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# Training Workshop on Procurement

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**USAID-Funded Economic Governance II Project**

# Authors



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# Day 1: What is Procurement

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# Contents

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- Objectives for the Workshop
- What is Procurement?
- Setting Your Objectives
- Fairness and Transparency
- Procurement Options
- The Tender Process (Part 1)
- Hot Topics

# Objectives for the Workshop

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## This Workshop will:

- Describe the main methods of procurement
- Describe how you would carry out a competitive tender
- Discuss how to deal with some of the typical problems that arise

**The FIDIC Tendering Procedure is used as an example of a competitive tender process**

# What is Procurement



**“Procurement: the act of getting or obtaining something”**

(Black’s Law Dictionary)

For the purposes of this Workshop it means the purchase of:

- Goods or equipment
- Services
- Construction

By a public sector organisation

**The competitive tender process can also be used to attract private investment – for example in tenders for Independent Power Producers or privatisations of State-owned assets**

# Setting Your Objectives



It is important to set your objectives at the beginning

What kind of objectives would you suggest?



# Setting Your Objectives



## Price is not the only option

- Quality
- Timing
- After sales service

You may also have project-specific objectives:

- Improve revenue collections by 50%
- Adopt hand-held meter reading technology
- Install baseload or peak generating capacity
- Paint the Ministry building pink

# Setting Your Objectives



**Objectives must be prioritised to avoid conflicts**

Potential conflicts...

Price  
vs  
Quality

Price  
vs  
Delivery time

Delivery time  
vs  
Quality

Price  
vs  
Warranty period

**You should adopt a limited number (normally 2-3) objectives**

# Fairness and Transparency



**A transparent, competitive tender is essential to get the best results**

- Pressure from other bidders encourages competitive offers
- Purchaser sets the rules of the game
- Strengthens Iraq's international reputation
- Less likely to be questioned later

**...And to rebuild confidence in Iraq**

**But sometimes achieving this is harder than it looks**

# Fairness and Transparency



## How do you achieve it?

**Fairness**

- Open tender – any qualified bidder can participate
- Treat all bidders the same:
  - Same information...
  - ...at the same time
  - Same opportunities for site visits and meetings
  - Same criteria to evaluate all bids
- Actively discourage corruption

**There must be a “level playing field” – any qualified bidder can win**

# Fairness and Transparency



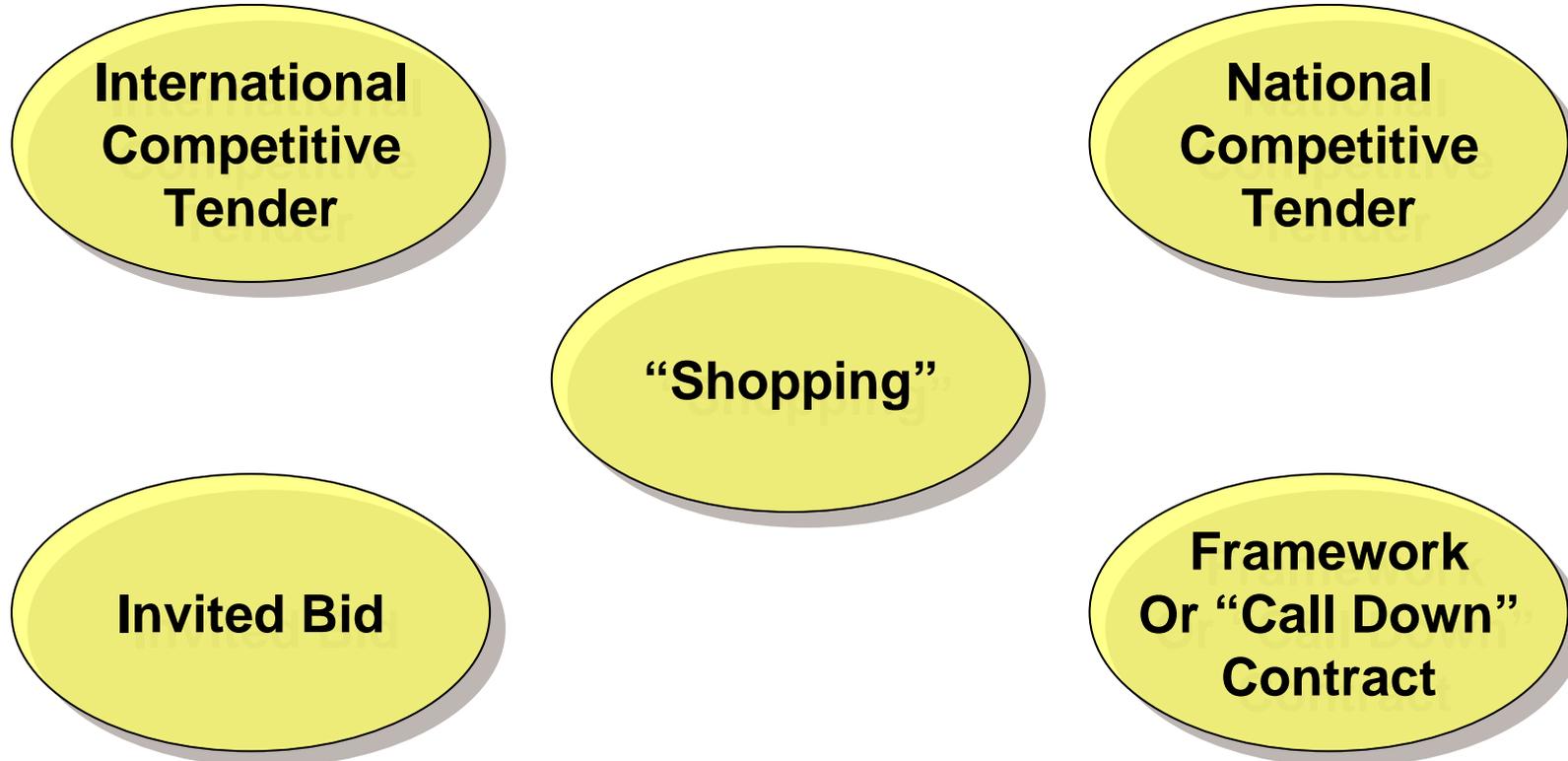
## Transparency

- Clear tender process, well communicated
- Same information...
- ...at the same time
- Answers to one bidder's questions are copied to all
- Advertise the tender widely
- Clear, objective evaluation criteria, communicated to bidders
- Allow bidders to comment on the Tender Rules
- Bidders/public can attend the bid opening
- Press release/public relations to publicise tenders
- Provide as much information as possible
- Keep bidders informed throughout the tender, explain any delays
- Stick to the Tender Rules
- Avoid changing your mind or reversing decisions
- Consult other bidders if making changes to accommodate one

# Procurement Options



There are various options available



The one you choose depends on the specific situation

# Procurement Options

International  
Competitive  
Tender



<b>What</b>	A formal tender process, advertised internationally, open to any bidder regardless of whether they have local offices
<b>When</b>	For large, complex projects, or where the equipment or service is not available locally, or where there is not much local competition
<b>Advantages</b>	<ul style="list-style-type: none"><li>✓ More competition</li><li>✓ Wider choice of suppliers</li><li>✓ Access to goods, services or technology that are not available locally</li><li>✓ More transparent</li><li>✓ Improves Iraq's international reputation</li></ul>
<b>Dis-advantages</b>	<ul style="list-style-type: none"><li>✗ Takes longer to complete</li><li>✗ Higher administration cost</li><li>✗ More complex tender</li><li>✗ Normally you would have to run the tender in English</li><li>✗ High profile: damage to Iraq's/the Ministry's reputation if you get it wrong</li></ul>

**This is the preferred option for most medium to large projects**

# Procurement Options



<b>What</b>	A formal tender process, limited to locally-based suppliers
<b>When</b>	If the good or service is only available locally, if it is cheaper locally, if the contract size is small or the advantages of an international tender are outweighed by its disadvantages
<b>Advantages</b>	<ul style="list-style-type: none"> <li>✓ Can be quicker, with less administrative burden, than international</li> <li>✓ Can hold the tender in Arabic</li> <li>✓ Can get a better price for some goods and services</li> <li>✓ Can be used to promote local businesses</li> <li>✓ International firms can still bid if they have a local office</li> </ul>
<b>Dis-advantages</b>	<ul style="list-style-type: none"> <li>✗ Artificially reduces competition - may get a worse deal as a result</li> <li>✗ Time and cost savings may not be great – still need to run a competitive tender</li> <li>✗ Potential lack of transparency (perception/reputation)</li> </ul>

# Procurement Options

## Shopping



<b>What</b>	Informal process, written quotations should be obtained from at least 3 suppliers
<b>When</b>	For readily available, off the shelf goods, standard commodities, small value or simple works
<b>Advantages</b>	<ul style="list-style-type: none"><li>✓ Quick to implement</li><li>✓ Low administrative burden</li><li>✓ Low cost to the Ministry and bidders</li></ul>
<b>Dis-advantages</b>	<ul style="list-style-type: none"><li>✗ Does not work for large or complex or non-standard items</li><li>✗ Does not work for most types of services</li><li>✗ Potential perception of lack of transparency</li></ul>

# Procurement Options



<b>What</b>	Invite one or (preferably) a number of companies directly to submit a bid, without advertising or prequalification
<b>When</b>	If there are few companies that supply the product or service, all the suppliers are known to you or if the project is urgent and there is no time to run a full tender
<b>Advantages</b>	<ul style="list-style-type: none"> <li>✓ Quicker than a full tender</li> <li>✓ Low administrative burden</li> <li>✓ Low cost to the Ministry and bidders</li> </ul>
<b>Dis-advantages</b>	<ul style="list-style-type: none"> <li>✗ Less competition means a worse deal</li> <li>✗ Risk of missing out qualified suppliers</li> <li>✗ Risk of including suppliers that are not qualified</li> <li>✗ Lack of transparency – suppliers that are left off the list may protest</li> <li>✗ Risk to Iraq’s reputation</li> </ul>

**Unless time is important it is best to avoid this option**

# Procurement Options

Framework  
Or “Call Down”  
Contract



<b>What</b>	Competitive tender is used to select one or more preferred suppliers and agree standard prices, “call down” the goods or services when needed
<b>When</b>	Best for standard items (eg stationery) or services (such as consultancy) where the level of demand is variable and spread throughout the year. The UK Electricity Regulator uses call down contracts for consultancy studies
<b>Advantages</b>	<ul style="list-style-type: none"> <li>✓ Competition takes place at the start of the period, no further delay</li> <li>✓ Still uses a competitive tender to put pressure on prices</li> <li>✓ Flexible – you can call down the service or product when you need it</li> </ul>
<b>Dis-advantages</b>	<ul style="list-style-type: none"> <li>✗ Limited range of uses – not good for big or complex projects</li> <li>✗ Need to know at the start of the period what your likely demand will be</li> </ul>

# Procurement Options



Choice of option depends on the specific situation and your objectives

	Complexity of project	Cost	Timing	Available locally?	Construction	Equipment	Services
<b>International Competitive Tender</b>	High	High	Long	Not necessary	✓ ✓	✓ ✓ ✓	✓ ✓
<b>National Competitive Tender</b>	Medium-high	Medium-high	Long	Yes	✓ ✓ ✓	✓	✓ ✓
<b>Shopping</b>	Low-medium	Low-medium	Short	Yes	✗ ✗ ✗	✓ ✓ ✓	✗ ✗ ✗
<b>Direct Contract</b>	Any	Medium	Medium	Not necessary	✓	✓	✓
<b>Framework Contract</b>	Low	Low	Short	Yes	✗ ✗ ✗	✓	✓ ✓

# Procurement Options



## Points to remember

The more competition you have, the better the deal you will get

BUT

It costs bidders to participate in a tender – the lower the chance of winning the less attractive it is

**Using a prequalification stage to eliminate unqualified bidders benefits both sides**

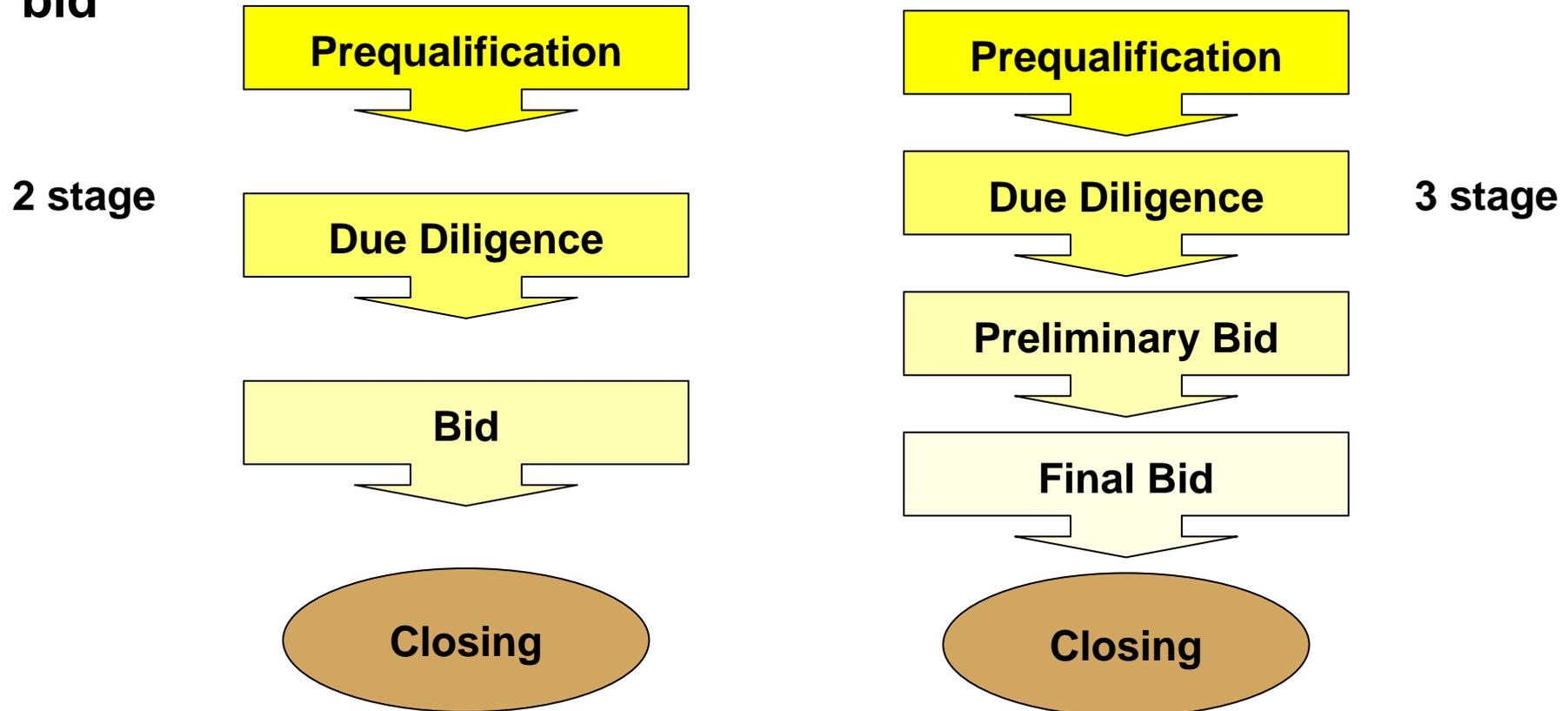
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# Exercise 1

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# Tender Options

A standard competitive tender involves 2 phases: prequalification & bid

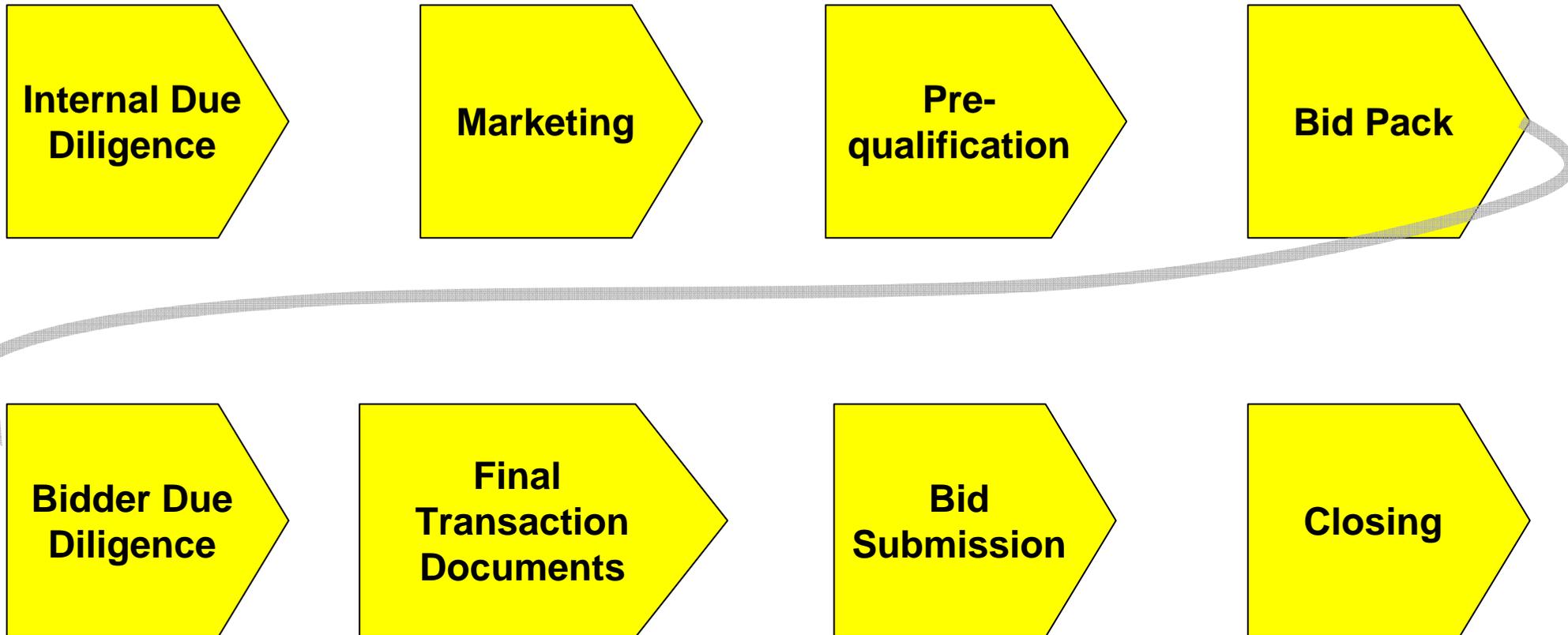


3 stages can be used for large construction tenders or where there are many bidders

# The Tender Process



The main stages of the tender



# The Tender Process



FIDIC Section	Tasks	Contractor Tasks
1.0 Establish Project Strategy	Agree: <ul style="list-style-type: none"> <li>➤ Procurement method</li> <li>➤ Timetable</li> </ul>	

At this stage the objectives for the project must be set out

Internal due diligence will need to be carried out

Administrative arrangements must be established:

- Hiring advisers
- Steering Committee and/or Working Group
- Who implements the Tender and who do they report to

**Timetable is indicative at this stage – delays are common for larger tenders, timing for negotiations is unpredictable**

# Hot Topics: **Using Advisers**



**For large projects it is best to appoint experienced advisers:**

- Have contacts with potential bidders
- Know how to run a transparent, competitive tender
- Will have templates for key contracts and documents
- Someone to blame if things go wrong

The Ministry may need a Financial/Transaction Adviser and an international legal adviser. They may also bring in: local legal adviser, accountants, technical experts, quantity surveyors

- Advisers appointed by competitive tender
- Will be paid a fixed “retainer fee” and sometimes a variable “success fee” that depends on completing the tender

# The Tender Process



FIDIC Section	Tasks	Contractor Tasks
2.1 Prepare Prequalification Documents	Prepare: <ul style="list-style-type: none"> <li>➤ Letter of Invitation</li> <li>➤ Information about prequalification process</li> <li>➤ Project information</li> <li>➤ Prequalification application</li> </ul>	

These documents can be combined in a single “Request for Proposals” or “Invitation to Qualify”

FIDIC uses standard forms for the prequalification submission – easier to review and compare submissions

**You should not charge a fee for the RFP – the aim is to get as many bidders as possible**

# Hot Topics: **Internal Due Diligence**



- Legal review – laws, regulations, court cases
  - Financial review – accounts, systems, valuation
  - Technical review – technology, operations, permits, infrastructure, site
- 
- Information collected here will be used in the Tender Documents
  - Helps to set the scope of the tender – what do you need the winning bidder to provide?
  - Identify problems and fix them, or adjust the tender
  - Collect information to give to Bidders

# The Tender Process



FIDIC Section	Tasks	Contractor Tasks
2.2 Invitation to Qualify (“Request for Proposals”)	Advertise: <ul style="list-style-type: none"> <li>➤ Employer (eg Ministry)</li> <li>➤ Outline of the project (scope, location, timing, funding)</li> <li>➤ Dates for issue of tender documents, bid submissions</li> <li>➤ Instructions for prequalifying</li> <li>➤ Qualification requirements</li> <li>➤ Prequalification submission date</li> </ul>	

**The aim is to generate as much interest as possible from potential bidders**

**To inform potential bidders of the opportunity and persuade them to take part in the tender**

- Advertise in specialist/trade press
- Advertise in local newspapers
- Advertise in the international press (The Economist, Financial Times, International Herald Tribune)
- Ministry and Government websites (download the RFP)
- Specialist websites
- Issue a press release

- TV and radio interviews with Ministers
- “Roadshows” – presentations in countries where the likely bidders are based
- Personal contacts or direct contacts with potential bidders
- Iraqi Embassies in other countries
- Foreign Embassies in Iraq

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# Exercise 2: Group Discussion

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## Exercise 2:



**You are running a tender for the construction of 10 low voltage electricity substations:**

1. What information would you include in the advertisement?
2. Where would you advertise?

# The Tender Process



FIDIC Section	Tasks	Contractor Tasks
2.3 Issue and submission of prequalification documents	Issue the RFP. Bidders submit: <ul style="list-style-type: none"> <li>➤ Organisation and structure</li> <li>➤ Experience in the project work and in the region</li> <li>➤ Resources available* (technical, managerial, labour, plant)</li> <li>➤ Financial statements</li> <li>➤ Current contract commitments*</li> <li>➤ Litigation history*</li> </ul> Acknowledge receipt	Request RFP  Complete and submit the prequalification documents

**At this stage the objective is to see whether the contractors are capable of doing the work – do not ask for their approach, specifications or prices**

\* These are more relevant to construction or engineering projects

# Hot Topics: Request for Proposals



**This is a marketing document – make the tender look like an attractive opportunity to potential bidders**

## **Contents include:**

- Background to the tender – why are you doing it?
- Objectives – what do you expect to achieve
- Invitation – explicit request for Expressions of Interest
- Scope – describe what you are buying (construction, equipment, services, etc)
- The tender – describe the process, indication of timing
- Qualification criteria
- Qualification process – number of copies, language of submissions, deadline date and time for submissions, address to send them to

**If you are using a standard form for submissions this should be included**

# Hot Topics: **Qualification Criteria**



- Want to qualify as many bidders as possible to increase competition
- Want to keep out unqualified bidders and time wasters
- No more than 5 criteria
- Focus on the Bidder's experience of similar projects and its financial strength
- Submissions should be easy for Bidders to prepare – do not ask for their proposed approach or business plan at this stage

**Participating in the tender costs money – if you make it too expensive early on bidders will drop out**

# The Tender Process



FIDIC Section	Tasks	Contractor Tasks
2.4 Analysis of prequalification submissions	Review submissions against the qualification criteria: <ul style="list-style-type: none"> <li>➤ Company/consortium structure</li> <li>➤ Experience</li> <li>➤ Resources</li> <li>➤ Financial capability</li> <li>➤ General suitability</li> </ul>	

The aim is to qualify as many bidders as possible to maximise competitive pressure but also to eliminate time-wasters

Do not rely entirely on their submissions – you may need to carry out independent checks to verify the qualifications of potential bidders

# The Tender Process



FIDIC Section	Tasks	Contractor Tasks
2.5 Select bidders	Prepare a shortlist of bidders	

Depending on the type of project a shortlist of 3 - 7 companies is enough to ensure competition

More than this risks putting off potential bidders

# The Tender Process



FIDIC Section	Tasks	Contractor Tasks
2.6 Notify bidders	Notify the shortlisted bidders  Notify the companies that failed to get on the list	Acknowledge receipt of the notification and confirm that they intend to bid

It is good practice to notify the losers as well as the shortlisted companies  
BUT be prepared for protests from the companies that did not make it  
Do not change your mind in response to protests



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# **Day 2: Running a Competitive Tender**

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# Contents

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- Tender Process (Part 2)
- Hot Topics
- Summary of Key Documents
- Common Practical Problems
- Timetable
- Public Relations
- After the Tender

# The Tender Process



FIDIC Section	Tasks	Contractor Tasks
<p>3.1 Prepare Tender Documents (or “Bid Pack”)</p>	<p>Company/consortium structure</p> <ul style="list-style-type: none"> <li>➤ Letter of invitation to tender</li> <li>➤ Instructions to bidders (“Tender Rules)</li> <li>➤ Conditions of contract (or draft contracts)</li> <li>➤ Form of tender and appendices</li> <li>➤ Drawings*</li> <li>➤ Bills of quantities*</li> <li>➤ Additional information (“Information Memorandum)</li> <li>➤ Information data (“Data Room”)</li> </ul>	

**You should aim to provide all the information that will be needed for the contractor to prepare their bid**

\*These are more relevant to construction or complex equipment projects

## Some tenders charge bidders an entry fee – to:

- Recover the administrative costs of running the tender
- Dissuade time-wasters and unqualified bidders from participating

### But:

- If the fee is set too high or disproportionate to the tender it will put off potential bidders
- The prequalification stage and Bid Bonds can be used to filter out time-wasters without putting off genuine bidders
- One option is to charge for the Tender Documents

For most projects the disadvantages of bid fees outweigh the advantages. Only use them for:

- Large, complex tenders that will be expensive to run
- Large projects that are expected to generate a lot of demand from bidders

**You should not aim to make a profit from charging bidders to participate**

# The Tender Process



FIDIC Section	Tasks	Contractor Tasks
3.2 Issue Tender Documents (or “Bid Pack”)	Issue Documents to qualified bidders	Acknowledge receipt

If the information in the Bid Pack is sensitive bidders should sign a Confidentiality Agreement before receiving it

Bidders must accept the Tender Rules (either implicitly or explicitly) before being given the information or being allowed to proceed with the tender

# Hot Topics: Confidentiality Agreement



**Must be signed before bidders can receive any commercially confidential information**

## **Contents include:**

- Definition of “confidential” information
- Obligation on the bidder not to disclose the information to anyone else (apart from their advisers) unless it has already been made public
- Term of the agreement – normally extends 2-5 years after completion of the tender

**Some bidders will insist on negotiating the Agreement – since all bidders must sign the same document any changes should be kept to a minimum**

# Hot Topics: **Information Memorandum**



## **A more detailed version of the RFP – it is still a marketing document**

Contents depend on the specific transaction

For a construction project these might include:

- Executive Summary – include the key selling points of the transaction
- Country Background – information on Iraq
- Sector Background – information on the relevant sector (eg electricity)
- Chapters describing specific features of the tender – for example a sale of a company would include: asset description, operations, financial review, legal review, labour force, IT and systems
- Summary of relevant legislation (if necessary)
- Tender Process – summary of relevant parts of the Tender Rules, including timetable

# Hot Topics: **Information Memorandum**



**The Information Memorandum must include a Disclaimer to protect the issuer from future legal action – For example:**

Whilst the [issuer] has taken all reasonable steps to ensure the accuracy of the contents of this document, no reliance whatsoever should be placed upon it by any person (including third parties). The [issuer] accepts no liability for damage suffered or purported, claims arising out of, or any reliance placed on any part or parts of this document. Prospective investors should conduct their own due diligence investigations in relation to the subject matter of this document prior to taking any action on the basis of any information contained herein. The [issuer] expressly disavows any obligation or duty (whether in contract, tort or otherwise) to any Bidder. No Bidder is entitled to rely on the [issuer's] involvement in the preparation of this Information Memorandum or in the solicitation process as a basis for bidding on or developing the project.

In submitting a proposal in response to the RFP, each Bidder: certifies that it understands, accepts and agrees to the disclaimers on this page; and agrees that nothing contained in any other provision of the RFP or any statements made orally or in writing by any person or party will have the effect of negating or superseding any of the disclaimers set forth on this page.

# Hot Topics: **Instructions to Bidders**



Or “Tender Rules” - one of the most important documents in the tender – describes how it will be run and includes protections for the issuer (Ministry)

- Description of the tender process and timetable
- Consortium arrangements
- Anti-corruption and ant-collusion provisions
- Bidder pays its own costs
- Structure and content of the bid
- Bidder conference, site visits
- Bid submission and opening
- Bid evaluation criteria and weights
- Right to cancel the tender
- Templates for standard documents

**Must include all additional information that may be relevant to bidders**

- No longer a physical room with a photocopier
- Data is usually provided either:
  - On CD ROM or
  - On a secure website

**It is important to include as much information as possible to reduce the risk of subsequent legal action or warranty claims by bidders claiming that they were not told something important**

# The Tender Process



FIDIC Section	Tasks	Contractor Tasks
3.3 Site visits	Arrange date and time for visits	Apply for site visit
	Site visits: employer must accompany the bidder	

For some types of tender (eg consultancy services or privatisations) you can also have:

- Individual visits, including presentations from relevant people, meetings and an opportunity to ask questions
- A Bidder Conference, where all bidders attend together

Bidders often feel more comfortable with individual visits

Transcripts of all questions and answers should be provided to all bidders

# The Tender Process



FIDIC Section	Tasks	Contractor Tasks
3.4 Bidder queries	Issue Documents to qualified bidders	
a) Correspondence method	Prepare replies to bidder questions	Submit questions in writing by a fixed date
b) Bidder Conference	Reply to questions raised at the Conference Send Minutes to all bidders	Confirm attendance Acknowledge receipt

Both options can be used – bidders may have further questions after the Conference

It is to your advantage to provide as much information as possible

# The Tender Process



FIDIC Section	Tasks	Contractor Tasks
3.5 Addenda to Tender Documents	Issue any addenda and replies to questions to all bidders	Acknowledge receipt

When changing the Tender Rules it can be more flexible to refer to “clarifications” rather than “addenda”

You can also take comments on draft contracts and issue further drafts – this can help to reduce time spent in negotiations

# The Tender Process



FIDIC Section	Tasks	Contractor Tasks
3.6 Submission and receipt of Tenders	Record date and time of receipt  Acknowledge receipt  Return unopened any bids received late	Submit tender

Avoid the temptation to accept bids that are delivered late or to the wrong address, even if it was not the bidder’s fault (eg late delivery by a courier)

Bidders can hand deliver their bids

# Hot Topics: **Bid Bonds & Guarantees**



Large projects often demand a Bid Bond or Guarantee from bidders

The aim is to make the tender less attractive for time wasters and to give the preferred Bidder an incentive to agree and sign the contracts

The Bond (usually a bank guarantee) will pay a fixed sum to the employer (eg the Ministry) if the Bidder fails to meet certain commitments:

- Bid complies with the Tender Rules
- Commitment to negotiate in good faith if selected as the preferred bidder
- Commitment to keep to the terms of their proposal
- No bribery, corruption or collusion

The winning Bidder may be required to replace the Bid Bond with a Performance Bond, which pays out if they fail to start the project

The FIDIC Tendering Procedure document includes a template for a Bid Bond

# The Tender Process



FIDIC Section	Tasks	Contractor Tasks
4.1 Open tenders	Public or restricted opening: <ul style="list-style-type: none"> <li>➤ Announce and record names of bidders and prices</li> <li>➤ Announce and record disqualified bidders</li> </ul>	Attend bid opening

For most tenders a restricted opening (bidders only) is adequate

A press release can be used to inform the public of the number and (possibly) names of bidders

## Bidders will often form a Consortium

Allows them to provide a full range of services

Access to funding

They may use it to reduce competition

You need to know:

- Who is in charge?
- Who are the members?
- Who has authority to sign?
- What are the arrangements between members?
- Will the Consortium collapse after winning the Bid?

Will you accept changes to Consortia before bids are submitted?

**For larger contracts a Consortium must form a legal entity**

# The Tender Process



FIDIC Section	Tasks	Contractor Tasks
5.1 Review tenders (“compliance”)	Check that bids meet the requirements of the Tender Rules  Reject bids that do not comply	

Reject – bids that do not include all the necessary documents or the Bid Bond, or are not correctly sealed or labelled

# The Tender Process



FIDIC Section	Tasks	Contractor Tasks
5.2 Tenders containing deviations (“alternative proposals”)	Evaluate deviations  Seek clarification  Rank tenders	Provide clarifications as requested

More appropriate for construction projects – bidders may find a better way to achieve your objectives

The Tender Rules may explicitly allow “Alternative Proposals” – bidders must still submit a compliant bid but their willingness to implement it will be reflected in the price

# The Tender Process



FIDIC Section	Tasks	Contractor Tasks
<p>5.3 Adjudication of tenders</p> <p>5.4 Rejection of tenders</p>	<p>Assess bids against the evaluation criteria</p> <p>Request clarification if needed</p> <p>Check with funding agency (if necessary)</p> <p>Reject non-conforming tenders* and advise the losing bidders</p>	<p>Provide clarifications</p>

\* Only where they do not comply (eg if they fail to meet a minimum technical score). Normally you would keep the losers in reserve until negotiations with the winning bidder are completed

You should prepare an Evaluation Report and get the necessary approvals before informing the winning bidder

## Proposals are usually in two parts:

- **Financial Proposal:** price, payment schedule and related issues
- **Technical Proposal:** approach to implementing the project, technology and systems, business plan (where relevant), experience of key staff proposed for the project

The format for proposals should be included in the Tender Rules – makes it easier to evaluate and compare bids

If technical aspects are important it is best to set a hurdle score for the technical proposal – only bids that pass the technical evaluation move on to financial evaluation. In that case you should not open the financial proposal until the technical evaluation is completed

**The aim is to avoid being forced to choose a cheap, lower quality bid**

# Hot Topics: **Alternative Bids**



It may be useful to allow bidders to propose alternative ways to meet your objective that you may not have considered.

This would include:

- New technology
- Different methodology
- Alternative specifications
- Different payment terms

You may wish to allow Alternative Bids in the Tender Rules. Bidders should still submit a bid that complies with the Tender Rules as well as the Alternative

You decide whether to allow the alternatives

## Hot Topics:

# Bid Evaluation Criteria



Do not repeat the Qualification Criteria – now you are evaluating the Bid, not the Bidder

The criteria should match your objectives for the tender, to align Bidders' incentives with yours

Criteria should be objective and, if possible, quantifiable, to make evaluation easier and more transparent

Assign weights to each criterion – the most important gets the highest weight

No more than 6 criteria

**Objective criteria make it easier to compare bids, losing Bidders will not be able to challenge the result**

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# Exercise 3

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# Hot Topics: **Evaluating Financial Bids**



Allocate marks for the Financial Bid (normally score out of 100)

Lowest (or highest if selling something) price gets full marks

Other bids are scored relative to the best price using the following formula:

Buying:

$$\text{Score}_i = \frac{\text{Price}_b}{\text{Price}_i} \times 100$$

Selling:

$$\text{Score}_i = \frac{\text{Price}_i}{\text{Price}_b} \times 100$$

Score<sub>i</sub> = score for bidder i  
Price<sub>i</sub> = price bid by bidder I  
Price<sub>b</sub> = best price bid

Keep it simple: bidders will play the numbers game if the financial proposal is too complex

Payment timing is relevant – a lower bid that requires up front payment may cost more. Either:

- Set the payment schedule yourself
- Discount the phased payments to get a single figure at today's prices

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# Exercise 4

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# The Tender Process



FIDIC Section	Tasks	Contractor Tasks
6.0 Award contract	Decide on contract award, if necessary after pre-award discussion	Attend the pre-award discussion if required

FIDIC uses standard contracts for construction projects

For more complex tenders you may need to negotiate the final Tender Documents with the winning Bidder

# Hot Topics: **Minimising Negotiations**



**Negotiations can be time-consuming and costly – avoid them if possible**

Once you select the preferred bidder you lose your leverage (competitive pressure from the other bidders)

Bidders may try to use negotiations to completely change the terms of the deal

You can minimise negotiations by:

- Use standard contracts (eg FIDIC or World Bank templates)
- Finalise the contracts during the Bidder Due Diligence process when there is still competitive pressure to agree
- Use a Bid Bond to ensure the preferred bidder negotiates in good faith

# The Tender Process



FIDIC Section	Tasks	Contractor Tasks
6.1 Issue Letter of Acceptance	Issue acceptance to the winning bidder	Acknowledge receipt

A template Letter of Acceptance may be included in the Tender Rules

# The Tender Process



FIDIC Section	Tasks	Contractor Tasks
6.2 Performance security	Obtain Performance Bond from contractors	Provide the Performance Bond

Standard practice for construction projects, not used so much in other types of tender

# The Tender Process



FIDIC Section	Tasks	Contractor Tasks
6.3 Prepare Contract Agreement (“Closing”)	Prepare contract documents  Sign contract(s)	Sign contract(s)

- Negotiate final contracts (if necessary)
- Complete final contracts (name, address, price)
- Sign final contracts
- Transfer funds (if necessary)
- Issue shares/permits/concession, etc, (if necessary)
- Hand over to the winning Bidder (if necessary)
- Final Press Release

**The aim is to complete the tender as quickly and efficiently as possible and hand over to the winning bidder**

# The Tender Process



FIDIC Section	Tasks	Contractor Tasks
6.4 Notify unsuccessful bidders	Advise unsuccessful bidders and return their Bid Bonds	Acknowledge receipt

# Summary of Key Documents



	Invitation To Qualify	Confidentiality Agreement
<b>Parties</b>	Government	Government, all bidders
<b>Term</b>	N/A	2 – 5 years after Closing
<b>Purpose</b>	Marketing document to stimulate initial interest from Bidders	To maintain secrecy of commercially sensitive information
<b>Contents</b>	<ul style="list-style-type: none"> <li>➤ The opportunity</li> <li>➤ Background (sector, economy, company)</li> <li>➤ Qualification criteria</li> <li>➤ Indicative timetable</li> <li>➤ Submission requirements for Expressions of Interest</li> </ul>	<ul style="list-style-type: none"> <li>➤ Definition of Confidential Information</li> <li>➤ Non-disclosure obligation</li> <li>➤ Term of validity</li> </ul>

# Summary of Key Documents



	Information Memorandum	Tender Rules
<b>Parties</b>	Government	Government, all bidders
<b>Term</b>	N/A	To Closing
<b>Purpose</b>	More detailed marketing document to summarise selling points & encourage bids	Sets the rules & procedures for the tender process
<b>Contents</b>	<ul style="list-style-type: none"> <li>➤ The sector</li> <li>➤ The economy</li> <li>➤ The opportunity</li> <li>➤ Legal/technical/ financial review</li> <li>➤ Regulatory framework</li> <li>➤ Updated indicative timetable</li> <li>➤ Summary of Transaction Documents</li> </ul>	<ul style="list-style-type: none"> <li>➤ Bid process</li> <li>➤ Due diligence procedure</li> <li>➤ Bid contents and structure</li> <li>➤ Prohibitions and permissions</li> <li>➤ Bid evaluation criteria</li> <li>➤ Government's rights</li> </ul>

**Other documents include loans & other financing agreements, guarantees, bid & performance bonds, letters of comfort from banks**

# Common Practical Problems



## Problem

## Options

**No bids,  
no acceptable bids**

- Cancel the tender and restart with improved conditions
- Ask all qualified bidders to improve their proposals
- Negotiate with the best bidders to improve their proposals

**1 preferred bidder,  
other bids  
unattractive**

- Negotiate with the preferred bidder (little competitive pressure)
- If negotiations fail, cancel the tender and run it again

**1 bid,  
not very attractive**

- Negotiate with the bidder to improve their offer
- Cancel the tender and run it again with improved conditions

# Common Practical Problems



## Problem

## Options

**Non-compliant bids**

- Reject the non-compliant bids and continue the tender
- Improve the conditions and ask all bidders to revise their offers
- Cancel the tender and run it again with improved conditions

**1 bidder requests an extension to the timetable**

- It may be beneficial agree to the extension (depending on the reason for requesting it)
- You may wish to consult the other bidders
- Reject the request, continue the tender

**A bid is delivered late**

- Reject it
- Allow it (depends how late)

# Common Practical Problems

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The appropriate response to these problems depends on the specific situation

Major breaches of the Tender Rules cannot be accepted (minor ones could be, at your discretion)

If you have a number of good bids it is easier to reject non-compliant ones

Bidders may have to get Board permission to commit themselves to a proposal – this often causes delays as Board meetings may be infrequent

# Timetable



Activity	Time* (weeks)	Months															
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	?	?
Draft terms of Reference for Adviser	3	█															
Prequalify Advisers	6	█	█	█													
Select and appoint Adviser	12			█	█	█	█	█									
Internal Due Diligence	4						█	█									
Prepare Invitation to Qualify	4						█	█									
Marketing to investors	6							█	█	█							
Expressions of interest submitted	0																
Prepare Information Memorandum	4								█	█	█						
Prepare Tender Rules	4								█	█	█						
Draft Power Purchase Agreement	10								█	█	█	█	█	█			
Draft Fuel Supply Agreement	10								█	█	█	█	█	█			
Draft other contracts/guarantees	10								█	█	█	█	█	█			
Shortlist bidders	3								█	█	█						
Sign Confidentiality Agreement	2									█	█						
Issue Bid Pack	0																
Bidder Due Diligence	12										█	█	█	█	█		
Bidder Conference	2											█	█				
Bids submitted	0																
Bid evaluation	4													█	█	█	█
Appoint winning Bidder	0																
Negotiations <sup>^</sup>	0-6-?																
Closing	4																

\*Given the current situation in Iraq you can add 30-100% to these timings  
<sup>^</sup> Depends on how much is pre-agreed and the position of the winning bidders



# Public Relations



## PR is important to a successful transaction – it must be targeted

Target	Public & Politicians	Potential Investors	Employees	General
<b>Messages</b>	<ul style="list-style-type: none"> <li>➤ Economic benefits</li> <li>➤ Impact on quality of service</li> </ul>	<ul style="list-style-type: none"> <li>➤ Attractive investment climate</li> <li>➤ Attractive deal</li> <li>➤ Transparency, fairness, competitive</li> <li>➤ Government priorities</li> </ul>	<ul style="list-style-type: none"> <li>➤ Need for efficiency improvements</li> <li>➤ Reassurance on their future</li> <li>➤ Transparent tender process</li> <li>➤ Timetable</li> </ul>	<ul style="list-style-type: none"> <li>➤ Transparent tender</li> <li>➤ Attractive investment climate</li> </ul>
<b>Importance</b>	Medium - high	High	Medium	Low
<b>Media used</b>	Press releases TV/Radio/Newspapers Briefings to politicians Prepared Questions & Answers (“Q&As”)	Specialist industry press Business press Government websites Personal contacts Iraqi Embassies	Company newsletters Presentations to employees	Mostly covered already in other PR Specific briefings to donors, embassies
<b>When</b>	After key milestones – Eols, Shortlisting bidders, Closing	During marketing phase and bidder due diligence	Immediately before or at the same time as public announcements	Beginning of the process, during marketing phase, subsequently as necessary

# After the Tender



## It is important to monitor the contractor's performance

- To ensure that they meet the terms of the contract
- To evaluate and publicise the success of the Tender

Key points:

- Someone must be responsible for monitoring
- Timing and scope of monitoring should be clear
- Minimise interference with the contractor's operations
- Minimise cost for the contractor

## Procurement Training Workshop

### Exercise 1

#### Choosing a procurement option

Which option would you use for the following purchases (tick the box)?

	<b>International Competitive Tender</b>	<b>National Competitive Tender</b>	<b>Shopping</b>	<b>Direct Contract</b>	<b>Framework Contract</b>
1. One year's supply of photocopying paper and pens					
2. Catering (food and drink) for a conference					
3. 100,000 solid state electricity meters					
4. Construction of a 800 MW Combined Cycle Gas Turbine generating station					
5. IT training for 1,000 Ministry staff to be provided over a 1 year period					
6. Urgent repairs to a low voltage substation					
7. Painting a Ministry office building					
8. Providing furniture for 10 offices					
9. Purchase and installation of 150 km of high voltage transmission line					
10. Cleaning services for an office building for 1 year					

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## Procurement Training Workshop

### Exercise 3

#### Bid Criteria

You are running a tender for a contract to provide transport services (vehicles, servicing and repairs).

What Qualification Criteria and Bid Evaluation Criteria would you use?

#### *Qualification Criteria*

1

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2

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3

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4

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#### *Evaluation Criteria*

1

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2

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3

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4

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## Procurement Training Workshop

### Exercise 4

For discounting purposes assume that the relevant interest rate is 11%. The discount factor after 1 year is 0.9.

#### Evaluating Financial Proposals

1. You are purchasing 50 computers with a standard specification. You received 5 bids, all of which passed the technical review.

Score and rank the bids.

Bid (US\$)	Score	Rank
25,000		
23,600		
26,500		
10,000 today, 15,000 in 1 year		
24,000		

2. You are running a tender for the construction of 10 electricity substations. 5 bids passed the technical evaluation with the scores set out below. The weighting between the technical and financial bids is 50:50.

Score and rank the bids.

Financial bid	Technical Score	Financial Score	Final Score	Ranking
250,000	80			
125,000 today, 130,000 in 1 year	82			
260,000 in 1 year	78			
100,000 today, 150,000 in 1 year	78			
230,000	75			

# **Procurement Training Workshop**

## **Contents**

Course Outline

Day 1: What is Procurement?/ Running a Competitive Tender Part 1

Day 2: Running a Competitive Tender Part 2

Exercises

FIDIC Tendering Procedure

Outline for Billing and Collections Request for Proposals

Examples of Advertisements (English)

Confidentiality Agreement

Tender Rules Contents

Government of Lesotho: Information Memorandum Concerning the Privatisation of the Lesotho Electricity Corporation – contents

Three Bids, New Tender for TPP Plevlja (article)