



Recommended Best Practice for Pre-Qualification for Selection of General Contractors and Professional Consulting Services

Executive Summary:

This document has been developed to augment the Capital Asset Management Framework (CAMF). It includes the following guidance for all government reporting entity bodies engaged in capital procurement, primarily focused in a construction context:

- Recommended best practice for the use and application of pre-qualification processes for selecting general contractors and professional architectural or engineering services, including when pre-qualification processes should be considered, and how they should be structured, managed and implemented;
- References to applicable legislative and policy framework;
- A sample analysis/decision tool.

This document applies to the following types of pre-qualification processes:

- Request for Qualifications as the first step in a tender process; and
- Request for Qualifications as a first step in a Request for Proposals process.

This document is not intended to be binding, and alternate approaches to the principles and practices described in this document may be appropriate, provided that any such alternate approaches comply with applicable provincial policy and the laws applicable in British Columbia.

Related resources include:

- BC Government's Core Policy and Procedures Manual
<http://www.fin.gov.bc.ca/ocg/fmb/manuals/CPM/CPMtoc.htm>
- CAMF and related guidance <http://www.fin.gov.bc.ca/tbs/camf.htm>
- BC Bid Resources <http://www2.gov.bc.ca/gov/content/governments/services-for-government/bc-bid-resources>;
- Ministry of Technology, Innovation and Citizens' Services, Logistics and Business Services Division, Procurement Services Branch
<http://www2.gov.bc.ca/gov/content/governments/services-for-government/bc-bid-resources/support-services/procurement-services>;
- PCCBC Contractor Recommended Guidelines for Pre-qualification of General Contractors
<http://www.pccbc.com/wp-content/uploads/2012/02/Recommended-Guideline-for-Pre-qualification-of-General-Contractors-and-Trade-Contractors.pdf>
- CCDC 29 A Guide to Pre-Qualification (to be released)
- Release of information guidance http://www2.gov.bc.ca/assets/gov/government/services-for-government-and-broader-public-sector/buy-goods-services-and-construction/how-to-buy-services/release_of_information_nov2013.pdf



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Questions regarding pre-qualification best practices can be directed to:

Logistics and Business Services, Procurement Services Branch
procurement@gov.bc.ca.

This document is not a substitute for the application of policies and laws.

1. Objectives of the Recommended Best Practice:

The purpose of this document is to:

- Provide a concise tool on the appropriate use and application of pre-qualification processes for selecting general contractors and professional architectural or engineering services to support fair, open and transparent capital procurement; and
- Support greater accountability from procuring entities.

These best practices are intended to apply in circumstances where pre-qualification is used to screen potential respondents for baseline threshold requirements, as the first step in a larger procurement process. Careful consideration should be given to ensure that any process created in accordance with this guideline is a pre-qualification process, rather than a source list, as different trade law and policy requirements may apply in the context of a source list.

2. Context:

a. Definition:

Pre-qualification is a process by which the qualifications of a contractor or consultant are evaluated prior to completing a tendering or proposal submission process. Pre-qualification can be implemented through a variety of methods, and is typically used to select potential bidders or proponents for an individual project or scope of work, or is used to create a pre-qualified list of potential bidders or proponents for a defined program and/or timeframe.

A pre-qualification process may be conducted on a project by project basis, or, in appropriate circumstances, pre-qualification can be used for a limited category or group of anticipated and related projects or contracts. For example, where the procuring entity is planning a number of similar or related projects or contracts over a reasonably short period of time and considers that the same qualifications would be relevant, a pre-qualification process may be appropriate. In this case, the pre-qualification should clearly set out the scope of anticipated projects for which potential bidders or proponents are being pre-qualified and the timeframes during which subsequent procurements may be commenced.



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b. Legislative and Policy Environment:

Public sector procurement is informed and guided by applicable legislation, common law, policies and trade agreements. Pre-qualification processes must be aligned with all of these, where applicable. Government must also conduct its procurements consistent with the Core Policies and Procedures Manual (CPPM). Government reporting entities (as defined by the *Budget Transparency and Accountability Act*) are expected to follow the spirit and intent of the CPPM, which, at a minimum means that procurement be undertaken in a manner that is fair, open and transparent and designed to maximize value for money.

c. Principles:

Government procurement is based on the foundation that taxpayers are best served through competitive procurement processes that are fair, open and transparent. The principles of fair, open and transparent procurement, as described in government's CPPM, include: competition, value for money, transparency and accountability.

Pre-qualification processes should be well structured, objective and inclusive; evaluation criteria should be clearly enunciated, objectively measured, and necessary to establish the threshold qualifications required for the respective services, in order that the process will be accessible to the maximum number of potential bidders and proponents. Bidders and proponents will be more likely to participate, and there will be more competition, where the selection process is clear and well understood.

3. When and why should a pre-qualification process be considered?

Pre-qualification can be a useful tool in connection with capital asset procurement. It is not best practice to conduct a pre-qualification process for all procurements. However, in certain circumstances, a properly designed and administered pre-qualification process may be appropriate to create an effective procurement process.

Procuring entities must assess each circumstance to determine whether a pre-qualification step will improve the procurement process and whether there may be any unintended consequences, such as artificially limiting or restricting certain bidders or proponents from participating.



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Situations when a pre-qualification process may be appropriate include:

- When the project complexity or attributes require that potential bidders or proponents possess specific skills, experience, financial capability, qualifications, expertise or other characteristics that are relevant for successful completion of the project, and there is a benefit to establishing a pool of potential bidders or proponents that meet these requirements as a first step in a procurement process; or
- When the cost of preparing and administering bid submissions is onerous for bidders or proponents, and government. Procuring entities should analyze the size and complexity of the project and the cost of preparing and administering a procurement submission to determine if a pre-qualification process will prove beneficial, without unnecessarily restricting competition.

In cases where there is only one specialist able to deliver a product or service pre-qualification may be unnecessary.

An analysis/decision tool to support procuring entities in determining whether pre-qualification is appropriate and beneficial to specific circumstances is described in Appendix 1.

4. Best Practices for implementing a pre-qualification process:

- a. Pre-qualification processes should be prepared and administered by persons properly trained and qualified to do so, in accordance with government policy and applicable trade agreements, and with the benefit of legal advice where required or otherwise appropriate.
- b. Prior to commencing a pre-qualification process, a procuring entity should identify from whom it will seek legal advice should such advice be necessary during the process. For example, legal advice may be required if there is a question about whether a bidder or proponent should be pre-qualified or whether a requirement for pre-qualification is being properly applied.
- c. Pre-qualification processes are subject to public sector procurement principles, including obligations arising from trade agreements, and are to be structured and administered in a fair, open and transparent manner that does not damage the integrity of the overall competitive process.
- d. Pre-qualification criteria should be capable of objective determination and easily measurable.
- e. Pre-qualification processes should be undertaken only after comprehensive planning which results in a full understanding and description of the scope of the opportunity, and a review and analysis of the potential market for that scope of work. This may involve market sounding exercises.



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- f. For core government, the Procurement Services branch of Shared Services BC provides standard format solicitation templates that should be used where pre-qualification is required. In general, a request for qualifications should clearly describe:
- The project(s) or contract(s) to which the pre-qualification process is to apply;
 - The scope of the project(s) or contract(s) including those that may be the subject of future opportunities. A procurement process resulting from a pre-qualification process must fall within that defined scope and should not be used for opportunities that may fall outside it;
 - Who may use the resulting short list;
 - The qualifications required and the manner in which the qualifications must be demonstrated;
 - The submission requirements. Note that a pre-qualification request should only require responding parties to submit information that is specifically relevant to the pre-qualification process;
 - The evaluation approach and criteria and the relative weightings by which the pre-qualification evaluation and selection will be undertaken. Criteria should be objective to ensure a fair evaluation process;
 - The expected schedule for evaluation, notification, and debriefing;
 - The contact person for the document and terms and conditions related to communication about the process; and
 - Any minimum qualifications that must be met in order to be pre-qualified (such as specific expertise, experience, bonding capacity). Note that minimum qualifications should have clear rationale and not artificially limit competition.
- g. If a pre-qualification list for more than one project is being established then:
- Applicable trade agreement provisions must be followed, including requirements for publication of pre-qualification opportunities and future opportunities for contractors or consultants to qualify;
 - The type and scope of projects or contracts to which the pre-qualification will apply should be clearly described in the pre-qualification documentation;
 - The length of time during which any pre-qualification list will be valid is to be clearly described in the pre-qualification invitation, and is not to exceed 12 months;
 - In the event that a pre-qualification list is established for a broader scope of opportunities than generally contemplated in this guidance, there is to be a continuous, ongoing opportunity for qualified bidders or proponents to be added to the list; and



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- The process for selecting contractors or consultants from a pre-qualified list should be set out in the request for qualifications and should follow applicable trade agreement provisions.

- h. Promptly upon the completion of the pre-qualification process each bidder or proponent should be informed of the results of their own submission, but care should be taken not to disclose information about other submissions, except in accordance with applicable law and policy. Procuring entities should address Freedom of Information requirements, and seek legal advice. Debriefs may be appropriate to assist bidder or proponent with future submissions and to support continuous improvement for procuring entities.

- i. Records relating to the evaluation of pre-qualification submissions should be made and maintained by the procuring entity for so long as required by the *Document Disposal Act* or any other applicable legislation, as well as any applicable policies.

- j. The procuring entity should not make any changes to pre-qualification documents issued by that entity after expiry of the period in which pre-qualification submissions are permitted to be made and should not make changes at any other time, without first obtaining legal advice as to the risks of doing so.

5. Accountability and Transparency:

Procuring entities are accountable for implementing pre-qualification processes in a manner consistent with policy, trade agreement requirements and contract law. In accordance with government's CPPM, and to support accountability in a fair, open and transparent manner, a procuring entity should maintain adequate documentation that supports decisions throughout the pre-qualification process.

Procuring entities should address pre-qualification processes within overall procurement performance measurement and reporting frameworks.

Reviews and audits may be undertaken or recommended by various organizations, including the following:

- The procuring ministry or crown agency;
- The ministry responsible for a crown agency;
- The Ministry of Finance;
- Office of the Auditor General; and
- Other public sector bodies as may be mandated from time to time by government.



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Appendix 1: Procurement Pre-Qualification Best Practice Checklist

Procurement Pre-Qualification Best Practice Checklist

(To be completed by procuring agency to document how their process has met best practice guideline)

Project/Program Name: **[INSERT]**

What	(✓)	Details
Review and analyze the potential market		
<ul style="list-style-type: none"> Has a market sounding been conducted? 		
Document rationale for using pre-qualification		
<ul style="list-style-type: none"> Is this the first phase in a larger procurement process and would pre-qualification simplify the larger procurement process without imposing unwarranted restrictions? 		
<ul style="list-style-type: none"> Does the contract/program scope justify pre-qualification? e.g. will this generate a list of consultants or contractors to bid on multiple projects over a specific time period, or is the project large and complex? 		
<ul style="list-style-type: none"> Are there specific qualifications or attributes required? 		
Document rationale for pre-qualification requirements and evaluation criteria		
<ul style="list-style-type: none"> Are the requirements/evaluation criteria supported by the features of the opportunity (size, complexity, specialist expertise)? 		
<ul style="list-style-type: none"> What considerations have been given to maximizing competition, making the opportunity available to emerging entrants? 		
<ul style="list-style-type: none"> Has consideration been given to knowledge or experience that could be transferred to the project and that would qualify a consultant or contractor? 		



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What	(✓)	Details
<ul style="list-style-type: none"> Is the manner in which the pre-qualification list is to be used clearly defined within the pre-qualification documentation? 		
Maximize awareness of opportunity		
<ul style="list-style-type: none"> Has the opportunity been posted on BC Bid? 		
<ul style="list-style-type: none"> Has the opportunity been advertised? If yes, has it been advertised in the region where the work is available and in the manner specified in applicable trade agreements? 		
Meet policy and trade requirements		
<ul style="list-style-type: none"> Have trade and policy requirements been reviewed? 		
Evaluation process		
<ul style="list-style-type: none"> Do evaluators have appropriate expertise and experience? 		
<ul style="list-style-type: none"> Has a Fairness Monitor been used? 		
Debrief		
<ul style="list-style-type: none"> Will a debrief be offered? How long after the completion of the prequalification process? 		
<ul style="list-style-type: none"> What information will be made available to bidders or proponents during the debrief? 		