



TRAINING MANUAL 4 Private Sector Participation

Module 4-6: Contract Preparation and Procurement Procurement Approach

Prepared by the International Consortium
GTZ-ERM-GKW



This Training Module is part of the

TRAINING MANUAL 4: ISWM Private Sector Participation for Waste Management Services

This training Module has been prepared in support of capacity development of waste management service delivery through Private Sector Participation (PSP), Category 3 – “Contract Preparation and Procurement” and forms the second module of this Section.

It focuses on the key aspects for the implementation of a procurement procedure.

Note: A general discussion of major/ critical contract issues is provided in Module 4-5 whereas a comprehensive case study is given in Module 4-7.



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- II Staging of Procurement Process
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Content

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to outline some key issues and introduce basic procurement ideas

II Procurement Planning
to outline the basic planning steps and to illustrate the importance of the preparation

III Establishment of a tender committee
to describe this procedural requirement

IV Pre-Qualification
to address the advantages and disadvantages of a staged procedure using pre-qualification

V Preparation and Issuing of Request for Tender
to describe the different major elements of the Request for Tender

VI The Bidders Proposal
to discuss the major elements of a proposal

VII Tender Evaluation and Contracting
to explain major elements and procedures during evaluation and negotiation up to contract award

I. Introduction and Definition of Procurement Procedures (1)

General Rule:



- Well prepared, conducted and implemented procurement procedures are the key for successful PSP in solid waste management !
- Competitive and transparent procurement procedures are necessary to secure the desired level of services/ works from competent private sector contractors at the lowest possible cost !
- Competition, Attractiveness and Transparency are key words !



Introduction, Definition and Staging of Procurement Procedures I:

- Well prepared, conducted and implemented Procurement Procedures are the key for successful PSP in Solid Waste Management !
- *A Tendering (Procurement) Process in general is a process that an institution, public or private uses, to procure goods or services from another institution in a transparent and competitive manner.*
- *For the purpose of this training manual, the term procedure will refer to how a public entity (such as municipality or governorate) would procure the services / works of a private contractor to perform all or some of the solid waste management services/ works in the respective area.*
- *The ultimate goal of the procurement process is to come to an agreement between the contracting authority and the private contractors for the assignment of some or all of the responsibility for providing solid waste management services/ or establish and operate waste management facilities.*
- Competitive and transparent procurement procedures are necessary to secure the desired level of services/ works from competent private sector contractors at the lowest possible cost
These major principles will be explained as follows:

I. Introduction and Definition of Procurement Procedures (2)



Competition:

- Widespread awareness of the procurement process among potential service providers



Attractiveness:

- Desired services completely and clearly defined
- The contract fairly allocates risk between the parties



Transparency:

- The procurement process has to be conducted in a fair and equitable manner and in a way that avoids impropriety or the appearance of impropriety.

Introduction, Definition and Staging of Procurement Procedures II

Competition:

- Widespread awareness of the procurement process among potential service providers to maximise the number of potential bidders

Where there is no competition the potential advantages and cost saving potentials usually do not materialise.

Contracting of private sector operators without conduction of competitive procurement is very risky and usually not economic.

Attractiveness:

- Desired services completely and clearly defined in the tender documents
- The proposed contract fairly allocates risk between the parties of the contract

A non attractive contract will probably not attract capable contractors. There are numerous examples of futile procurement procedures in which service and works have not been clearly defined and risk has not been allocated in a fair manner and finally where no bidder was willing to provide a qualified and well prepared bid.

Transparency:

- The procurement process is conducted in a fair and equitable manner and in a way that avoid impropriety or the appearance of impropriety.

The more transparent a procedure the more backing that can be expected from all partners and the public.

II. Staging of Procurement Process

Task	Period (months)			
Procurement Planning	3-6			
Preparation of Tender Documents	6-12			
Conduction of Pre-Qualification	2			
Evaluation of Pre-Qualification	0.			
Invitation for Tender			★	
Bidding Period			2-4	
Tender Evaluation			2-3	
Contract Negotiation				2
Contract Award				★

Staging of Procurement Procedures

A - Procurement Process involves several steps:

- Procurement Planning (*Including set up of required Tender Committee as well*)
- Preparation of Tender Documents (*there are several examples from huge PSP projects which have required 2 years of careful preparation*)
- Pre-Qualification and Evaluation (*Note Pre-qualification is an option which is required for complex procurement processes*)
- Bidding Period (*The Bidding Period should be long enough to allow for qualified bids*)
- Tender Evaluation (*tender evaluation needs to be done carefully but not endlessly*)
- Contract Negotiation (*as an option if additional clarification is required*)
- Contract Award (*Note before start of operation a certain period is required for preparation of the private operator such as additional planning supply of equipment*)
- *Note: the whole process in the best case needs one year, in case of initial implementation of PSP and complex approaches even more than 2-3 years*

III. Procurement Planning (1)



General Rule:

- A procurement plan outlining the essential issues related to content and procedures of the procurement process helps considerably to structure the procurement process and to work out a realistic time table !
- Procurement plans are mandatory for investment projects funded by IFI !

Procurement Planning 1

- A procurement plan outlining the essential issues related to content and procedures of the procurement process helps considerably to structure the procurement process and to work out an approved time table.

In order to prepare and structure procurement procedures for ISWM services and works a procurement plan should be prepared.

- Especially for the implementation of investment projects, such a plan is essential and needs to be developed
(e.g. by a Consultant during the feasibility study) for the Contracting Agency in order to be agreed with the funding agency.
- *Furthermore, in the case of service contracts the procurement plan helps the contracting authority to define and structure the procurement process.*

III. Procurement Planning (2)



Minimum content of a procurement plan:

- the thresholds for national/ international competitive bidding
- the governing rules / laws / regulations for the process
- all goods, works and services required to carry out the project
- the characteristics and estimated costs of the contracts
- the source of financing/ method of procurement for each contract
- the time schedule of the principal stages of the process

Procurement Planning 2

The plan must set forth in detail, as a minimum, the following information:

- the thresholds for national and international competitive bidding to be applied in the project;
 - the governing rules / laws / regulations for the procurement process;
 - all of the goods, works and services required to carry out the project;
 - the characteristics and estimated costs of the various contracts under which the items to be procured will be grouped;
 - the source of financing and the method of procurement foreseen for each contract, giving due consideration to the rules established for each method;
 - the pre-qualification and bidding that will be required to acquire the goods and works; and
 - the time schedule of the principal stages of the procurement process, including all required approvals and completion dates of works and the delivery dates for goods.
- *Several items that will be described in the procurement plan might have already been developed within the framework of the assessment of the contracting options and the project preparation. Some major items are listed on the following slides:*

III. Procurement Planning (3)

Preparation of Detailed Cost Estimate/ Market Review:



The procurement process should not commence without having a reasonable investment and operation cost estimate which identifies costs that can be financed !

Market reviews are of special importance if the works or services that are planned to be tendered are non-standardised - the general interest of potential bidders needs to be confirmed even before starting a pre-qualification procedure !



Procurement Planning 3: Preparation of Detailed Cost Estimation/ Market Review

- General Rule: No commencement of the procurement process without having a reasonable investment and operation cost estimation which identifies costs that can be financed!
 - *A main problem that has been identified during the execution of tender procedures all over the region is, that costs for services and works have not been assessed and estimated with the required attention before starting the procurement process. Careful confidential cost estimation is a pre-condition for successful tender procedures.*
- Only by assessing and estimating realistic prices can there be any assurances that*
- *works or services and their related level of performance that are going to be contracted can be financed (e.g. by tariffs for waste generators) and*
 - *results of the tender procedures can be compared with the confidential cost estimations in order to identify unrealistic bids including "price dumping" (meaning considerably under priced bids) with the risk that the contract will not be executed according to the specification or contractor will get bankrupt as well as bids that include exaggerated and unreasonable global or unit costs (which should also be rejected).*
 - *Cost estimations should be based on market reviews in order to identify the number and interest of suitable bidders during the last 2-5 years.*
 - *Such market reviews are of special importance if the works or services that are planned to be tendered are non-standardised and the general interest of potential bidders needs to be confirmed even before starting a pre-qualification procedure.*
 - *In the case of standardised contracts, the market review might be based on the evaluation of results from:*
 - *previous tender procedures in the same area or*
 - *recent tender procedures in neighbouring areas or other cities in countries.*
 - *If services at the moment are provided by public service providers the real costs (including depreciation and inflation adjustment) of these services should be assessed and compared with the offers presented by the bidders.*

III. Procurement Planning (4)



National or International Bidding

The choice of national or international bidding should be based on a clear analysis of the project type, required capabilities as well as the existing national marketplace

The higher the contract value and thus the required capabilities of the contractor, and the less developed the market place, the more international bidding should be considered

However: Bids from reputable international contractors can only be expected in cases where a feasible approach with fair and attractive conditions is offered



National or International Bidding

- General Rule: The choice of national or international bidding should be based on a clear analysis of the project type, required capabilities as well as the existing national marketplace.
- The type of bidding procedure, especially the application of national or international bidding, depends on various issues which should have been analysed during procurement planning, namely:
 - *What type of project? (contract value, contract type, tasks and liabilities assigned)*
 - *Which qualifications are required to execute the work? (standardised or non-standardised project type or challenging requirements, experience in special areas)*
 - *Is there a well established national (incl. local) or regional marketplace for these type of services or works? (successfully established projects, interest of national companies)*
 - *What are the capabilities of national contractors? (qualified and experienced staff, project references)*
 - *Is financing via a strong contractor required?*
 - *Is financing via an international development bank required?*
 - *Is the contract attractive for international contractors or operators?*
- As a rule of thumb it can be stated that the more the contract value and thus the required capabilities of the contractor, and the less developed the market place, the more international bidding should be considered.
- *In addition, only international contractors and operators might be able to handle complex long term contracts which also require financing by the contractor. In case of financing via international development banks, international bidding is usually the norm if a certain threshold is exceeded. Often the forming of international and national consortia is encouraged in order to also develop the local marketplace.*
- However, in case of a non developed market place and a very challenging project approach it is not advisable to rush the decision to execute an international bidding process. Bids from reputable international contractors can only be expected in case that a feasible approach with fair and attractive conditions is offered.

III. Procurement Planning (5)



Identification of Specific National and International Procurement Requirements

- Identification and analysis of national legal framework (e.g. tender law)
- In case of financing via IFI analysis and identification of their procurement rules

Key issues:



- Procedural requirements (thresholds, tender committee, approval procedures, minimum periods)
- Terms and conditions of Tender and Contract

Identification of Specific National and International Procurement Requirements

- General Rule: National and international requirements should be identified, based on standardised and tested documents.
- *In parallel to the preparation of the procurement plan, the specific national and international procurement requirements need to be analysed. Every country in the Region has its own legal framework including regulations related to procurement procedures such as a national tender law. It is obvious that this Regional Guideline cannot include all specific requirements defined on a national level.*
- *Items that might be defined in these regulations are:*
 - *The thresholds for national and international competitive bidding*
 - *Specific procedural requirements for the establishment of the tender committee*
 - *Requirements and procedures related to the approval of tender documents and tender evaluation by special national tender committee*
 - *Terms and conditions of Tender (e.g. certain pre-defined contractual clauses applicable in all contracts between public and private service providers)*
 - *Submittal and Evaluation Requirements.*
 - *Bid and Performance Bond Requirements*
 - *Offer Validity Period*
 - *Tender Cancellation*
- In the case of financing via international donor agencies, the specific procurement rules of these agencies need to be considered in addition to other governing local requirements. *The specific donor agencies requirements (which in addition varies from institution to institution) may require special tailoring or negotiation in order to fulfil national agencies' requirements.*

IV. Establishment of a Tender Committee



The constitution of a tender committee should ensure technical and financial competence of its members in order to guarantee professional execution of the procurement process. If required, external expert assistance should be used.

- Formal step according to national legal requirements
- Option of technical and financial sub-committees
- Impartiality of members is crucial
- External assistance for complex procedures

Establishment of the Tender Committee

- General Rule: The constitution of a tender committee should ensure technical and financial competence of its members in order to guarantee professional execution of the procurement process. If required, external expert assistance should be used.
- The establishment of the tender committee is a first formal step within the tender procedure. *The tender committee will be responsible for all aspects of the procurement process from pre-qualification through final contractor selection. The committee is also involved in procurement planning, including the elaboration of a work plan and the time schedule.*
- The process of establishment of the tender committee depends on the national legal requirements in the specific country (e.g. defined in the tender law). Depending on the estimated contract value in relation to the applicable threshold values the number and constitution of the committee will be defined. In some countries a member of a central ministry needs to be included in the committee. In other countries additional central committees have to be involved in the procurement process and especially in the approval of the results of the evaluation.
- *The tender committee might consist of separate technical and financial sub-committees (or an additional tender evaluation committee) that will oversee the development of the technical and financial part of the tender documents and will evaluate the technical and financial aspects of the tender and its compliance with the required terms of the tender. Of course, all members of the committee must not have any business links to any of the companies participating in the bidding process.*
- In case of complex procurement procedures and limited procurement experience available, external expert assistance e.g. via independent Consultants is strongly recommended. This applies even more for the implementation of waste treatment or waste disposal facilities, which cannot usually be managed by the Contracting Authority without support and assistance of a Consultant experienced in procurement design.



V. Pre-Qualification of Bidders (1)

Well structured pre-qualification procedures might help considerably to confirm market interest and ensure submission of competitive bids especially for complex projects

Advantages:

- Confirmation of the existence and the interest of suitable companies
- Revision in case of lack of suitable bidders is possible
- Assessment of the applicant's know how, experience and suitability
- Identification of the most experienced applicants
- Reduction in the abortive costs of unqualified companies
- Pre-qualified bidders are encouraged to increase their efforts in preparing a bid



Pre Qualification of Bidders 1

Application of Pre-qualification Procedures

- General Rule: Well structured pre-qualification procedures help considerably to confirm market interest and ensure submission of competitive bids especially for complex projects.
- *Pre-qualification is a step in the procurement process, in which companies who are interested in contracting for the work or services are identified and shortlisted / pre-qualified. Only these companies will subsequently be requested to prepare a bid.*
- *The application of pre-qualification procedures is not compulsory in the procurement process and there are several examples of successful procurement procedures without the conduction of pre-qualification. The following issues should be considered in order to decide on the need for pre-qualification:*

The advantages of pre-qualification are:

- Confirmation of the existence of suitable companies who are interested in providing the works or services (*confirmation of the results of the market survey!*)
- Where there is no interest of capable companies, the procurement approach can be revised at an early stage before execution of the time consuming and expensive bidding process.
- Assessment of the applicant's know how, the required experience and suitability to perform the contractual tasks *with regard to technical, financial and managerial capabilities. This enhances the identification of the most experienced applicants, who are then pre-qualified. Unsuitable applicants will not be allowed to prepare and present bids.*
- Reduction in the abortive costs of unqualified companies as they save the costs that would have been incurred in the preparation of a proposal which would have been unsuccessful.
- *Where a pre-qualification exercise has been carried out, shortlisted companies know that only a limited number of suitable bidders will be invited to bid. In view of this, the bidder is encouraged to increase his efforts in preparing a bid as the chances of success are slightly increased.*

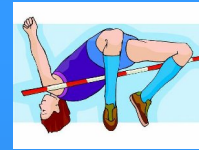
V. Pre-Qualification of Bidders (2)

Open bidding process without PQ	PQ is recommended
Well defined services or works	Comprehensive services or works
Standard (collection) contracts	Bidder has to present own approach for conduction of services or works
Selection is mainly based on prices	High technical qualification of the bidder is needed to avoid submission of poor proposals
Limited amount of performance guarantees or funding is needed	High funding ability is required

Pre Qualification of Bidders 2

- *The more comprehensive the service or works, the more important is the execution of a pre-qualification procedure:*
 - *Standardised collection contracts for a restricted area might not require the execution of a pre-qualification procedure. Expenditure for the preparation of bids is limited and unsuitable companies can be identified in the first step of the evaluation procedure.*
 - *For challenging and large contracts such as DBO or BOOT contracts which require extensive preparation of proposals (e.g. including design work and extensive cost estimations) the execution of a pre-qualification procedure is strongly recommended.*
- *Major considerations related to the conduction of a pre-qualification procedure are illustrated in the table given above*

V. Pre-Qualification of Bidders (3)



Minimum Criteria for Pre-Qualification:

- Minimum criteria should be tailored according to the needs of the specific project.
- Complex tender / contract requirements are not necessary for simple contracts!
- Outline minimum criteria should be stated in the request for PQ Documents

Examples:

- Financial indices (equity, debt, working capital etc)
- Information on personnel staffing and equipment
- Business structure as appropriate for the intended contract
- Business history (including litigation history)
- Summary of relevant work / projects experience



Pre Qualification of Bidders 3

Minimum Criteria for Pre-Qualification

- General Rule: Minimum criteria should be tailored according to the needs of the specific project.
- Do not exaggerate requirements for simple contracts! (*cost will increase!*)
- It is strongly recommended to define within the request for pre-qualification the minimum criteria which a company interested in being pre-qualified has to fulfil. *This allows interested companies to assess if they might be eligible to present a bid.*

Such criteria include:

- Financial indices (equity, debt, working capital etc) *based on submission of audited financial statements*
- Information on personnel staffing and equipment (*minimum number of employees and vehicles*)
- Business structure as appropriate for the intended contract
- Business history (including litigation history)- *try to exclude dubious bidders*
- Summary of relevant work / projects experience (including references)

Selection and definition of minimum criteria requires:

- *A clear picture about the services and works and the appropriate qualifications and experiences a company must have to fulfil them. (Example: A standardised collection contract in a restricted area which might be performed with a limited number of collection vehicles and staff does not require the capabilities, know how and financial strength of an international waste management operator.)*
- *A careful assessment of the marketplace and the technical and financial capabilities of the market players. (Example: Even if it is desirable to have strong and experienced bidders, in a non-developed market the requirements must not be exaggerated).*

V. Pre-Qualification of Bidders (4)



Number of Pre-qualified Bidders

- The number of qualified bidders should reflect the capabilities and interest of the marketplace to ensure adequate competition
- The number of qualified companies depends on the development and interest of the marketplace as well as the effort of the bidders to prepare a proposal
- In order to secure a competitive procurement process, usually about 5-8 shortlisted companies should be the target

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Pre Qualification of Bidders 4: Number of Qualified Bidders

- General Rule: The number of qualified bidders should reflect the capabilities and interest of the marketplace to ensure adequate competition.
- The number of qualified companies depends on the development and interest of the marketplace as well as the effort required by the bidders to prepare a proposal.
- In order to secure a competitive procurement process usually about 5-8 shortlisted companies should be strived for.

Detailed Instructions for Pre-qualification

- *A detailed instruction for the preparation and conduction of a pre-qualification procedure has been prepared within the framework of the Egypt Solid Waste Management Project as part of the Solid Waste Management Privatisation Procedural Manual and is presented in Tool PSP 4.2: "Pre-Qualification". This also includes an example evaluation form outlining minimum criteria for different solid waste management tasks.*
- *With regard to the pre-qualification for a Design Build Operate Contract, all relevant documents have been prepared by the worldbank and are presented in Tool PSP 3.4: "Generic Documents for the Design- Build- Operate Contract for a Solid Waste Facility".*

VI. Preparation/ Issuing of Request for Tender (1)

General Rule:



The preparation of the “Request for Tender” should be carefully implemented as it will define entirely (and often finally) the Contractual relationships for the project

Major components:

- Formal invitation for pre-qualified bidders
- Information and instructions
- Draft Contract, general conditions and appendices to the general conditions
- Standard Form of Bid Letter of guarantee
- Bidders Price Form schedules
- Tender Offer Form letter

Preparation and Issuing of Request for Tender

- General Rule: The preparation of the “Request for Tender” should be carefully implemented as it will define entirely (and often finally) the Contractual relationships for the project

The preparation of the Request for Tender is a time consuming and complex step in the procurement process. However, the quality of the Request for Tender is perhaps the most critical factor in the procurement process.

It is through this document that the contracting authority will communicate project specific information and establish specific terms and conditions applying to services to be provided by the contractor.

A typical Request for Tender will include information covering the following subject matters:

- Formal invitation for pre-qualified bidders
- Information and instructions
- Draft Contract, general conditions and appendices to the general conditions
- Standard Form of Bid Letter for guarantee
- Bidders Price Form schedules
- Tender Offer Form letter
- *The Bidder’s response to the Request for Tender, when correctly prepared and returned by the bidder will become the offer. Where the offer is accepted by the Contracting Authority without modification, it will form the binding agreement between the Bidder and the Contracting Authority.*
- *A detailed description of how to develop such a Request for Tender has been prepared within the framework of the Solid Waste Management Privatisation Procedural Manual for the Egypt Solid Waste Management Project and is attached in Tool PSP 4.3 “Tendering and Contracting”. In case of funding via donor agencies their respective format for Request for Tender might be applicable. An example for a Request for Proposal for a Design Build Operate Contract has been prepared by the worldbank and is presented in Tool PSP 3.4: “Generic Documents for the Design- Build- Operate Contract for a Solid Waste Facility”.*

VI. Preparation/ Issuing of Request for Tender (2)



Draft Contract and Appendices

In the case of complex projects, contracts that are well tested such as national standard contracts or contracts provided by funding agencies, should be used

Major components:

- A Contract Form
- General Conditions of Contract
- Appendices to the General Conditions of Contract (e.g. technical specifications, the bidder's technical proposal, performance guarantee etc)

Draft Contract and Appendices

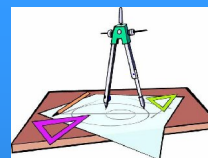
- General Rule: In the case of complex projects, contracts that are well tested such as national standard contracts or contracts provided by funding agencies, should be used.

The draft contract and its appendices are the core of the agreement between Contracting Authority and Private Contractor. There are several approaches of how to structure the related documents. A typical approach consists of:

- A Contract Form
which is a short and simple document that establishes the elements of the agreement between the parties and defines the documents making up the entire agreement.
- General Conditions of Contract
which include the terms and conditions of the contract related to administrative, financial and legal requirements of the contract.
- Appendices to the General Conditions of Contract
include defined specific information necessary to completely define the requirements of the works and services such as technical specifications, the bidder's technical proposal and Performance Guarantee.
- *In case of funding via donor agencies, usually their specific contract format has to be applied. Quite often, these agencies have developed comprehensive sets of general conditions of contract which have to be supplemented by special conditions of contract tailored to the specific circumstances of the project. These sets of documents have the advantage that they have been tested several times and national and international contractors are used to working with them.*
- *Well tested sets of contracts for different types of projects are also provided by the International Federation of Consulting Engineers FIDIC (please refer to <http://www.fidic.org>).*
- *Several aspects related to key contractual issues are described in Tool PSP 3.1: "Critical Contract Issues".*

VI. Preparation/ Issuing of Request for Tender (3)

Technical Specifications



- Technical specifications need to be complete and unambiguous
- Do not expect a Contractor to provide services that the Contracting Authority is not able to define
- Concentrate on obligatory requirements and do not define unnecessary and expensive restrictions, because they will ultimately be paid for by the customers !

Technical Specifications

General Rule:

- Technical specifications need to be complete and unambiguous.
- Do not expect a Contractor to provide services that the Contracting Authority is not able to define.
(do your homework first before requesting the bidder to do their homework)
- Concentrate on obligatory requirements and do not define unnecessary and expensive restrictions, because they will ultimately be paid for by the customers!

The elaboration of the technical specifications is of exceptional importance in order to describe the scope of work to be provided by the Contractor and to give a clear and full picture.

VI. Preparation/ Issuing of Request for Tender (4)

Technical Specifications



Major components:

- General Description of Works and Services (key data such as waste quantities or number of households)
- Works or service specification
- Minimum technical requirements (e.g. equipment and material specification)
- Performance Standards and Performance Monitoring

Preparation/ Issuing of Request for Tender 4. Technical Specifications

- A General Description of Works or Services
outlining the general nature of the work. A broad overall description of the works or services has to be provided. Typical information would include the required services, the extent of the service area or general scope, identification of any existing facilities. In order to provide this information, the relevant data such as number of households or the daily and annual quantity of waste characterising the works or services need to be assessed. Where the Contracting Authority has no clear picture about the entire scale of the project and the standards and norms to be applied they cannot expect that a bidder will submit a suitable and accountable proposal.
- A Works or Service Specification
describing the work to be done. The description has to be unambiguous in order to avoid any dispute during performance of works and services. The whole process needs to be worked through in order to identify all specifications. However, every specification has to be checked if it is obligatory, to ensure that it does not define any unnecessary and expensive restrictions.
- Minimum Technical Requirements
should be defined in order to specify in detail, how something should be done. They would typically include equipment and material specifications. As outlined above, wherever possible, the Contractor should be allowed to choose how he will do his work as long as the result is according to the specification and has no other negative implications. All over the region these Minimum Technical Requirements define the maximum age of the mobile equipment such as collection vehicles or other machines. However, these restrictions should be defined carefully. It is not appropriate to engage a Contractor into a two year contract to use new vehicles.
- Performance Standards and Performance Monitoring
establish minimum acceptable levels of performance relative to a Service Specification or a Technical Requirement and describe how they will be monitored. It is worth noting that not all works can be done correctly 100 % of the time. Human errors will always occur and the standards should find an acceptable way to deal with this fact. With regard to monitoring, it is important to explain how the work will be monitored. This could include on the one hand a monitoring unit and relevant procedures applied by the Contracting Authority, but might also incorporate self reporting and documentation to be provided by the Contractor.

VI. Preparation/ Issuing of Request for Tender (5)

Definition of Evaluation Criteria and Evaluation Approach

- Evaluation criteria should be outlined in the RFT
- Price is the most important variable evaluation criterion
- In standard collection contracts, technical evaluation will be limited to assessing whether a bid fulfils the pre-defined requirements (technical, staffing etc.)
- Quality and technical criteria become more important as the services and works become more complex and challenging



Definition of Evaluation Criteria and Evaluation Approach

- General Rule: Evaluation criteria should be outlined in the Request for Proposals. *in order to keep evaluation simple and transparent*
The evaluation criteria especially the variables to be filled in by the Bidders need to be defined in the Request for Proposals thus pre-defining the evaluation approach .
- The price (e.g. stated as price or tariff/ ton, price / year, total price for works etc.) is the most important variable evaluation criteria and often the only one that is used for final ranking of bidders and selection of Contractor.
- *The Request for Proposal should therefore be structured in such a manner that the total price and the resulting cost for the Contracting Authority can be clearly determined (e.g. in case of contracts combining initial works and ongoing operation for a certain period, or contract combining several services). An evaluation approach related to options needs to be carefully considered in order to avoid speculative bids (e.g. low prices for main services and over priced options).*
- In standard collection and transportation contracts the price will usually remain the only variable evaluation criteria. Technical evaluation will be limited to assessing whether a bid fulfils the pre-defined requirements such as technical requirements, staffing requirements etc. *A bidder who offers higher technical standards does not gain benefit in the evaluation process. Due to this reason minimum technical requirements have to be determined carefully.*
- Quality and technical criteria become more important as the services and works become more complex and challenging. *In the case of comprehensive services and works which might include design, presentation of individual technical solutions (e.g. complex logistical approach or landfilling / treatment concept, technology/ equipment provided), staffing etc. it would be necessary to not only define minimum technical standards but to also include technical criteria in the final ranking of bidders.*
- *However, such an approach requires a predefined evaluation scheme in order to allow a transparent and consistent evaluation. Bidding documents should specify the relevant factors in addition to price for the consideration in bid evaluation and the manner in which it will be applied for the purpose of determining the lowest evaluated bid. These factors should be expressed in monetary terms, or given a relative weight in the evaluation provisions in the bidding documents, to the most practicable extent.*

VII. The Bidder's Proposal (1)

General Rule:

- The requirements with regard to content and format of the bidder's proposal should be standardised as much as possible. Use form sheets!



Major components:

- Tender form
- Joint venture statement
- Draft work plan
- Staffing approach
- Description of facilities and equipment
- Bid bond

The Bidder's Proposal

- General Rule: The requirements with regard to content and format of the bidder's proposal should be as standardised as possible *and outlined in several "form sheets" of the Request for Tender.*
- *This will guide the bidder to provide exactly the required information and allow a clear and transparent evaluation. The more precise the requirements that are defined the clearer the bidder will be able to outline the required information. This will also help to achieve transparency during the evaluation procedure.*

Typical contents of the Bidder's Proposal are listed as follows.

- A Tender Form: *states the willingness to enter into a contract, to provide the required services or works as well as financial resources*
- Joint Venture Statement – *if applicable: (outlining roles and responsibilities of each participant and one leading company.*
- A Draft Work Plan: *narrative description of how the services and the preparatory works will be undertaken and completed. For facilities: a work schedule outlines the timing. The information should outline the bidder's understanding of the scope of each service and activity comprising the service or works desired. Bidders who are not able to describe in an understandable manner how they will execute the contract and the related procedures, might not be able to fulfil the contract later on and should be excluded from further evaluation.*
- The Staffing Approach: *information on personnel, administration and management including organisational charts, duties and responsibilities of each of the positions, CV for the key staff, table with type and total number of employees*
- The Facilities and Equipment: *e.g. type, general specification, number and age. In addition description of all facilities such as recycling facilities, transfer station, workshops, company courtyard, storage areas and offices.*
- Bid Bonds *need to be attached which should cover the full validity period of the bid in order to ensure that the bidder will enter into a contract and fulfil their contractual obligations in case of contract award (e.g 2-3 % of the annual contract value.)*

VII. The Bidder's Proposal (2)

Alternative Offers

General Rule: The option of alternative offers should only be considered in the case of complex tasks for which bidders might contribute innovative least cost solutions.



Clarification Procedures

General Rule: Where clarification procedures are applied it has to be ensured that all bidders receive equal information in due time.

- Questions and answers only in written format
- Definition of a deadline
- Submitted to all bidders
- Conduction of pre-bid meeting

The Bidder's Proposal: Alternative Offers and Clarification Procedures

- The option of alternative offers should only be considered in case of complex tasks for which bidders might contribute innovative least cost solutions.

In general, the Contracting Authority should have prepared a clear analysis of the services required in order to define a complete specification, including elaboration of appropriate performance standards.

- *However, with regard to the solution of complex tasks such as waste collection in a large area requiring the appropriate use of transfer stations and specific equipment or the implementation of a certain treatment technology experienced bidders might offer interesting alternatives.*
- *Clarification procedures during elaboration of proposals might be required in order to answer questions raised by the bidders. In case of a well prepared and clearly defined Request for Proposal (RFP) for standard services only a few questions can be expected. However, there might be some unclear items or specifications. Complex contracts involving the implementation of waste disposal facilities will usually lead to several requests for clarification.*

Some minimum procedures should be established:

- Only written requests for clarification will be considered.
- A final date for the submission of request or clarification should be defined.
- The questions and the respective answers should be submitted in writing (and may form an addenda to the proposal) to all bidders in order to give all of them equal chances
- The receipt and consideration of the addenda has to be confirmed, requesting the bidders to attach them to their proposal.
- A so called "pre-bid meeting" might be considered during which interested bidders can raise questions and have the opportunity to visit the sites.

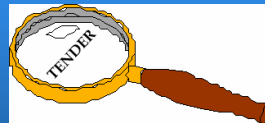
VIII. Tender Evaluation and Contracting (1)

Submission and Public Bid Opening



General Rule: Public Opening of documents is the first step in a transparent evaluation procedure

Tender Evaluation



General Rule: All procedures for tender evaluation should be fixed before the opening of bids. Moreover, the evaluation criteria should already be declared in the Request for Tender in order to achieve transparency.

Tender Evaluation and Contracting

Submission and Public Bid Opening

- General Rule: Public Opening of documents is the first step in a transparent evaluation procedure

The procedures for submission and opening of bids has to be defined in the Request for Tender in accordance with the national legislation.

Usually bids need to be packed in a certain manner and need to remain unopened until the official bid opening.

Bids should only be accepted, if they are submitted before the submission date and time, and received at the place stated in the Request for Proposal.

Bid opening is often done in a public ceremony or at least in the presence of the companies that have submitted a proposal.

This provides a degree of transparency as all bidders will receive information on which company has submitted a proposal (and depending on the evaluation approach, what price each company has offered).

However, prices that are read out are only for initial information because they do not include quality aspects as well as corrections that may have to be made by the evaluation committee in order to make the offers comparable.

Tender Evaluation

- General Rule: All procedures for tender evaluation should be fixed before opening of the bids. Moreover, the evaluation criteria should already be declared in the Request for Tender in order to achieve transparency.

VIII. Tender Evaluation and Contracting (2)

Staged Evaluation Process

- First step: check general compliance with the specified requirements (formal requirements, statements, signature, minimum financial requirements etc)
- Second step: technical evaluation (minimum requirements related to staffing, equipment, work approach, understanding and experience)
- Third step: financial evaluation (lowest price, reasonability, comparison with cost estimation)

Tender Evaluation and Contracting 2

The applicable evaluation procedure has to be chosen based on the selected type of contract and has to be in line with the national legislation. A common evaluation approach includes three steps:

- In the first step the general compliance with the specified requirements is assessed.
This includes formal aspects such as: financial and technical proposals packaged in the requested manner, statements with regard to joint ventures, bid bond sufficiency and validity, is the proposal signed by a person authorised by a requested power of attorney. The conclusion of this first step is a list indicating names of those companies which fulfil the general submittal requirements.
- The second evaluation step is the technical evaluation.
This includes the assessment of all requirements that have been defined in the technical specification and need to be presented in the proposal such as: Draft work plan (e.g.: are the descriptions understandable, consistent, prove the experience and competence of the bidder); Staffing approach (e.g.: is the senior staff experienced and qualified, have they already managed similar contract in the area, is the number and qualification of workers sufficient to execute the works or services?), Facilities and equipment (e.g.: does the offered equipment fit the specifications, is the number sufficient to execute the works or services?). Determination of technical criteria especially those criteria which lead to exclusion of bidders is a crucial issue and depends on the complexity of the contract. In a standardised collection or transportation contract the technical evaluation will be much more simple than in a complex DBO contract.
- The third evaluation step is the financial evaluation.
*The completed (filled in) price tables will be inspected and the included calculations such as unit prices and total prices checked to determine their arithmetic correctness. In case of long term contracts involving investment and long term operation and maintenance costs to be paid by the Contracting Authority several calculations need to be undertaken in order to determine the total cost. Finally the companies will be listed according to the evaluated price (lowest price leads to highest ranking). A major task during the financial evaluation is to determine whether the final prices stated by the bidders are reasonable. Therefore they have to be compared with the cost estimation that has been prepared during the procurement planning. A contract should not be awarded based on proposals which considerably exceed the estimated costs and are therefore unlikely to be financable by the contracting authority.
*On the other hand, contracts should not be awarded to those bidders that have offered prices that are extraordinarily low. Though very low prices are attractive for the contracting authority they bear a severe risk that contracts will not be fulfilled according to specification. There is no advantage if a contractor finally provides poor performance and might terminate services after a short while.**

VIII. Tender Evaluation and Contracting (3)



Contract Negotiations

General Rule: In a competitive and transparent procurement process contract negotiations are not intended to include detailed price negotiations.

However, complex projects might require the execution of negotiations in order to clarify the proposal and find a common understanding.

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TRAINING MANUAL 4 - MODULE 4-6



Tender Evaluation and Contracting 3

Contract Negotiations

- **General Rule:** In a competitive and transparent procurement process contract negotiations are not intended to include detailed price negotiations. However, complex projects might require the execution of negotiations in order to clarify the proposal and find a common understanding.
- *In principle the described procurement process requires no contract negotiations. All requirements and conditions of contract should be described in the Request for Tender on the one hand and in the proposal of the bidder on the other hand. The described process hereby offers no room for price negotiations. Price negotiations may also cause conflict with the important aim of creating transparency.*
- *However, especially in complex contracts, contract negotiations might be useful before notification of the award in order to clarify the final scope of work and any remaining points for clarification of the proposal. Hereby a final mutual understanding can be achieved and as well interfaces for contract implementation might be defined.*

VIII. Tender Evaluation and Contracting (4)



Contract Award

General Rule: The final identification of the successful bidder should be as simple and transparent as possible.

Tender Evaluation and Contracting 3

Contract Award

- General Rule: The final identification of the successful bidder should be as simple as possible. However, complex contracts require a complex evaluation which still needs to be clear and transparent.
- *In case of a simple contract such as a standardised service contract for waste collection or transfer the contracting authority should award the contract to the bidder who has submitted a valid proposal and whose tender is*
 - *In conformance with the specified requirements (step 1)*
 - *Fulfils the requirements of the technical evaluation (step 2) and thereby clearly demonstrates an understanding of the work and the capability to perform the works or services in an acceptable manner and*
 - *fulfils the requirement for the financial proposal and is offering the lowest reasonable price.*
- *As outlined above, in complex and non-standardised contracts which involve design, build and operation a defined ranking of quality and price aspects should be considered to identify the most appropriate and economic bid. For example it might be appropriate to award a complex contract to a bidder whose technical proposal is outlining a much higher quality of services or works combined with only a slightly higher price.*
- *In order to handle this issue in a transparent manner, the technical evaluation should be based on a weighing procedure including the evaluation of pre-defined criteria according to an understandable and transparent procedure (before opening financial proposals). The final identification of the successful bidder could be based on an approach considering technical (quality) criteria and the price in a ratio of 30%:70 %.*



VIII. Summary and Conclusion

- Well prepared, conducted and implemented procurement procedures are the key for successful PSP in solid waste management !
- Competition, attractiveness and transparency are key to success
- Structure the process via the use of a procurement plan and establish a qualified tender committee
- Take the time to prepare complete and reasonable tender documents
- Give the bidders enough time to provide appropriate bids
- Determine the rules for tender evaluation during preparation of tender documents and not during evaluation!
- Use contract negotiations in case of the need for further clarification and to secure a transparent contract award



Tender Evaluation and Contracting 3

Contract Award

- General Rule: The final identification of the successful bidder should be as simple as possible. However, complex contracts require a complex evaluation which still needs to be clear and transparent.
- *In case of a simple contract such as a standardised service contract for waste collection or transfer the contracting authority should award the contract to the bidder who has submitted a valid proposal and whose tender is*
 - *In conformance with the specified requirements (step 1)*
 - *Fulfils the requirements of the technical evaluation (step 2) and thereby clearly demonstrates an understanding of the work and the capability to perform the works or services in an acceptable manner and*
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- *As outlined above, in complex and non-standardised contracts which involve design, build and operation a defined ranking of quality and price aspects should be considered to identify the most appropriate and economic bid. For example it might be appropriate to award a complex contract to a bidder whose technical proposal is outlining a much higher quality of services or works combined with only a slightly higher price.*
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