PAKISTAN WATER SUPPLY PROJECT

The Swabi SCARP Project in Pakistan included a civil works contract for river diversion and tunneling, estimated at about US$18 million. International competitive bidding (ICB) with prequalification was the chosen method of procurement. A total of 39 firms submitted prequalification documents to the executing agency (EA). The EA evaluated applications with assistance from the implementation consultants. It was proposed to prequalify 15 individual firms and 3 joint ventures.

Some firms were disqualified because they did not display sufficient financial capacity, although they did have adequate technical capability and experience. Other firms appeared to meet both the experience and financial criteria but had performed poorly in recent ADB-financed projects. ADB and the EA considered different ways of dealing with the issues that arose. How would you deal with these issues?

1. A firm meets the criteria for technical capability and good performance record, but does not have sufficient financial resources. Should it be prequalified?

2. A firm is known to have performed poorly in a recent project but otherwise meets the experience and performance criteria based on previous contracts. Should this firm be disqualified for its poor past performance?

3. A firm proposes to form a joint venture with another firm to strengthen its technical capability. It satisfies the financial criteria based on its own financial resources. How should this firm be treated?

4. An applicant is a joint venture comprised of two international firms and a local partner. The local partner is technically and financially weak. The two international partners have adequate technical and financial capacities. How should this application be evaluated?
PAKISTAN WATER SUPPLY PROJECT

1. When a firm meets fully the experience and technical criteria, but is deficient in financial capacity, it shall be disqualified since the prequalification criteria is on a pass-fail basis.

2. When a firm has performed poorly on another ADB-financed project, the poor performance should be considered in deciding whether or not to prequalify the firm. In this case, the fact that the firm met the overall experience criteria was overridden by the recent poor performance known to ADB and the EA, the firm was not prequalified. However, formal documents giving proof of poor performance, such as official consultant’s progress reports, termination notices, etc. shall be required as supporting documentation.

3. In case of the firm proposing to form a joint venture with another firm, it was agreed to prequalify it on the condition that it should formally enter into the proposed joint venture agreement before the bidding. The joint venture agreement should make both parties jointly and severally liable for the works under the contract. However, while technical capability is met by JV partners taken together, minimum financial criteria must be met by each partner.

4. The joint venture between two international partners and a local partner was prequalified, even though the local partner was inexperienced and had a positive but low financial capacity. When a bidder is a joint venture of two or more parties, it is the combined experience, technical capability, and financial resources of the parties, which are important. However, minimum financial criteria must be met by each partner. The input of the proposed joint venture partners and the terms and conditions of the joint venture agreement are examined carefully to ascertain the qualifications of the joint venture. In this case, it was also made a condition of prequalification that the joint venture agreement should make all the parties jointly and severally liable for all obligations under the contract.
UZBEKISTAN IRRIGATION AND DRAINAGE PROJECT

The objective of the project is to improve agricultural performance and increase farm incomes. The project will rehabilitate and upgrade irrigation and drainage systems. It was agreed to divide the works into three, similarly sized contract packages, each involving

**Drainage infrastructure:** Deepening, cleaning and flushing of about 270 km of existing drains (field, farm, and horizontal field drains). Installation of about 250 km of new drains (subsurface and horizontal field drains),

**Irrigation infrastructure:** Rehabilitation of about 14 km of existing concrete canals and about 300 flume structures (distribution, check, and end transition structures). Realignment (about 40 km) and reconstruction (about 80 km) of other flumes.

**Inter-farm works:** Rehabilitation of about 25 km of drainage collectors and about 3 km of concrete canals.

Each contract is estimated to cost $15.0 million and is expected to be implemented in eighteen months. The contracts will be implemented sequentially but in overlapping stages, with each subsequent contract starting six months after the previous one. Prequalification will be conducted for all three contracts at the same time using the same prequalification documents.

Table 1 shows the works to be done in each contract.

<table>
<thead>
<tr>
<th>Works</th>
<th>Quantity</th>
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</thead>
<tbody>
<tr>
<td>1. Excavation</td>
<td>600,000 m³</td>
</tr>
<tr>
<td>2. Filling</td>
<td>300,000 m³</td>
</tr>
<tr>
<td>3. Concrete</td>
<td>15,000 m³</td>
</tr>
<tr>
<td>4. Pre-cast concrete</td>
<td>3,500 m³</td>
</tr>
<tr>
<td>5. Installation of flumes</td>
<td>20 km</td>
</tr>
<tr>
<td>6. Land leveling</td>
<td>2,500 hectares</td>
</tr>
<tr>
<td>7. Subsurface field drain</td>
<td>30 km</td>
</tr>
</tbody>
</table>
For the three contracts, develop prequalification criteria for pending litigation, financial situation, and experience. As a guide, use the explanations provided in Section III of *Prequalification of Bidders User’s Guide*. In preparing your solution, address the following:

1. How would the criteria for expertise be affected by the known capabilities of local contractors or foreign contractors that usually participate in major contracts in the country?

2. If you expect to receive applications only from single applicant or individual firms, how would this affect your choice of criteria? On the other hand, if joint venture (JV) applicants are expected, how would this change the requirements? Should there be separate requirements for single-entity applicants and joint ventures?

3. Should there be separate requirements for one contract, two contracts and three contracts?

4. Applicants are asked to demonstrate experience on “similar” contracts, and to show “specific” experience. What do you suggest as requirements for these categories?
UZBEKISTAN IRRIGATION AND DRAINAGE PROJECT

Using the Standard Procurement Document for the Prequalification of Bidders, User’s Guide (“Guide”) as the main reference, the criteria and requirements developed for this case study are shown in Table 1.

Pending Litigation: The normal requirement was applied in this case. Applicants must demonstrate that pending litigation, if any, does not involve possible claims of more than 50% of the applicant’s net worth. The percentage could be set as high as 100% depending on the risk that the EA wishes to accept.

Financial Criteria: Applicants should pass the requirements of (i) “soundness of financial position”, and (ii) ability to financially manage similarly sized contracts.

- The applicant’s performance against the first requirement can be assessed through an analysis of its submitted financial statements. However, if the executing agency does not have the assistance of a financial analyst, it might be simpler to only check net worth. This is considered a good indicator of financial soundness, including long-term profitability\(^1\). Net worth should be positive.

- The ability to manage similarly sized contracts is assessed by looking at average annual turnover (income). In this case, the average annual turnover from contracting for the last three years was compared to the estimated contract cost. The minimum average annual turnover calculated at 1.5 the contract value divided by the implementation period in years, or $15 million. The multiplier could be increased to 2.

Experience Criteria: Applicants should pass the requirements for (i) general construction experience, (ii) specific construction experience in contracts of similar size and nature, and (iii) specific construction experience in key activities of these contracts of similar size and nature.

- A general experience requirement of five years was applied. In special circumstances, this could be reduced to three years.

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\(^1\) The Guide, nevertheless, advises: “Any discontinuities or abnormal features in the above indicators or ratios should alert the Employer to potential financial problems and the need to seek expert professional advice for further review and interpretation”.

In this case, an applicant must demonstrate specific construction experience by showing it was the prime contractor in three contracts of similar size and nature over the last five years. The number of contracts could be reduced to as few as one, and the period increased up to 10 years, depending on the complexity of the works and local conditions. An additional requirement for joint venture partners, other than the lead partner, is to show one similar contract over the past three years. Note that the definition of a similar contract is based on the scope of work described in Section VI of the document. The specified items requiring evidence of experience are intended to help applicants determine the configuration of a possible joint venture (or choice of specialist subcontractors) if required expertise is not present in the lead firm.

The required key activities experience is shown in Table 1. The list should not be too complex and to the extent possible, similar types of activities should be grouped together (for example, excavation and filling are similar works, as are the different types of concrete works). The Employer requires experience in terms of rates of “production” of the specified activities on a per month (or week) basis because it needs to ensure that implementation schedules are met, and considers these activities to be in the critical path of implementation.

Assessing technical capability such as personnel and equipment requirements during prequalification is not considered best practice. The consideration of specific personnel and items of equipment to be mobilized for a specific contract is better left during the bid evaluation stage, when the Employer can assess the consistency of the personnel and equipment to be deployed with the bidder’s overall technical proposal.

Note that some specific requirements have been recommended for joint venture applicants. The sharing of the annual turnover requirement among the partners has been introduced. The Guide recommends this. An optional requirement is introduced to the specific construction experience criterion. This is not recommended by the Guide but would address the concerns of some Employers for the need to help develop the domestic construction industry.
Table 1 recommends requirements for one contract. Separate requirements for the two-contract and three-contract cases are not specified. When dealing with multiple contracts, the Employer can prequalify on the basis of a single-contract.\(^2\) However, the preferred and recommended approach is to prequalify an applicant for a maximum contract value for which the applicant meets or exceeds the requirements under the foregoing criteria (bidding capacity). In this event, an applicant shall be allowed to bid for any contract within its bidding capacity\(^3\). For example, an applicant passing all the above requirements should be allowed to submit bids for all contracts but his capacity for a second or third contract award, if already awarded one, should be re-evaluated during bid evaluation stage.

\(^2\) Note that the 6-month gap between start of contracts introduces some complications in the evaluation of applications for multiple contract capacity.

\(^3\) However, the bidder may only be awarded a maximum number of contracts for which it meets the aggregated requirements of such contract combination (award capacity), which is assessed during bid evaluation.
### Table 1
#### Recommended Criteria and Requirements

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Requirements</th>
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<tbody>
<tr>
<td>Litigation</td>
<td>No pending litigation involving charges or claims against the contractor representing at least 50% of the Applicant’s net worth.</td>
</tr>
<tr>
<td>Financial</td>
<td>Applicants, including all partners in a joint venture (JV) should submit audited financial statements for the last three years to enable the Employer to assess the current soundness of the Applicant’s financial position, its prospective long-term profitability, and the size of its operation. The financial documents should demonstrate</td>
</tr>
</tbody>
</table>
| Net worth                 | 1. Must be positive for the past 3 years  
2. Minimum $3.0 million latest result (20% of contract value)                                                                                     |
| Average annual turnover from contracting | 1. $15.0 million for 1 contract  
(1.5 x V/T, where V=estimated contract cost, T=construction period).  
2. One partner, who may be specified as the lead, should meet 40% of above requirement while each of the other partners must meet 25% of the same total requirement. |
| Experience                | General construction experience  
1. Prime contractor in 3 contracts of similar size and nature over the last 5 years  
2. Contracts equal to at least 80% of estimated contract are considered of similar size.  
3. Minimum 5 years experience, to be met by all JV partners, but the lead partner must have been a main contractor or lead partner of a JV in at least one contract within that period. |
| Specific construction experience | Three contracts of at least $12.0 million with experience in any of: Horizontal land drainage; Tubewell construction; Flume construction; Water control structures; or Subsoiling and land leveling. |
| Optional additional requirement: JV partner must have experience of 1 contract of similar size and nature over the last 5 years. |
| Specific construction experience in key activities | Demonstrate experience in the following key activities on a per month basis:  
50,000 m³ of excavation  
1,250 m³ of concrete  
2 km of installation of flumes, and  
2.5 km of subsurface field drain |