

PPP PROCUREMENT & CONTRACT MANAGEMENT

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PROCUREMENT MANAGEMENT



1. Introduction

- PPP Procurement vs. conventional tender
- PPP Procurement in the PPP Project Cycle

2. Stages of PPP Procurement

- Stage 1: The EOI
 - Stage 2 : The RFQ
 - Stage 2: The RFP
 - Stage 3: Choose the Preferred Bidder/BAFO
 - Stage 4: Contract Negotiations
 - Stage 5: Close Out Report and Case Study
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- PPP Procurement is different from a conventional tender process:
 - A conventional tender process has a single stage when an offer is made which an institution can accept or not
 - The PPP procurement process is long and complex, involving multiple stages



- Procurement is Phase III of the PPP project cycle
- The PPP procurement documents (including RFP documents and the draft PPP agreement) must reflect the same risk profile as established in the Feasibility Study



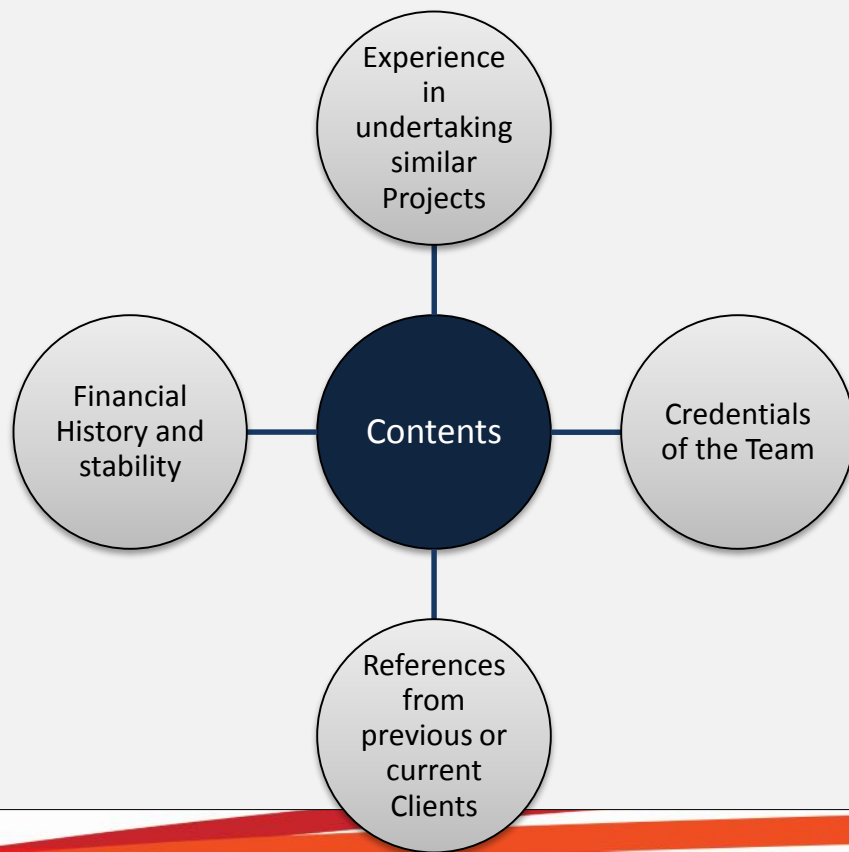
Expression of Interest (Eoi)

Interested bidders express their interest in the project through the Expression of Interest(Eoi)

Features

The Main contents of the Expression of Interest are

- Experience in undertaking similar projects
 - Credentials of the team
 - References from previous or current clients
 - Financial history and stability
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- The Expression of Interest helps the public party to get information about the bidders which helps them in inviting the applications
 - The contractor is not bound to any legal obligations by receiving the expression of interest
 - The Eoi is highly informative to give idea to the contractor about the bidder



Evaluation of EOI

Evaluation

- After receiving the EOI , detailed evaluation is done on the basis of pre-defined evaluation criteria which consist of the competencies and the experience of the bidder in terms of number of projects undertaken in same sector and geography -



- Project sponsor will compile a list of interested bidders which include their contact information and basic background
- Preliminary evaluation of the possible number of bidders who would be interested in the project should have been done at feasibility study stage itself. Hence, the project sponsor should be certain about getting sufficient interest from the bidders at this stage

Request for Qualification

This stage is used to send the solicitation to the interested parties to apply for the project

Purpose

- To provide interested parties with the information useful in the formulation of their application for Qualification
- It is not an agreement and neither an invitation to an offer
- Interested parties are expected to conduct their own Due-Diligence and check the accuracy, reliability and completeness of the information

Contents

Project Background

- Background of the Organization /Project
- Objectives of proposed project
- Project location and details
- Scope and Duration of proposed partnership
- Financial Framework including Capital Investment and Operational Costs

Instruction to Applicants

- Scope, format and validity of Application
- Number of Applicants
- Application preparation and submission costs
- Any pre-requisites for application submission
- Any amendments/clarifications
- Modification/substitution/withdrawal of applications

Eligibility Criteria and Short Listing Process

- Technical Criteria – e.g. No. of years of operation
- Financial Criteria – e.g. Average Turnover, Net worth of the company
- Organization profile and related experience
- Broad perspective plan
- Financial Strength of the company

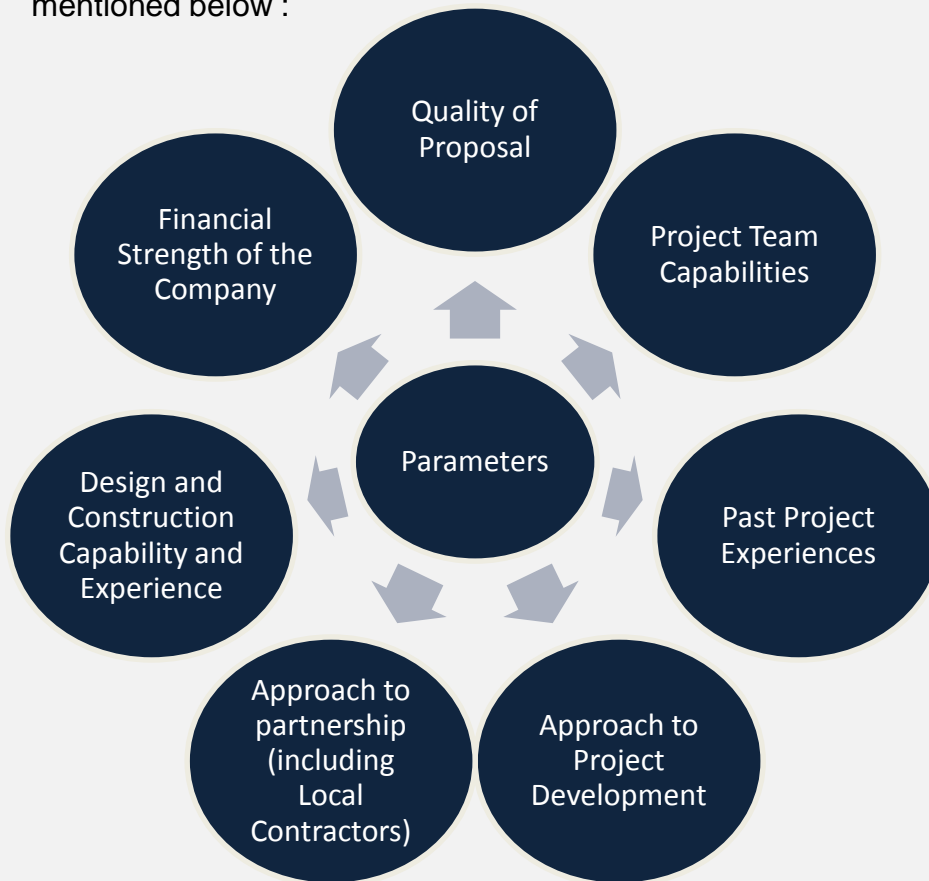
Time Schedule

- Application Due Date
- Results of Short listing
- Date of Issue of RFP
(applicable only for short-listed candidates)

Request for Qualification

Selection Criteria for evaluation of Applications

- Evaluation is done by calculating the overall score of the application on basis of weights given to various parameters as mentioned below :



Shortcomings

- The RFQ document includes various statements which reflect various assumptions and statements arrived by the organization which may not be adequate, accurate or complete
- Thus the applicants need to conduct enquiries and check the accuracy, reliability and completeness of the information for an informed RFQ response
- Ill-informed RFQ response can lead to unsuccessful business contracts and cost overruns in future
- If selection criteria is not defined accurately, detailed evaluations can lead to administrative overheads

Request For Proposal

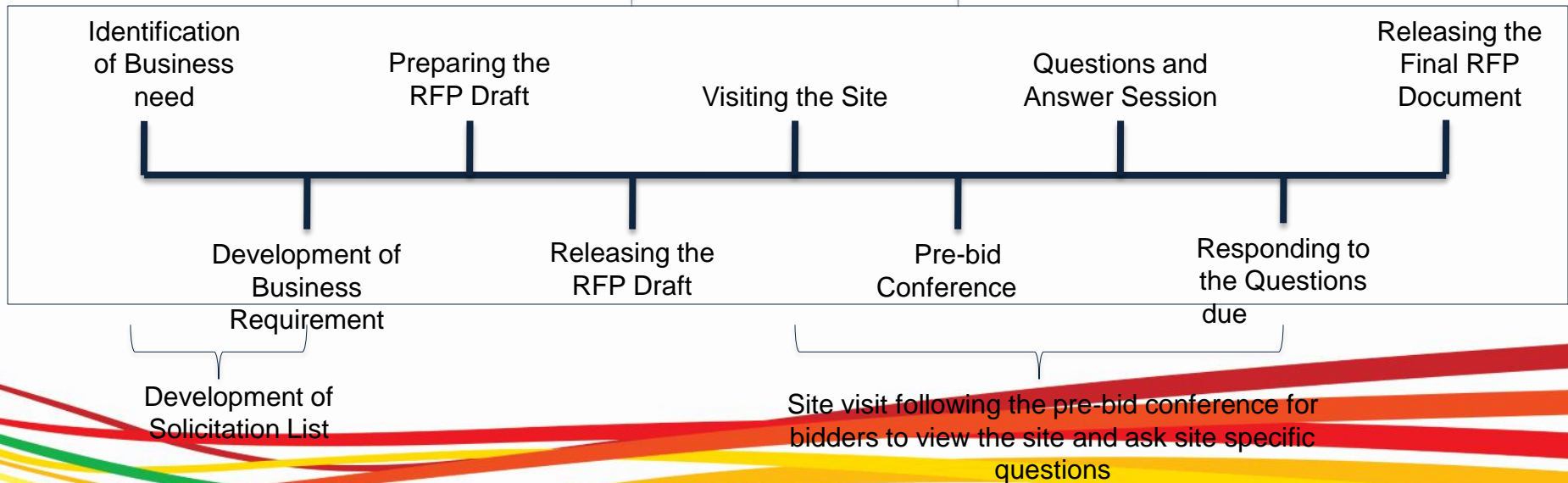
This stage elicits the bids from the potential bidders to submit their final proposals for the project

Features

- Consists of a brief project description, list of requirements for its need, a structure of resulting proposals from the suppliers, contractual information, pricing documentation, instructions and other necessary documents required to secure the project through the competitive bidding process

RFP Time Line

Pre-bid conference is arranged shortly after RFP issue to provide an opportunity to Bidders to review RFP and clarify the requirements

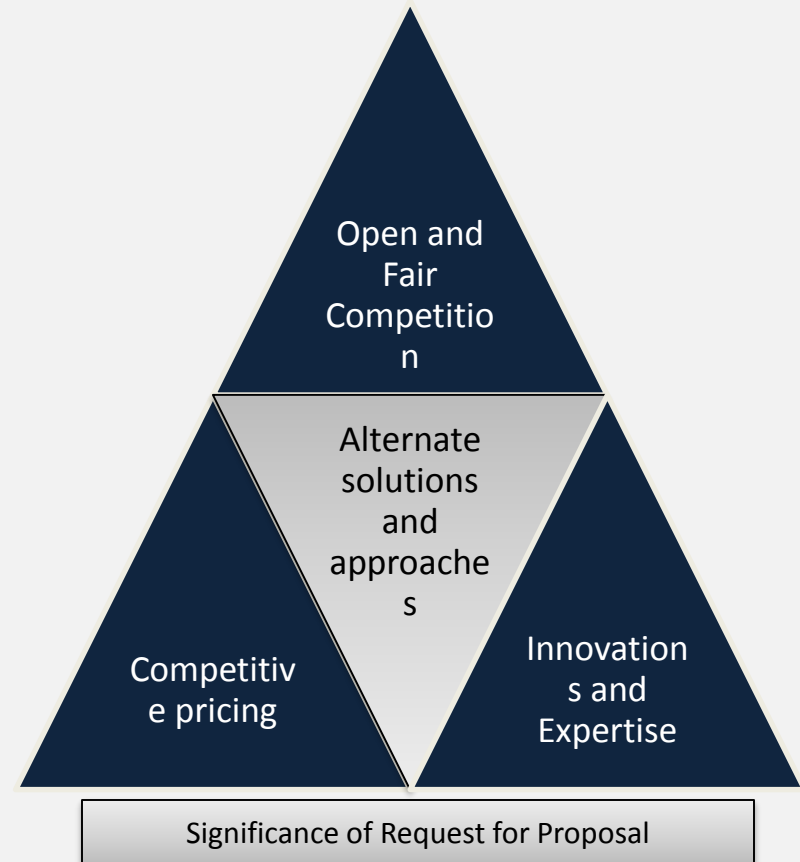


Key Issues in Request for Proposal

Key Issues

- If the requirements are not clearly defined in RFP stage, then it can lead to assumptions in minds of the bidders which will increase the chances of renegotiations and thus would lead to cost overruns
- If the format and content for submitting the proposal is not clearly defined, it would be difficult to make a consistent and fair comparison and evaluation of all the proposals
- Any pre-decided approach for implementation of project can lead to inflexibility in considering any alternative approaches or better solutions of the bidders
- In the formal environment during the pre-bid conference many bidders may withhold concerns or may be unwilling to share good ideas
- Thus a Bid Document Consultation is proposed where all bidders may be invited to comment individually on the draft documents and then a full set of responses

to all the questions raised can be sent to all bidders to avoid any sense of favoritism



Critical Considerations for Managing the Bid Process

- Experienced bid managers
- Anti-corruption
- Prohibited suppliers
- Security environment
- Clarification meetings
- Bidders' notes
- Changes to consortia during bidding
- Bidder due diligence
- Bid validity period



When is BAFO appropriate?

- After the evaluation of bids, there may not be a clear, preferred bidder. This calls for the best and final offer (BAFO) process

Two main reasons to extend the bidding process:

- The bids are identical or too similar to choose a clear preferred bidder
- No single bid meets the institution's defined project objectives



- The close-out report: provides a comprehensively summarised institutional record, with all project documentation, including details of transaction and all confidential negotiated, contracted and financing matters
- The case study is to build a public library of PPP experience



PPP CONTRACT MANAGEMENT




Contract Management

- Effectively designing and tendering a PPP transaction is only the beginning of the long-term process to manage a PPP contract. Monitoring contracts and regulating prices and services are critical to ensuring that the PPP delivers *value for money* throughout the life-cycle of the PPP. PPPs can fail without sufficient attention to contract management.



Contract Management...

- Good contract management ensures that:
 - Services are delivered continuously and payments are made/penalties levied, in accordance with the contract
 - The government's responsibilities and risks managed carefully
 - Changes in the external environment – both risks and opportunities – are spotted and acted upon
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PPP CONTRACT MANAGEMENT- GHANA PPP POLICY

- **Management of PPP Agreements/Concessions**


- A Contracting Authority that is party to a PPP Agreement/Concession is responsible for ensuring that the PPP Agreement/Concession is properly implemented, managed, enforced, monitored and reported on, and must maintain such mechanisms and procedures as approved;
- A PPP Agreement/Concession involving the performance of a Contracting Authority's function does not divest the Contracting Authority concerned of the responsibility for ensuring that such institutional function is effectively and efficiently performed in the public interest or on behalf of the public service.



- **Management of PPP Agreements/Concessions**
 - A PPP Agreement/Concession involving the use of state property by a private party does not divest the Contracting Authority concerned of the responsibility for ensuring that such state property is appropriately protected against forfeiture, theft, loss, wastage and misuse;



- **Amendment & Variation of PPP Agreements/Concessions**

- A prior written approval of MOF-PID is required for any material amendments to a PPP Agreement/Concession, including any material variation to the outputs or any waivers contemplated or provided for in the PPP Agreement/Concession.
 - MOF-PID will approve a material amendment only if it is satisfied that the PPP Agreement/Concession, if so amended, will continue to provide –
 - Value for money;
 - Affordability; and
 - Substantial technical, operational and financial risk transfer to the private party.
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PPP CONTRACT MANAGEMENT- GHANA PPP POLICY

- **Agreements/Concessions Binding on the State**
 - A PPP Agreement/Concession or an agreement amending a PPP Agreement/Concession binds the state only if the Agreement/Concession was entered into on behalf of the Contracting Authority –
 - By the Minister, Chief Executive or Chairman of the Board of that Contracting Authority; and
 - If all approvals required in terms of this Policy Framework have been granted by the relevant approving authorities in respect of the PPP.




Contract management responsibilities

Key aspects of contract management across the implementation stages—design, construction, implementation, and project close, include:

- Establishing contract management institutions and dedicating the right level of resources
- Defining and establishing the responsibilities and communication mechanisms that will enable an effective relationship between the public and private partners to the contract



Contract management responsibilities

- Putting into practice the mechanisms to deal with contract adjustments, dispute resolution, and contract termination, as well as deciding whether, when and how to re-negotiate
 - Monitoring contract compliance and service performance by the private party, and ensure penalties or bonuses are paid appropriate
 - Monitoring and ensuring compliance by government with its responsibilities under the contract
 - Sharing gains during project implementation
 - Managing contract expiry and asset handover
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Challenges to managing PPP contracts

- PPP contracts are often complex and necessarily incomplete. Key factors such as demand and fiscal and political circumstances will not be known, despite extensive due diligence, until the project is underway.
- Institutional oversight arrangements may cause complications. PPP contracts may be overseen by a different team or a different agency, with differing incentives to the agency that originated the project.



THANK YOU

