

* 1. Details of the scope of the procurement;
  2. Statement of the requirements and criteria for pre-qualification;
  3. Statement of the information required from a provider;
  4. Instructions on the location and deadline for submission of pre-qualification submissions or expressions of interest; and
  5. Instructions on the sealing and labeling of pre-qualification submissions or expressions of interest.

The information required from a provider should not be complex as it may discourage competition.

A provider shall submit sealed written pre-qualification submissions or expressions of interest to PDE

* 1. **The prequalification documents**

The SBD is divided into six separate Sections and a Preface. Procuring and Disposing Entities are required to use all Sections of the SD to produce individual Short Listing Documents for issue to Applicants. The SD comprises:

**Preface**

**Part 1 General**

1.1 Scope of Application

1.2 Source of Funds

1.3 Corrupt Practices

**Part 2 Instructions to Bidders**

2.0 Introduction

2.1 Objectives

2.2 Eligible Applicants

2.3 Cost of Applying

2.4 Clarification of Short Listing Documents

2.5 Amendment of the Short Listing Document

**Part 3 Preparation of Applications**

3.1 Language of Application

3.2 Documents Establishing Applicant’s Eligibility and Qualifications

3.3 Format and Signing of Applications

**Part 4 Submission of Applications**

4.1 Sealing and Labelling of Applications

4.2 Deadline for Submission of Applications

4.3 Late Applications

**Part 5 Opening and Evaluation of Applications**

5.1 Opening of Applications

5.2 Evaluation of Applications

5.3 Clarification of Applications

5.4 Contacting the Procuring and Disposing Entity

5.5 Confidentiality

**Part 6 Short listing**

6.1 Notification to the Pre-qualified Applicants

6.2 Inspection

6.3 Currency

6.4 Changes in qualifications of Applicants

**Appendices:**

A: Application Submission Sheet

B: Statement of Requirements

C: Evaluation Criteria

The structure is generally the same as that used in all PPDA Standard Bidding Documents, with the exception that, a Contract is not required for a Short Listing process.

* 1. **Circumstances under which pre-qualification may be used**
* Where the required works, supplies or services are highly complex, specialized or require detailed design or methodology
* Where the cost of preparing a bid would discourage competition
* Where the evaluation of bids would require extensive time and resources of a PDE
* Where an entity needs to develop a short list of similar group of similar contracts (Refer to PPDA Act and Regulations 2003,

1. **MANAGEMENT OF PRE-QUALIFICATION**
   1. **The Short listing Process**

The Short Listing process includes four main phases:

* Advertising;
* Preparation and Issue of the Short listing Document;
* Application Period and Receipt and Opening of Applications; and
* Evaluation and Short listing of Applicants.

1. Advertising

The Procuring and Disposing Entity must publish a Short Listing Notice in accordance with the Regulations i.e. in at least one publication of wide enough circulation to ensure effective competition. PDEs must use the standard notice format included in the Regulations. The advertising and application periods must give sufficient time for potential Applicants to respond with well-prepared applications and must comply with the minimum advertising and bidding periods given in the Regulations.

1. Preparation and Issue of the Short Listing Document

The PDE is responsible for the preparation and issue of the Short listing Document (SD) and must use the Standard Short listing Document issued by PPDA, as this is a mandatory requirement for contracts to be funded by the Government of Uganda.

1. Application Period and Receipt and Opening of Applications

The Applicant is responsible for the preparation and submission of its application. During this stage, the PDE should:

* Promptly respond to requests for clarifications from Applicants and amend, as needed, the SD;
* Amend the SD only with the Contracts Committee’s prior approval;
* Receive and record sealed applications from Applicants or make a Bid Box available up to the deadline for submission of applications;
* Close bidding at the precise date and time of the deadline and ensure that no late applications are received.

There is no mandatory requirement for a public bid opening for Short Listing, but PDEs should ensure that all applications received are kept securely and conduct an internal bid opening.

1. Application Evaluation and Short listing

The Procuring and Disposing Entity is responsible for the evaluation of applications and the Short Listing of applicants. In appointing an Evaluation Committee, the PDE must remember that any mistakes made during the evaluation of applications may prompt complaints from Applicants, possibly requiring re-evaluation of the applications.

The PDE in observance of best practices shall:

* Maintain the application evaluation process confidential;
* Reject any attempts or pressures to distort the outcome of the evaluation, including fraud and corruption;
* Strictly apply the qualification criteria specified in the Short listing Document.
* Obtain Contracts Committee approval for the evaluation and list of pre-qualified applicants; and
* Ensure that the process complies with all relevant requirements of the Act and Regulations.
  1. **Nature of a Pre-Qualification Short List**

A shortlist should include sufficient bidders to ensure effective and real competition. A PDE should have the following data and information in developing a shortlist for procurement requirements:

1. PPDA's register of providers;
2. PDE's own list of pre-qualified providers following a pre-qualification for a group of contracts
3. Any other PDE's list of pre-qualified providers
4. The PDE's own knowledge of the market.
5. Where a shortlist is to be developed, the following considerations should be taken into account-

* Fairness and equal opportunity for the bidders
* Rotation of different bidders on successive shortlists;
* Only eligible bidders expected to fully satisfy the eligibility requirements;
* The bidders should fully satisfy the qualification requirements of competence, capacity, resources and experience required for the execution of the procurement in question; and
* The bidders included shall not all have the same ownership.

The proposed shortlist shall be recorded, with reasons for the selection prior to the issue of the solicitation document. The approved shortlist shall be displayed on the PDE's notice board, not later than the date of issue of the invitation and shall remain on display until after the closing date for submission of bids.

* 1. **Instructions to Applicants**

Most instructions include but are not limited to the following:

* Introduction
* Objectives
* Eligible Applicants
* Cost of Applying
* Clarification of Pre-qualification Documents
* Language of Application
* Documents Establishing Applicant’s Eligibility and Qualifications
* Format and signing of Application
* Sealing, Marking and Submission of Applications
* Deadline for Submission of Applications
* Opening and Evaluation of Applications
* Clarification of Applications
* Notification to the Pre-qualified Applicants
* Inspection
* Currency

There should be a letter of commitment by the Applicant to abide by the conditions specified in the Pre-Qualification document for the pre-qualification period.

* 1. **Qualification Criteria**

This section contains all factors, methods and criteria that the PDE should use to evaluate applications. The information to be provided in relation to each factor is included in the respective application Forms

* 1. **Pre-Qualification Forms**
     1. **Structure and Organization**
* Name of the provider, physical and postal address
* Names of Owners of the business
* Description of the provider’s activities
* Organization chart and key personnel
* Time schedule for delivering the required procurements
  + 1. **Financial Status**
* Share capital
* Authorized share capital
* Issued share capital
* Statement of Assets and Liabilities
* Business turnover
* Banker’s references
* Average working capital
  + 1. **Personnel Availability and Capability**
* Number of staff – Technical and Support
* Name, qualifications and years of relevant experience
  + 1. **Applicants Equipment and Facilities**
* Availability of equipment proposed to be used
* Description of equipment by make, capacity
  + 1. **Relevant Projects Completed**
* Name of client
* Description of contracts
* Contract price
* Status of completion – satisfactory/unsatisfactory
  + 1. **Current Relevant Contracts**
* Name of client
* Description of contract
* Contract price
* Value completed and certified
  + 1. **Legal Status**
* Memorandum and Articles of Association
* Certificate of Incorporation/Registration
* Power of Attorney
* Income Tax Clearance Certificate
* VAT Registration Certificate
* Trading License
* Insurance Policy Coverage – where applicable
  + 1. **List of Procurements to be provided**
* Works
* Supplies
* Services

The above may be categorized further to suit the different/available providers

It is important to remember that an expression of interest or prequalification document is an opportunity to market the provider. It should not be mechanically done but should be calculated to show the capability of the provider. Whereas it should particularly target the evaluation criteria, it should provide more and should be impressive.

* 1. **Evaluation of Prequalification Submissions**

The criteria for evaluation should be prescribed by a PDE and should be based on the capability and resources of a bidder such as:

* 1. Experience and performance in similar contracts within the country, region or internationally;
  2. Capabilities with respect to equipment, manufacturing or construction facilities;
  3. Qualifications and experience of personnel;
  4. Financial capability to perform the proposed contract;
  5. Facilities or representation at or near the location for performance of the contract;
  6. Available capacity to undertake the assignment;
  7. Litigation record; and
  8. Methodology or knowhow
  9. Any other relevant criteria.

The criteria for pre-qualification should not be unduly restrictive.

The assessment of pre-qualification submissions or expressions of interest shall be in accordance with the requirements and criteria stated in the pre-qualification notice or pre-qualification document

* 1. The Use of Short listing

The PPDA Regulations permit the Short Listing of firms for the provision of routine items. This follows a limited competitive bidding procedure in which only those firms meeting specified Short Listing criteria are invited to submit a bid. It is a normal practice that all applicants meeting the specified criteria should be allowed to bid. Therefore, Short Listing should not normally be used for limiting competition to a predetermined number of potential Bidders, although this is permitted by the Regulations where appropriate.

Where a Short Listing is conducted for a group of contracts, and the subsequent contracts fall within the thresholds for Restricted Bidding or Quotations Procurement, the PDE should follow the normal rules applicable to those procurement methods in developing a shortlist e.g. a minimum of three Bidders for Quotations Procurement. However, PDEs should ensure that only pre-qualified firms are included on the shortlist and that, where there is a succession of shortlists for small requirements, there is a rotation of firms from the pre-qualified list, so that all pre-qualified Bidders have an opportunity to win contracts.

The decision whether to carry out Short Listing is a matter of professional judgment based upon a number of considerations about the contract or contracts themselves, and about the actual process of Short Listing. Contract considerations include size, number, complexity, limitations on completion time, the critical nature of the procurements, quality or registration requirements, special design or manufacturing requirements etc. Considerations regarding the process of Short Listing should weigh the potential benefits against the potential disadvantages discussed below.

* 1. Benefits of prequalification/Short listing

The Short Listing process may be of benefit to both Bidders and PDEs alike, in that:

1. it ensures that only qualified Bidders are given opportunities to bid, and provides a data base of potential bidders where there are a number of similar requirements;
2. it reduces the risk of late delivery, and consequent stock-outs, associated with Bidders who lack the production or financial capacity to meet the required production levels;
3. it reduces the risk of sub-standard works, services or supplies, associated with Bidders who lack appropriate quality assurance procedures and systems;
4. after Short Listing, well-qualified firms will price their bids with the knowledge that they are competing against other qualified Bidders meeting realistic minimum competence criteria; the assurance that inadequately qualified competitors will be excluded from submitting unrealistically low bids thus encourages leading providers to bid;
5. Short Listing enables PDEs to assess the interest from qualified firms generated by the contract and, in the event that only a limited number of applications are received, to make any necessary adjustments in the procurement process (including, in particular, the special conditions of contract, specifications, payment terms, liquidated damages, or delivery times, which may be perceived as onerous by potential Bidders);
6. it helps to expose potential conflicts of interest by identifying providers who may have a business association with consultants responsible for preparing the specifications;
7. it reduces the amount of work and time involved by PDEs in evaluating bids from unqualified providers;
8. it enables the PDE to assess the likelihood of providers’ eligibility for a margin of preference under any applicable preference scheme; and
9. it reduces significantly, if not eliminates, problems of rejection associated with low-priced bids submitted by Bidders of doubtful capability; and
10. it reduces the cost of advertising where a single Short Listing can be used for a group of contracts.
    1. Challenges of prequalification/Short listing

The challenges associated with short listing include:

1. it may increase procurement lead time, although this can be minimised by good procurement scheduling, e.g., undertaking the Short Listing process while bid documents are being prepared;
2. collusion (and the possibility of price-rigging) is easier among a limited number of identified Bidders, particularly if they are of the same nationality;
3. the element of subjective judgment required by evaluators when applying the Short Listing criteria to a number of Applicants, and the discretionary rights reserved to the PDE provide opportunities for externally influenced deviations from the expected high standards of ethics and impartiality in pre-qualifying applicants;
4. Short Listing information has to be verified prior to contract award, as the best evaluated Bidder’s situation, particularly in terms of available capacity, may have changed, such as where they have been awarded other large contracts since the Short Listing process.

On balance, the benefits of Short Listing under transparent conditions for large or complex procurements or groups of similar contracts normally outweigh the potential disadvantages, for both PDEs and Bidders alike.