

BEST PRACTICE: PROCUREMENT OF CONTRACTING AND ENGINEERING SERVICES

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ACCEPTED INTERNATIONAL STANDARDS IN PROCUREMENT AND THE GHANAIAN EXPERIENCE

- ▶ The significant contributions the procurement function makes to organisations and national economies makes it imperative to put in place formal administrative and legal frameworks to ensure that due process is followed in the execution and implementation of procurement policies.
- ▶ The ADB/OECD (2008) estimate that, public procurement accounts for about 20 per cent of government expenditure worldwide.
- ▶ Across Africa, government procurement averages around 10 per cent of GDP and can account for up to 70 percent of public expenditure, as in the case of Tanzania and Uganda (Woolcock, 2008).

ACCEPTED INTERNATIONAL STANDARDS IN PROCUREMENT AND THE GHANAIAN EXPERIENCE

- ▶ In Botswana, public procurement exceeded \$ 1 billion in 2003 (Lionjanga, 2003).
- ▶ In Ghana, about 43.8 per cent of the national budget is spent on public procurement, and a further 90 per cent of all development partners inflows are spent through procurement related activities (World Bank, 2003).
- ▶ Government expenditure on public procurement in South Africa accounts for 13 per cent of GDP or \$ 14 billion in 2003.
- ▶ In developed economies, the procurement functions' contributions to GDP cannot be over-emphasised. In the European Union, public procurement accounts for 16 per cent of GDP (Mathew, 2010.)
- ▶ In Australia about 20 per cent of its GDP is spent on procurement.

PUBLIC PROCUREMENT METHODS

The idea of procurement of services be it;

- ▶ Contracting and
- ▶ Engineering

using established procedures has been an accepted method in many countries.


Owing to its importance in infrastructure development, FIDIC produced in year 2011 the first edition of

FIDIC PROCUREMENT PROCEDURES GUIDE.




FIDIC PROCUREMENT PROCEDURES

GUIDE: FEATURES

- ▶ The Guide covers the procurement of engineering and building works for projects of all sizes and complexities.
 - ▶ It emphasises the importance of preliminary investigation and studies before a construction or other engineering project is undertaken, and the development of a realistic project strategy for its realisation.
 - ▶ The document provides essential guidance on the underlying concepts and philosophy of procurement, and the planning necessary to form a sound basis for the forthcoming project.
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FIDIC PROCUREMENT PROCEDURES

GUIDE: FEATURES

- ▶ The Guide then explains how the project strategy should be developed, as this will govern all subsequent stages of the process.
 - ▶ Detailed guidance is given on each step of the tendering process for every type of engineering project, and advice on the choice of the applicable FIDIC standard contract form.
 - ▶ The Guide covers systematically all stages of procurement, from identification of the need for a project or facility up to the receipt of tenders and award of contracts for its implementation".
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PUBLIC PROCUREMENT

METHODS: OPEN TENDERING

Objective of Open Tendering:

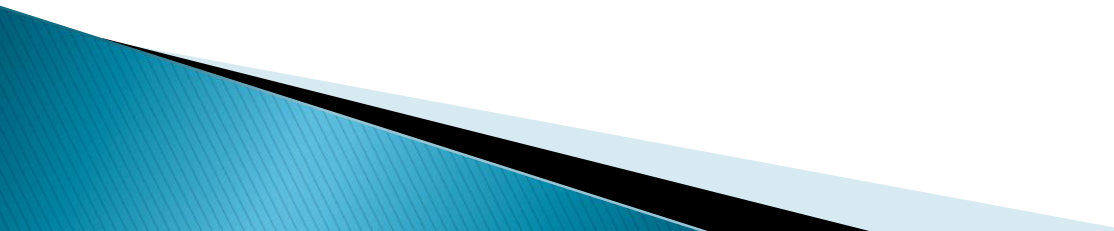
- ▶ To make use of competition for each individual contract in order to maximize economy and efficiency.

In this regard, the preference to open tendering is indeed the recommended choice in procurement.

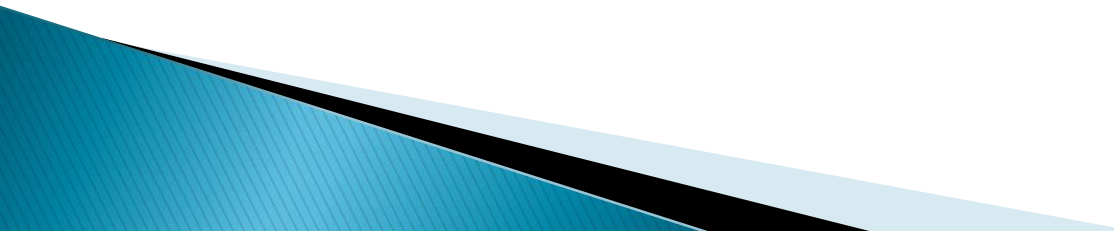
Advantages of Open Tendering:

- ▶ The tendency towards favoritism is highly minimized when there is openness.
- ▶ Open tendering is generally synonymous to 'competitive bidding' which is the usage associated with the World Bank.

SHORTCOMINGS OF OPEN TENDERING

- ▶ Length of time and effort taken for the exercise
 - ▶ Strict adherence to set procedures
 - ▶ Assumption that the procuring entity has the ability to produce a complete set of tender documents, including technical specifications
 - ▶ Restriction of the purchasers discretion and
 - ▶ Uncontrolled number of prospective tenderers
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KEY COMPONENTS IN OPEN TENDERING

- ▶ Advertisement
 - ▶ Objective qualification criteria
 - ▶ Neutral technical specifications and standards and
 - ▶ Clear and objective evaluation criteria
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SELECTIVE TENDERING

- ▶ Selective tendering is more or less open tendering with some amount of restriction.

Main Characteristic:

- ▶ Normally accomplished by using pre-qualification for major, complex contracts.

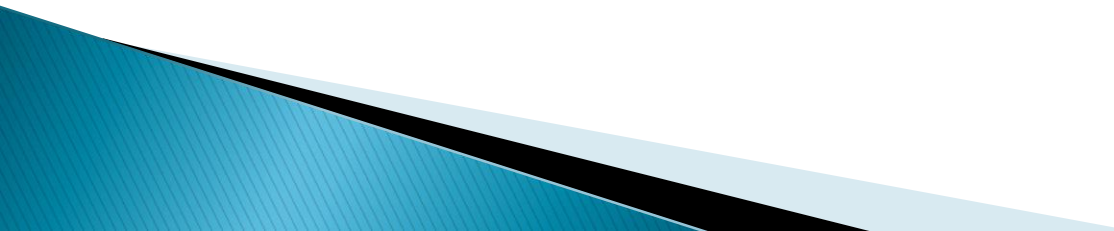
Procedure:

- ▶ The procuring entity would place an advert requesting interested firms to submit documentation on a pre-qualification dossier
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SELECTIVE TENDERING

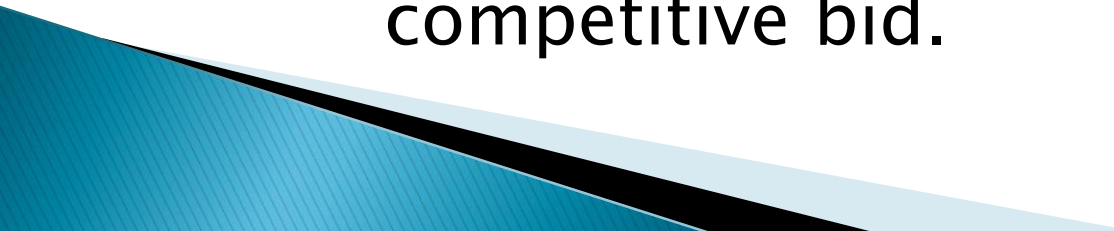
Requirements of Tenderers:

In completing the dossier, the tenderer must show evidence that they possess:


- ▶ Necessary qualifications,
 - ▶ Experience and
 - ▶ Financial capacity to undertake the specified project.
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DIRECT CONTRACTING (SOLE-SOURCING)

This is normally resorted to if;

- ▶ the procuring entity finds itself in a situation where competition is absent or
 - ▶ conditions are such that it would be impractical to try and organize a competitive bid.
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GUIDELINES FOR SOLE-SOURCING

- a) Absence of tenders in response to an advert
 - b) Situations where competition is absent for technical reasons, such as patent or other exclusive rights
 - c) Cases of extreme urgency
 - d) Additional deliveries by the original supplier where addition is small and the original contract was won under competition
 - e) Additional construction works on conditions similar to above and
 - f) Some other unique situation
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DIRECT CONTRACTING (SOLE-SOURCING)

Note:

Direct contracting option should be used as a last resort to:

- Eliminate favoritism.
- Ensure efficiency and
- Ensure value for money projects

SMALL CONTRACTS

- ▶ This procurement procedure is recommended is when contract value is low
- ▶ Also referred to as request for quotations procedure

Preferred because:

Organizing full-fledged tendering or other competitive bidding procedure is;

- ▶ time consuming
- ▶ a costly exercise and
- ▶ normally out of proportion to the cost of the project.

SMALL CONTRACTS

Note:

The threshold amount which should not be exceeded for this method to be used should be set by the procuring entity.

THE PROCUREMENT PROCESS

PREPARATION STAGE

Public procurement: involves the acquisition of goods and services.

Services may be either;

- ❑ **Contracting** or
- ❑ **Engineering** services

Aim of process:

Attract maximum competition
for the purchaser

In undertaking this process the source of financing needs to be identified. The procurement entity has an obligation to follow the procurement regulations of the particular funding agency.

PREPARATION STAGE

Procurement Planning and Budgeting

The procurement entity must:

- ▶ Satisfy the varied interests to translate their needs into suitable packages
- ▶ Minimize situations which would encourage sole-sourcing at the planning stage of procurement process


Notices

- ▶ Procurement notices are published in bulletins such as the UN Development Business.

COMMON FEATURES – TECHNICAL SPECIFICATION

Technical specifications provide adequate description of the object to be procured.

The specification may be:

- ▶ **Design oriented:** Provide a great deal of detail about the object to be procured, such as detail drawings , material specifications, etc.
 - ▶ **Performance oriented:** Focus on the purpose of the object to be procured.
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COMMON FEATURES – TECHNICAL SPECIFICATION

Other features:

Technical specifications must;

- ✓ elicit responsive tenders,
- ✓ be non-restrictive and
- ✓ use internationally recognized standards.

EVALUATING CRITERIA OF TENDERS

- ▶ The exercise in procurement should ensure:
 1. The selected tender conforms to the purchaser's requirements
 2. Purchaser gets value for money
 3. Ranking between tenders that reflects the purchaser's priorities.
 4. Process must be transparent and fair to all tenderers

Note:

Extreme care must be taken to ensure that the evaluation criteria are clearly defined in the tender documents and that all specific data on which the evaluation is based are included.


CRITERIA FOR QUALIFYING TENDERERS

- ▶ Qualification of tenderer to perform the contract if awarded.

The process of ensuring this could be achieved through either a;

- ▶ **Pre-qualification** exercise or
- ▶ **Post-qualification** exercise.

Issues for consideration in a qualification dossier:

- a) General and specific experience
 - b) Personnel capabilities
 - c) Equipment capabilities
 - d) Financial position and
 - e) Litigation history
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ADVANTAGES OF A PRE-QUALIFICATION EXERCISE

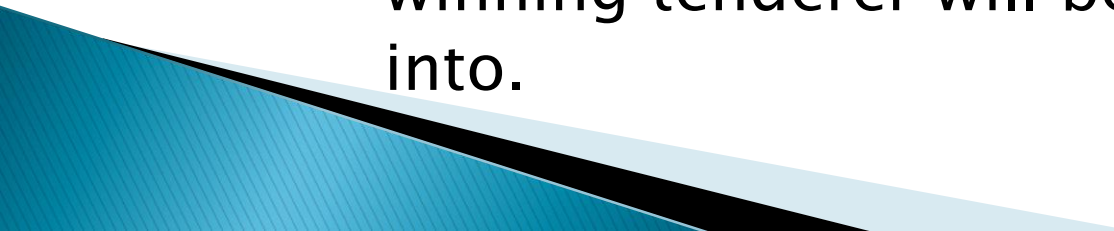
- ▶ The procuring entity could know in advance the number of qualified tenderers.
- ▶ Spares an unqualified tenderer the time and cost of preparing and submitting a tender.

Note:

Since it takes time to organize a pre-qualification exercise, it is advisable to undertake that exercise mostly for large or complex contracts and for specialized services.


TENDERING

Tender documents should be clear and unambiguous and should inform the tenderers about:

- ▶ Rules applicable to the tendering process
 - ▶ Precise requirements for the works, or services to be procured
 - ▶ Criteria to be applied in the evaluation
 - ▶ Terms and conditions of the contract the winning tenderer will be required to enter into.
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RECEIPT AND OPENING OF TENDERS

Instructions to tenderers on the procedures must include the following:

- ▶ Instructions about the place and the latest (deadline) for the tender submission and the proper marking of the tender(envelope)
 - ▶ Registration of tenders as they are submitted in a diary with records of date and time, stamped and safely stored unopened. As much as possible, receipts be issued to tenderers on submission
 - ▶ Tenders to be opened in public with representatives of tenderers being present
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EXAMINATION AND EVALUATION OF TENDERS


Evaluation Stages:

1. Examination to check the correctness and whether the submitted tender is substantially responsive.

This involves checking whether the tender;

- (i) meet any eligibility requirements and have been properly signed;
- (ii) are accompanied by the required securities;
- (iii) have no material errors in the computation;
- (iv) are complete;
- (v) are substantially responsive to the tender documents;
- (vi) are otherwise generally in order. A tender that is not properly signed or not accompanied by the required security must be rejected.

EXAMINATION AND EVALUATION OF TENDERS

- 2. A tender that is not properly signed or not accompanied by the required security must be rejected.
 - 3. Tenders that pass the responsiveness test are evaluated further
 - 4. Post-qualification if a pre-qualification exercise was not done
 - 2. Check whether any condition of the tenderer has changed since the pre-qualification took place.
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CONTRACT AWARD

The tenderer whose tender has been evaluated as the **most favorable** is recommended for the award.

Note:

However, in practice there is sometimes a need to make some minor amendments to the tender before an acceptance can be given.

Amendments

- ✓ Technical nature or
- ✓ Some clarifications during the evaluation of the tenders.

The changes so agreed in the pre-contract negotiation are included in the contract document as the "minutes of negotiations"

PROCUREMENT
ENGINEERING
SERVICES




PROCEDURE FOR SELECTING CONSULTANTS

- ▶ Quality Based Selection (QBS) or
- ▶ Quality and Cost Based Selection (QCBS).

QUALITY BASED SELECTION (QBS)

Main elements involved are:

- ▶ Advertisement for Request for Technical Proposals
 - ▶ Respondents submit Technical Proposals indicating their qualifications
 - ▶ Selection Committee
 - ▶ Evaluation Process with or without interviews
 - ▶ Evaluation Criteria and relative weight (Proposals and Interviews)
 - ▶ Negotiate fees with highest ranked firm
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QUALITY BASED SELECTION (QBS)


Requirements:

- ▶ Technical proposal – constitutes the primary selection criterion
- ▶ Financial proposal – the financial terms are of secondary importance

Preparation of an attractive technical proposal costs a lot of time and energy,


Consultants may not wish to spend a lot of time and effort unless they see a chance of winning.

It is advocated that a system of “**short-listing**” of eligible consultants is instituted.

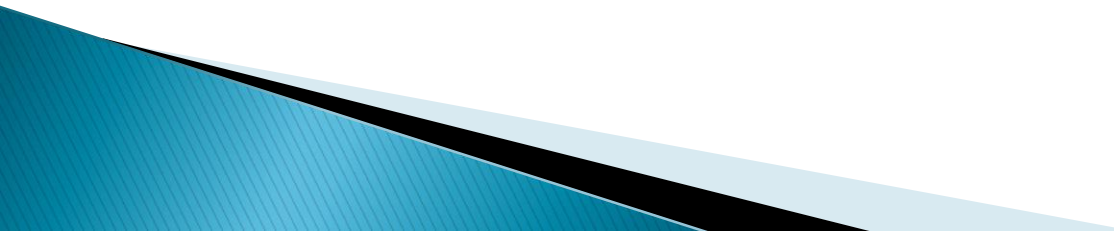


QUALITY BASED SELECTION (QBS)

Benefits of “short-listing”:

- ▶ “Short-listing” enables the procuring entity to address invitation to a **limited number of selected firms**, usually not less than three not more than six.
 - ▶ Technical proposals are evaluated before any price proposal is opened.
 - ▶ The technical evaluation is carried out in an atmosphere where financial considerations do not influence the evaluator.
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QUALITY BASED SELECTION (QBS)

- ▶ The final selection usually is made on the basis of a mix of criteria, always retaining the idea that technical merit should carry most weight.
 - ▶ Negotiation of the final terms of the contract, including the financial terms, is generally held to be acceptable.
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PROCURING
CONTRACTING AND
ENGINEERING SERVICES
IN GHANA



PROCUREMENT LAWS

Act 663, Public Procurement Act, 2003

- ▶ Procurement of both contracting and engineering services

The law sets out the different components as:

- ▶ Establishment of the Board
- ▶ Procurement Structures
- ▶ Procurement Rules
- ▶ Methods of Procurement
- ▶ Tendering Procedures
- ▶ Methods and Procedures
- ▶ Methods and Procedures to engage the services of Consultants

CLASSIFICATION OF CONTRACTORS

Classification of Contractors is done by the **Contractors Classification Committee.**

Aim of Classification:

1. For the proper grading of contractors into categories and financial classes.

Note:

The inclusion of a contractor's name in the Register is **not compulsory**, but it should be noted that **only** contractors who are thus classified would be legible to undertake Roads, Building and Civil contracts awarded by the Government of Ghana.

CLASSIFICATION OF CONTRACTORS

Classification into the appropriate Categories and classes will be required before a contractor can bid for Government of Ghana Projects.

WORK CLASS	THRESHOLD	
BUILDING AND CIVIL		ELECTRICAL
D1 /K1	>500,000 USD	E1
D2 /K2	200,000 – 500,000 USD	E2
D3 /K3	75,000 – 200,000 USD	E3

MINISTRY OF ROADS & HIGHWAYS CLASSIFICATION FOR ROADS & BRIDGEWORKS

	CATEGORY A	CATEGORY B	CATEGORY C	CATEGORY S
CLASS	ROAD , AIRPORT & RELATED STRUCTURES	BRIDGES, CULVERTS & OTHER STRUCTURES	LABOUR BASED ROAD WORKS	STEEL BRIDGES AND STRUCTURES: CONSTRUCTION, REHABILITATION AND MAINTENANCE
4	Spot Improvement and reshaping, 80km and regravelling, 20km a. Tender figure up to cedi equivalent of US\$500,000 b. Total value of work on hand up to cedi equivalent of US\$800,000	Pipe culverts up to 1.2m diameters and non-reinforced concrete structures, drains 0.5km a. Tender figure up to cedi equivalent of US\$200,000 b. Total value of work on hand up to cedi equivalent of US\$300,000	ROAD CONSTRUCTION MAINTENANCE AND SPOT IMPROVEMENT USING LABOUR BASED METHODS AS TRAINED BY THE DEPARTMENT OF FEEDER ROADS	This class is not applicable
3	Works in class 4 plus resealing up to 20km and resurfacing up to 10km a. Tender figure up to cedi equivalent of US\$1,300,000 b. Total value of work on hand up to cedi equivalent of US\$2,000,000	Works in Class 4 plus single box culverts and other minor reinforced concrete structure including short retaining walls a. Tender figure up to cedi equivalent of US\$500,000 b. Total value of work on hand up to cedi equivalent of US\$800,000		Sand blasting, cleaning, jacking, changing of members and parts, tightening of bolts and nuts, other repairs including painting a. Tender figure up to cedi equivalent of US\$500,000 b. Total value of work on hand up to cedi equivalent of US\$800,000
2	Works in class 3 plus improvement, rehabilitation and minor construction works a. Tender figure up to cedi equivalent of US\$2,500,000 b. Total value of work on hand up to cedi equivalent of US\$4,000,000	Works in Class 4 plus single box culverts and other minor reinforced concrete structure including short retaining walls a. Tender figure up to cedi equivalent of US\$1,000,000 b. Total value of work on hand up to cedi equivalent of US\$1,500,000		Works in class 3 plus minor construction a. Tender figure up to cedi equivalent of US\$1,000,000 b. Total value of work on hand up to cedi equivalent of US\$1,500,000
1	Works in class 2 plus major construction of roads and airports No limit on tender	Works in class 2 plus major bridges and other major structures No limit on tender		Works in class 2 plus major steel construction No limit on tender


CLASSIFICATION OF CONSULTANTS

- ▶ Currently no official classification in place.
- ▶ Engineering Council of Ghana proposing to undertake classification of consultants.
- ▶ Proposal is to have three (3) classes of namely;
 - ✓ small size,
 - ✓ medium size and
 - ✓ large size.


Classification will be based on the firms personnel numbers and their turnovers

PROCUREMENT OF CONSULTANTS


Procedure:

- 1) Government Agencies request for “an expression of interest”
 - 2) Compilation of a long-list would be undertaken out of the submissions received.
 - 3) The list is pruned down into a short-list of three to six consultants for the tendering
 - 4) Two-stage tendering procedure (QCBS) is organized to select a winning consultant
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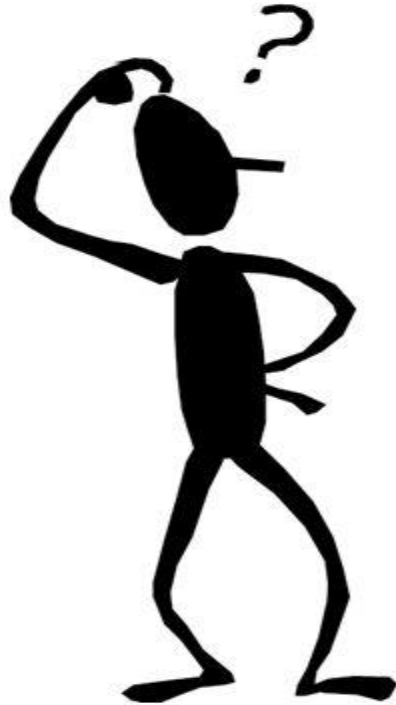
CONCLUSION

- ▶ Various international standards in procurement available including the Ghanaian procedures
 - ▶ If procuring agencies would stick to the procedures for procurement discussed in this paper, there would be less favoritism and more openness in procurement.
 - ▶ The results would be successful and efficient project implementation which ensures value for money for the purchasers.
 - ▶ It is therefore necessary to invest in sustainable reforms in order to continuously improve upon procurement processes, procedures, and practices (Scott, 2008).
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Questions / Comments





THANK YOU
FOR YOUR
ATTENTION