

Solid Waste Management Privatization Procedural Manual

Contractor Pre-Qualification



Solid Waste Technical Assistance



Ministry of
State for
Environmental Affairs



Egyptian
Environmental
Policy Program

TABLE OF CONTENTS



INTRODUCTION	2
STEP 1	
Establish the Tender Committee	4
STEP 2	
Establish the Pre-Qualification Process Schedule	4
STEP 3	
Prepare The Request for Qualifications	6
General Project Information	6
Desired Contractor Services	6
Responsibilities of The Purchasing Agency	6
Project Schedule	6
Submission Deadline and Address	6
Number of Copies	6
Letter of Intent and Signature	7
Rights and Liabilities of The Purchaser	7
Cost to be Borne by Respondents	7
Confidentiality	7
Submittal Format and Forms	7
Request for Clarifications	7
Joint Ventures, Subcontractors, and Suppliers	7
Description of Desired Contract service	8
Current Waste Management Overview	8
Response and Submittal Requirements	8
Response for Specific Services	8
Administrative Considerations	9
Minimum Technical Experience for Each Service	9
Non-Technical Experience Considerations	10
STEP 4	
Advertise the Procurement	11
Preparing the Advertisement	11
STEP 5	
Issue the Request for Qualifications	11
STEP 6	
Evaluate Responses and Select the Pre-Qualified Contractors	12
APPENDICES	
A: A Review of Egyptian Tendering and Contract Law	
B: Example List of Tender Committee Members	
C: Example RFQ Table of Contents	
D: Example Project Schedule for Inclusion in the RFQ	
E: Example Letter of Intent	
F: Example Qualification Submittal Forms	
G: Example RFQ Advertisement	
H: Example Response Evaluation Forms	

INTRODUCTION



Competition is the foundation for good procurement practice. Competition is to the public sector's benefit.

Open and fair procedures for awarding contracts for goods, works and services help to create efficient solid waste management. They also encourage accountability and the cost-effective use of public funds. Good procurement practices also help ensure successful project implementation and operation.

In accordance with Egyptian Law¹, public tendering applies to the purchase of both goods and services, including long-term concession contracts. The specific method used to procure goods or services (public tenders or direct negotiation) shall be determined and made known by a decree issued from the Competent Authority according to the circumstances and the nature of the contract. A Competent Authority is generally described in the law as a Minister (and any other person vested with his powers), Governor, or a Public Authority Chairman without prejudice to the controls governing the delegation of powers.

The underlying principle of sound procurement policies is that public sector contracts should be awarded on the basis of open competitive bidding. Only in special cases should contracts be awarded on any other basis even though other methods are permitted under Egyptian law.

Procedural variations of the Tendering/Contracting process that are permitted by law and associated regulations in Egypt include the following:

A more thorough discussion of Egyptian law as it relates to the tendering process is presented in Appendix A of this chapter.

Limited Tender:

Applicable in cases where the nature of the contract requires restricting the participants in the tender to certain suppliers, contractors, consultants, technicians, or experts, whether in Egypt or abroad, provided that they have the technical and financial qualifications to fulfill the requirements of the work.

Local Tender:

Permitted in cases where the value of the Contract does not exceed 200,000 Egyptian Pounds (LE). Participation in a Local Tender will be restricted to local suppliers and Contractors who perform their business in the territory of the Governorate in which the contract will be executed.

Limited Practice (Negotiation):

Contracting through negotiation is permitted where the desired items are neither manufactured, imported, or available except with specific entities or persons; are of a special nature that dictates they should be purchased from their manufacturing location; are of a technical nature that requires the use of technicians, specialists, or experts; or the services are related to matters of national security and therefore should be conducted secretly.

Direct Agreement:

In the case of extreme emergency where time does not permit using other methods, contracting can be through a direct agreement. This method requires the permission of the President of the authority or the administration (and whoever is at the same level in other entities) if the contract will not exceed 50,000 LE; the competent Minister (and whoever is in the same level) or the Governor if the contract value exceeds 100,000 LE; or the Prime Minister in the case of extreme need when the contract value exceeds 100,000 LE.

In most circumstances, procurement of solid waste management services can best be accomplished by using "Limited Tender" procedures, whereby only those

companies that have demonstrated that they have the required qualifications and experience are invited to submit a Tender Offer to perform the desired services. When this method is used, it is first necessary to "pre-qualify" companies who will be requested to submit a Tender Offer. Once a selected number of companies have been "pre-qualified", the Request for Tender (RFT) can be issued to just the "pre-qualified" companies.

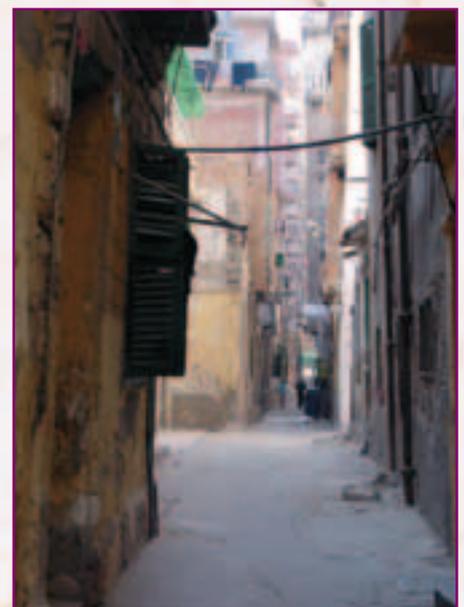
The entire process for public sector procurement using "Limited Tender" procedures involves the following activities:

- Contractor pre-qualification.
- Invitation to submit a Tender Offer.
- Issuance of a RFT.
- Receipt of Tender Offers.
- Evaluation of Tender Offers.
- Contract award.
- Contract administration.

The competitive procurement or bidding process requires the preparation of two major documents by the Purchasing Agency.

- A Request For Qualifications.
- A Request For Tender.

Both of these documents must be prepared by, or under the guidance of, the Technical or Tender Committee.



¹ Law Number 89/1998 and its Executive Regulation

The Request For Qualifications (RFQ) is used to pre-qualify Contractors who subsequently will be allowed to submit Bids or Tenders in response to the RFT. Generally, the RFQ provides the contracting public with an overview of the project and outlines the disciplines and level of expertise needed to perform the project. The RFQ provides guidance on how the Contractors should respond and how their responses will be evaluated.

The RFT is the document the Pre-Qualified Bidders use to prepare their Tender Offers. It generally consists of a Book of Conditions and Annexes, including Technical Specifications. It provides detail about the required services and typically becomes a part of the contract between the Governorate and the selected Contractor.

Therefore, Contractor pre-qualification is the first major step in the privatization procurement process. It consists of identifying contractor parties who are fully qualified to perform the needed waste management services and who want to submit a Tender Offer to perform those services.

Within this chapter of the manual, the Contractor pre-qualification process is defined to include the following activities:

- Informing the contracting “public” of the intention to procure the services.
- Solicitation of information from potentially qualified Contractors expressing a desire to provide the services.
- Evaluation of the Statement of Qualifications (SOQ) submitted in response to the RFQ.
- Choosing the companies judged as qualified to perform the services based upon the information contained in their qualification statements.

Pre-qualification is the process of assuring that potential Bidders have the financial and technical capabilities needed to

perform the particular contract satisfactorily.

The pre-qualification process should consider the following:

- Experience and past experience on similar contracts.
- Capabilities with respect to personnel, equipment, and construction facilities.
- Financial status and ability to provide needed capital funding.

The criteria for pre-qualification should allow reliable and objective assessments to be made of a Contractor's capacity to complete a project in terms of time, cost, and quality. The main goal of pre-qualification is to ensure that if a Contractor is awarded a project, the government can be confident the Contractor has the capacity to complete the project on time, within budget, and to the required quality standard.

In summary, the pre-qualification process should be designed to:

- Create widespread awareness of the procurement within the waste management Contractor community to maximize the number of potential Bidders and the resultant competition.
- Confirm the existence and interest of Contractors who are qualified to provide the services desired.
- Ensure that Tender Offers are solicited and received only from Contractors who have the prerequisite experience and the technical, financial, and managerial capabilities to successfully fulfill the contract.
- Save the cost of Tender Offer preparation for those Contractors who would fail to qualify for the work at the time of tender evaluation.

Guidance on how to prepare, distribute and evaluate responses for the RFQ is presented in this Chapter. Figure 4.1 shows a flow chart of the process. Similar subject matter for the RFT is presented in Chapter 5.

The pre-qualification process can be conducted in six steps:

Step 1 Establish the Tender Committee.

Step 2 Establish the Pre-Qualification Process Schedule.

Step 3 Prepare the Request for Qualifications.

Step 4 Advertise the Procurement

Step 5 Issue the Request for Qualifications.

Step 6 Evaluate the Responses and Select the Pre-Qualified Contractors.



STEP 1 ESTABLISH THE TENDER COMMITTEE



STEP 2 ESTABLISH THE PRE- QUALIFICATION PROCESS SCHEDULE

Once a schedule is established, it is important that each task be started and completed within the time allowed. Each day of delay in this work will result in a day of delay in the start of the performance of services by the Contractor.

The first step in the pre-qualification process is to establish the Tender Committee, also known as the Technical Committee. The Tender Law¹ provides information on the responsibilities of the Technical Committee, its structure, and duties.

When selecting people for membership on the Tender Committee, consideration should be given to including individuals having public administration and accounting, legal, and technical experience. Appendix B provides a listing of the needed specialties of members of the committee.

Once members are selected and the committee is formed, the first activities should be to:

- Identify a Chairperson.
- Develop a work plan and schedule.
- Assign responsibilities to specific individuals.
- Schedule regular meetings to ensure timely progress towards goals.

Members of the team preparing the Solid Waste Management Plan (Chapter 2) should be included as members of the Tender Committee.

The pre-qualification process is typically a lengthy, time consuming activity. This process must be completed before a RFT can be issued to the pre-qualified Contractors. It is important that every effort be made to minimize the time needed to complete this work. The total time required can be minimized by careful planning and scheduling of each activity in the overall process. Whenever possible, activities should be conducted simultaneously as opposed to sequentially.

The range of time required to complete the above activities is summarized in Figure 4.2.

It can be concluded from Figure 4.2 that the minimum amount of time required to complete the entire pre-qualification process would range between 135 and 300 days.

The major work elements of the pre-qualification process typically consist of the six following activities:

- Prepare the RFQ.**
- Advertise the Procurement to the Public.**
- Issue the RFQ to Interested Contractors.**
- Prepare the Response (by the Contractor).**
- Evaluate Responses Received from Contractors.**
- Notify prospective Bidders and Publish the results.**

¹ Law Number 89/1998 and its Executive Regulation

FIGURE 4.1: TENDERING PROCESS FLOWCHART

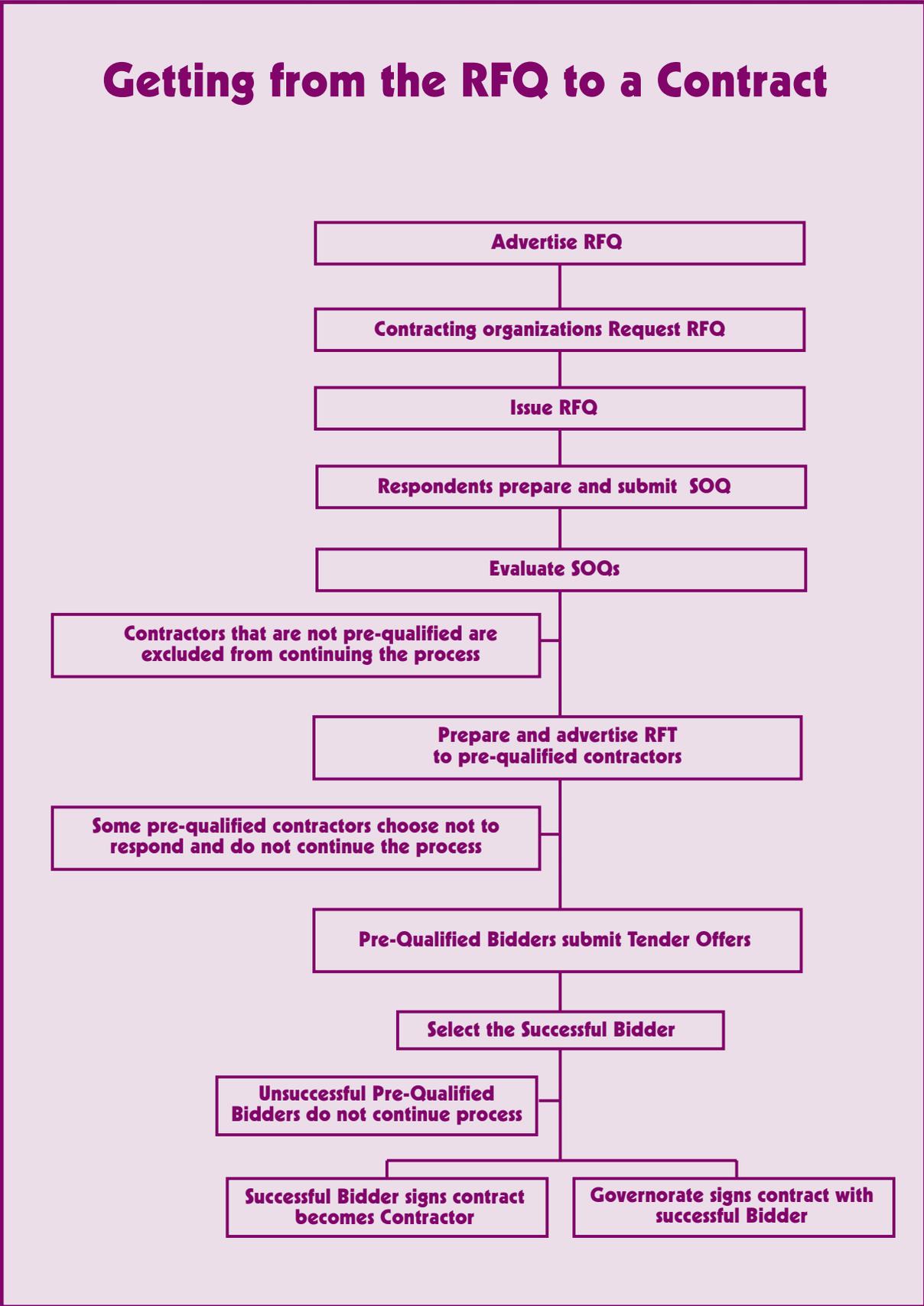


FIGURE 4.2: PRE-QUALIFICATION PROCESS TIMETABLE

ACTIVITY	RESPONSIBLE PARTY	TIME REQUIRED	COMMENTS
Prepare the RFQ	Committee	15 to 30 days	First activity to begin, but not before completion of the preliminary planning and feasibility analysis.
Advertise the procurement to the Public	Committee	30 to 60 days	Can be started before completion of the RFQ, but not before the desired scope of services has been established. Certain legal requirements apply.
Issue the RFQ to interested contractors	Committee	30 to 60 days	Time begins at the end of the advertising period.
Interested contractors prepare their response	Committee	30 to 60 days	Depends on the amount of information required and the size and complexity of the project. Actual due date is established by the Tender Committee.
Evaluate contractor responses	Committee	30 to 60 days	Depends on the amount of information received, the size and complexity of the project, and the number of responses received.
Notify and Publish Results	“Competent Authority”	15 to 30 days	The time required to confirm the decision of the Tender Committee.

STEP 3 PREPARE THE REQUEST FOR QUALIFICATIONS

Each RFQ needs to be modified to meet the needs of the project and should NOT BE COPIED FROM ANOTHER PROJECT.

The RFQ should be prepared under the direction of the Tender Committee with assistance from professionals having private sector procurement, legal, and solid waste management experience. The content of the document should be tailored to the services set forth in the Solid Waste Management Plan (Chapter 2). The following paragraphs provide a complete format and description of the content of a typical RFQ. An example table of contents for an RFQ can be found in Appendix C.

GENERAL PROJECT INFORMATION

A general statement should be made concerning the nature of the procurement. It should communicate a desire to hire one or more private Contractor(s) to provide solid waste management and public cleaning services. The general information section should also include an indication of the purpose of pre-qualification as stated in the introduction of this chapter. A brief summary of the services desired should be given. Typically, the desired services would include one or more of the following:

- Residential Solid Waste Collection.
- Commercial Solid Waste Collection.

- Waste Transfer Facility Construction and Operation.
- Composting Facility Construction and Operation.
- Recycling Facility Construction and Operation.
- Street Sweeping and Washing.
- Public Facility and Structure Cleaning.
- Sanitary Landfill Construction and Operation.
- Landfill and Open Dump Closure.
- Industrial Waste Collection and Disposal.
- Medical Waste Collection, Treatment, and Disposal.
- Construction and Demolition Waste Collection and Disposal.
- Public Awareness and Communications.

The official name of the project and/or Service Area should also be provided in this section of the RFQ along with the official name of the agency that will review the (SOQs) received in response to the RFQ.

DESIRED CONTRACTOR SERVICES

Contractors should be informed whether they are permitted to seek pre-qualification for all services or only specified combinations of the services defined in the RFQ. It should also be stated that Pre-Qualified Contractors will be allowed to submit Tender Offers only for those services for which they are pre-qualified.

RESPONSIBILITIES OF THE PURCHASING AGENCY

The Purchasing Agency should inform the contracting public of the responsibilities it will assume with respect to the procurement. Such responsibilities may include a commitment to:

- Pay for all contracted solid waste management services in accordance with the terms of the contract(s).
- Direct waste generated within the specified service area to the selected Contractor(s) in accordance with the terms of the contract(s).
- Designate an administrative office, an administrative manager, and administer the solid waste management contract during the life of the contract in accordance with the terms of the contract(s).
- (Optional) Enter into negotiations for sale or transfer of existing solid waste management equipment to the selected Contractor(s).

PROJECT SCHEDULE

A project schedule showing estimated dates for the entire procurement process should be included in the RFQ. Including a complete schedule is important to allow potential Respondents to make rational decisions concerning the timing of the work and their ability to respond within the defined time frame. The schedule should include, at a minimum, the following activities:

- Release of the RFQ to all Interested Parties.

- Pre-submittal meeting.
- Deadline for written comments and questions.
- SOQ submittal by the Contractors.
- SOQ Review and Evaluation.
- Announcement of Pre-qualified Contractors.
- Distribution of the RFT.
- Tender Submission.
- Tender Review.
- Award Announcement.

An example project schedule is provided in Appendix D of this Chapter.

Including a complete schedule is important to allow potential Respondents to make rational decisions concerning the timing of the work and their ability to respond within the defined time frame.

SUBMISSION DEADLINE AND ADDRESS

Interested contractors should be informed of the deadline for submittal and the exact address to which the SOQ should be delivered. Instructions should also be given concerning how the response shall be submitted, such as in a sealed envelope or package with the outside clearly marked with the official name of the project and the Purchasing Agency. It is good practice to specify the individual who should receive the submittal and a receipt should be given to the Respondent indicating that the submittal was received.

NUMBER OF COPIES

The number of copies to be submitted should be indicated, including instructions regarding any special language requirements. In determining this number, consideration should be given to the number of committee members and the numbers of other parties participating in the review process including technical advisors and outside consultants.



LETTER OF INTENT AND SIGNATURE

The Respondent should be required to submit a Letter of Intent, signed by the chief executive officer of the Respondent, in the form and with the content provided in Appendix E.

RIGHTS AND LIABILITIES OF THE PURCHASER

An indication of the specific rights and options that may be exercised, at the sole discretion of the Purchasing Agency, should be given. Following are typical examples of such requirements.

- To supplement, amend, modify, or clarify the RFQ in writing and to withdraw and/or re-issue the RFQ for any reason.
- To extend the response date.
- By written notice to the Respondent(s), reject or set aside for subsequent evaluation and/or clarification any or all responses.
- To seek and receive written clarifications from any Respondent at any time.
- To pre-qualify one or more Respondent(s) that in the sole opinion of the purchaser are qualified to perform the desired services.
- To establish or modify any item of the schedule.
- To designate others to assist or act on behalf of the purchaser during the evaluation/clarification of responses to this RFQ document as permitted by law.
- To disqualify any Respondent that is delinquent in payment of local or central government taxes.



COST TO BE BORNE BY RESPONDENTS

Respondents participating in this process should be informed that they are doing so at their own expense and with the express understanding that they may not make any claims for reimbursement from the Purchasing Agency for any cost, expense, or damage associated with participation in the RFQ process.

CONFIDENTIALITY

All submittals should be open to inspection and public review after the evaluation process has been completed.

SUBMITTAL FORMAT AND FORMS

Respondents should be required to submit their responses and information in the format described in the RFQ. All Respondents should be required to provide all information requested in all forms included in the RFQ unless the information requested is not applicable to the Respondent. When a response is not applicable, Respondents shall so indicate in their responses.

A sample format for Qualification Submittal forms is found in Appendix F.

REQUEST FOR CLARIFICATIONS

The potential Respondents should be informed regarding the procedures to follow when making requests for clarifications or information. Typical requirements include requiring inquiries to be submitted in writing to a specifically designated person.

The agency conducting the procurement will normally agree to provide written responses to a Respondent's questions. In addition, all answers will be given to all official holders of the RFQ documents.

JOINT VENTURES, SUBCONTRACTORS, AND SUPPLIERS

Specific instructions must be given concerning the acceptability of various organizational structures that may be proposed by a Respondent. In most cases, a joint venture that is pre-qualified should not pre-qualify the individual members as individual pre-qualified Contractors. Individual member firms so qualified may be allowed to form joint ventures with other pre-qualified Contractors at a later date, but only with the prior approval of the Purchasing Agency.



A firm should also not be allowed to be a party to more than one joint venture Respondent. Failure to abide by this rule should result in immediate disqualification. A member of the Respondent joint venture should also not be permitted to be a subcontractor to any other Respondent. However, equipment suppliers should be allowed to provide equipment to any number of Respondents.



DESCRIPTION OF DESIRED CONTRACT SERVICES

Each service under consideration for purchase should be briefly described in the RFQ. These general descriptions are by necessity, preliminary in nature and are only intended to provide Respondents with a general concept of the range and scope of services being sought. The RFT documents will contain detailed specifications regarding the scope and division of services between Contractors.

CURRENT WASTE MANAGEMENT OVERVIEW

A brief description of the existing waste management system within the service area should be provided. A general overview should be given along with reasonable complete descriptions of the wastes generated, the current services being provided, the facilities available, and any other information that would assist the Respondent in preparation of his SOQ. This information can be taken from the Solid Waste Management Plan previously discussed in Chapter 2.

RESPONSE AND SUBMITTAL REQUIREMENTS

Respondents should be instructed to submit all information in conformance with the format described in the RFQ. They should also be informed in this section of the RFQ that all submittals that do not contain the required information may be considered incomplete and the Respondent may be eliminated from further consideration.

Normally, all submittals should consist of a bound document. The ultimate purpose of the submittal is to provide sufficient information to allow a thorough evaluation of the management, technical, and financial capabilities of the Respondent. In order to receive consideration, Respondents must submit all information requested in the Forms included in the RFQ. Attachments to the Forms should be permitted and encouraged. If the information requested in any Form is not applicable, the Respondent should be instructed to so indicate on the Form that the information requested therein is not applicable and submit the Form with the submittal package.

The SOQs provided in response to the RFQ should be organized in accordance with the instructions given and would normally include the following items:

- Letter of Intent (previously described).
- Company Profile.
- Solid Waste Management Experience Summary.
- Service Experience Information.
 - Residential Solid Waste Collection.
 - Commercial Solid Waste Collection.
 - Waste Transfer Facility Construction and Operation.
 - Composting Facility Construction and Operation.
 - Recycling Facility Construction and Operation.

- Street Sweeping and Washing.
- Public Facility Cleaning.
- Sanitary Landfill Construction and Operation.
- Landfill and Open Dump Closure.
- Industrial Waste Collection and Disposal.
- Medical Waste Collection, Treatment, and Disposal.
- Construction and Demolition Waste Collection and Disposal.
- Statement of Financial Capability.

RESPONSE FOR SPECIFIC SERVICES

It may be advantageous to permit companies with expertise in some, but not necessarily all, solid waste management and disposal services to respond to specific parts of the RFQ. This could lead to more quality oriented and cost-effective contracts. If this is the case, specific instructions must be provided indicating how the work may be divided among several Contractors.

Only those Respondents that demonstrate technical competence, management skills, and financial strength in providing comprehensive services in one or more of the defined service combinations should be pre-qualified. The Respondents must clearly state the alternatives they are seeking to be pre-qualified to perform. The Respondent must be capable of providing all services listed under that specific alternative.



ADMINISTRATIVE CONSIDERATIONS

It is very important to require RFQ Respondents to provide complete contact information for every project referenced in the RFQ including:

- Name and address of the client organization.
- Name, address, telephone number, fax number, and email address of a specific person at the client organization that should be contacted to discuss the Respondent's services for that organization.

In some cases, the Purchasing Agency may want to require the Contractor to have a local Egyptian partner or meet other requirements such as those indicated below. If so, some suggested wording is provided below. This list can be expanded to meet the specific needs of each project.

- Foreign Respondents must have a local Egyptian partner(s).
- Foreign Respondents and/or local Egyptian partners must be current in payment of all taxes in Egypt.
- Respondents must demonstrate that they have or will provide a dedicated management team located in offices within the Service Area.

MINIMUM TECHNICAL EXPERIENCE FOR EACH SERVICE

Establishing the minimum acceptable levels of previous experience and financial strength is an important consideration in the preparation of the RFQ. Generally speaking, previous experience performing satisfactory work of a similar nature is a good indicator of qualifications.

Minimum acceptable standards for previous experience should be set at least equal to the size and scope of the planned contract. Minimum technical standards should not be set so high that only a few firms or joint ventures can

qualify for the work, or so low that the level of confidence in the Contractor's capability could be questionable.

Additional evaluation criteria should be established regarding a minimum number of locations where the required services have been performed, and a minimum number of years the Respondent performed these services. For example, the RFQ may require that the Respondent demonstrate that they have collected at least 1,000 tons per day of residential and commercial wastes in at least three cities in developing nations with populations of 1,000,000 or more for at least 5 years. Once set, these standards become the basis of the evaluation criteria and guidance to the Respondent on what should be provided in their response.

Not only is it important to determine if the Respondents have the requisite experience, it is also important that they have the requisite experience in more than one location and performed the services for some minimum period of time.

One way to ensure you get this information is to require the Respondent to provide information on a minimum number of projects where they have provided services for a minimum number of years for each technical standard.

Appendix F contains typical examples of forms used to secure the desired information.

Factors to consider when establishing minimum standards for prior technical experience include the following:

The number of customers served. Does the Respondent have experience in managing wastes in other cities or regions similar in size to your Service Area?

The characteristics of the service area. Does the Respondent have experience in managing wastes in other cities or regions with demographics and a level of development similar to your Service Area?

Types of waste managed (MSW, Industrial, Medical, etc.). Does the Respondent have experience in managing all of the waste types you want managed in your Service Area?

Tons of waste collected/disposed. Does the Respondent have experience in managing the quantities of waste you want managed in your Service Area?

Experience in waste recycled, composted, incinerated, landfilled, diverted, etc. Does the Respondent have experience in the specific waste management and reduction technologies you desire in your Service Area?

Tons of waste recycled, composted, incinerated, landfilled, diverted, etc. Does the Respondent have experience managing the quantities of waste using the specific technologies you desire in your Service Area?

Kilometers of streets cleaned. Does the Respondent have experience cleaning as many kilometers of streets as you want cleaned in your Service Area?

Square meters of public areas cleaned. Does the Respondent have experience cleaning as many square meters of public areas as you want cleaned in your Service Area?

Satisfaction of prior clients. Does the Respondent have a demonstrated history of performing the desired services at the desired level in a satisfactory manner?

It is a good idea to require the Respondents to provide information in a specific format. If the Respondents follow this format, it not only makes evaluation and review easier, it makes it less likely that a Respondent inadvertently leaves out important information.

The Respondent should also be encouraged to submit additional information deemed appropriate to demonstrate the ability to provide the services required for this contract. If adequate information is not submitted to determine and verify the qualifications of the prospective Bidder, the Respondent will not be pre-qualified to participate in the tendering process.

In addition to the specific information requested on the forms, Respondents should be required to provide complete project and client references for all projects/clients referenced in the submittal of the Respondent as a basis for

qualification. Project and client references should include the name of the contact person, position, address, phone and fax number, and email address if available. The Purchasing Agency should not be obligated to seek and/or consider any information other than what is contained within the original submittal.

NON-TECHNICAL EXPERIENCE CONSIDERATIONS

The Respondent should be required to provide information demonstrating that they have the personnel and financial resources, and the institutional capacity to undertake the proposed assignment. Information of the following nature should be requested:

- Audited financial statements.
- Personnel staffing.
- Business structure.
- Business history (including litigation history).
- Summary of relevant work/projects (including references).

Measures of financial strength typically include a number of inter-related factors such as owners' equity, total debt, working capital, profitability, revenue, accounts receivable, turnover, etc., making overall assessment very difficult.

Minimum criteria for personnel, financial, and institutional considerations must generally be subjective in nature since precise evaluation measures are generally difficult to establish and are not necessarily desirable. For this reason, bid and performance bonds normally are a requirement of the tendering process, thereby providing financial assurances without requiring in-depth analysis of these factors. Nevertheless, it is important to make an initial general assessment in order to avoid including companies obviously not qualified to perform the work due to a lack of personnel, financial resources, or institutional capacity.



STEP 4: ADVERTISE THE PROCUREMENT



STEP 5: ISSUE THE REQUEST FOR QUALIFICATIONS

It is in the best interest of the Governorate to publicize the project to the maximum number of prospective contractors in order to obtain the best service at the least cost. This objective can be achieved through the following:

- Advertisement in major domestic newspapers.
- Advertisement in international publications including:
 - Major newspapers.
 - Industry association newsletters and websites.
 - Industry trade journals.
- Commercial attaches at embassies.

In accordance with the requirements of Egyptian law¹ the advertisement of an "internal" public procurement shall be inside the Egyptian territories, whereas the advertisement of an "external" procurement shall be inside and outside the Egyptian territories. Advertisement of the procurement must be in daily newspapers and, in addition, may be advertised in any other massively circulated media.

The advertising of the public tender must be done twice at the appropriate time in one or two broadly circulated daily newspapers. Foreign tenders must be advertised in Egypt and abroad and in the Arabic and English language. It is also desirable to request that the Embassies and Consulates of the foreign countries in Egypt inform the companies working in the same field in their own countries about the advertisement of the Tender. In addition to all the above, the advertisement also may be through any other broadly circulated media upon the approval of the Competent Authority.

If the project is to be advertised internationally and/or in monthly publications at least 60 days is needed from the initiation of the advertising process until the time of distribution of the RFQ. This amount of time is needed to place the advertisement and have it actually appear in the publication. If only local advertising is done, the time period for distribution of the RFQ can be shortened to approximately 30 days.

PREPARING THE ADVERTISEMENT

The advertisement must include:

- The authority to which the offer should be submitted.
- The deadline for submitting the SOQs.
- The required service.
- The amount of the Bid Bond.

- The percentage of the Performance Bond.
- The price of the book of conditions and its annexes.
- Any other data the Purchasing Agency sees as necessary.

An example advertisement is shown in Appendix G.

The RFQ should be issued to all parties submitting a written request. In order to provide answers to questions asked during the RFQ response process and/or to communicate additional instructions to potential Respondents, an official list of all parties requesting the RFQ must be kept. This official list should include the company name, address, telephone number, fax number, and person to whom the RFQ was issued. A minimum of 30 to 60 days should be allowed between the dates the RFQ is advertised and the date the Contractors responses are due.

¹ Law Number 89/1998 and its Executive Regulation

STEP 6: EVALUATE RESPONSES AND SELECT THE PRE-QUALIFIED CONTRACTORS

It is not necessary to rank the Respondents because it is desirable to pre-qualify as many Bidders as possible to maximize competition for the work.

All Respondents must receive equal treatment from the Tender Committee in this review as well as throughout the entire Tender process.

In addition to reviewing the material submitted, it is very important to contact previous clients of the Respondent to verify that the information provided by the Respondent is accurate, and that the previous client was satisfied with the quality of service provided.

Responses should be reviewed and evaluated by the Tender Committee in accordance with the established criteria contained in the RFQ. As previously discussed, the evaluation criteria should be established and agreed upon by the Tender Committee during the time the RFQ is being prepared.

A minimum of 30 days should be allowed to complete the SOQ review. This process can be simplified by using a form that provides a checklist for each of the minimum requirements versus the Respondent's capabilities and experience for each of the qualification criteria.

At the pre-qualification stage, it is only necessary to decide whether or not the Respondent has submitted all of the required information and if the Respondent meets the minimum qualification and experience requirements. If the minimum requirements are met or exceeded, then the Respondent should be pre-qualified and given the opportunity to submit a Tender Offer for the work.

The Tender Committee should first review each submittal with respect to completeness to determine whether the Respondent has complied with the specific requirements and submitted all mandatory forms and materials as set forth in the RFQ. If a Respondent has not submitted all mandatory forms and materials, then their response may be rejected.

The Tender Committee should then evaluate each response to determine if the Respondent meets the minimum technical experience requirements as described in the RFQ. The Committee also should determine the specific services for which the Respondent possesses the minimum technical experience requirements. All Respondents that do not meet the minimum pre-qualification requirements for any or a specific service should be eliminated from further consideration for all services or those services for which they are not qualified and notified to that effect. The Committee should reserve the right to request clarifications from the Respondents when additional information is required.

Financial qualifications need to be reviewed only if the Respondent meets the minimum technical requirements. The financial qualifications of each technically qualified Respondent should be reviewed to determine if they possess the financial capability required to provide the specific solid waste management service for which they possess the minimum technical experience requirements. Therefore, to be eligible to receive the Tender Documents, Respondents must demonstrate sound technical experience and financial strength.

The evaluation process will end with the identification of the Respondents deemed to be qualified to perform the desired services. All Respondents to the RFQ should be notified in writing of the results of the pre-qualification process according to the schedule provided in the RFQ. This final step in the pre-qualification process should be completed within a maximum of 120 days after the release of the RFQ.

Appendix H contains sample evaluation forms and criteria.

APPENDICES

APPENDIX A: REVIEW OF THE TENDER LAW

The Tender Law, Law 89 of 1998 (Law 89/1998), and its executive regulations, issued by the Ministry of Finance in 1998 (MoF 1367/1998), govern all public procurement of goods and services. Upon its enactment, it replaced the former tender law (Law 9 of 1983) as well as the law on implementation of public works (Law 147 of 1962). The law governs procurement by all public administrative units, including governorates and local authorities. It is the applicable law for procurement of solid waste management services by governorates.

Law 89/1998 generally requires public administrative units to procure goods and services through public tender or competitive negotiation,¹ although in extraordinary cases procurement is allowed via sole source contracting². Both public tender and competitive negotiation require the administrative unit to use similar procedures to develop specifications, receive offers, and evaluate technical offers. The procedures are slightly more complex for a public tender, but the major difference between the two types of procurement is the methodology for selecting a winner.

Both the public tender and competitive negotiation procedures require that only technically acceptable offers be eligible for contract award. The methodology for selecting the winner of a public tender process is to select the lowest priced technically acceptable bid. The methodology for selecting the winner of a competitive negotiation is to arrive at the best conditions and lowest price through negotiation with all of the technically acceptable bidders.

Whether the procurement is through public tender or competitive negotiation, it must be conducted using the principles of:³

- Transparency.
- Equal Opportunity.
- Free Competition.

The competent authority⁴ can choose which procurement method he or she wants to use, but once he or she makes a decision to procure via public tender, the procedure cannot be changed into a competitive negotiation.⁵

Law 89/1998 and its executive regulations establish the conditions and procedures for the use of each type of procurement. The following sections of this report describe those conditions and procedures.

GENERAL PROCEDURES FOR PROCUREMENT BY PUBLIC TENDER AND COMPETITIVE NEGOTIATION

Several of the procedures for public tenders and competitive negotiations are the same. This is particularly true in regard to the procedures for developing specifications, submitting offers, tracking the process, bonding, contracting, and cancellation. These similarities are detailed in this section of the report.

¹Law 89/1998, Article 1.

²Law 89/1998, Article 7.

³Law 89/1998, Article 2.

⁴The "competent authority" is the decision maker in the administrative unit that is procuring the goods or services. Article 2 of the preamble to MOF 1367/1998 defines "competent authority" as the minister, a person vested with the minister's powers, the governor, or the chairperson of the public authority.

⁵Law 89/1998, Article 1.

Development of Specifications

Law 89/1998 requires the administrative unit to develop accurate and detailed technical specifications prior to launching a public tender or competitive negotiation. ⁶The executive regulations require the administrative unit to establish a Technical Committee composed of members with experience in the field of the proposed procurement to develop specifications.⁷ The committee submits its results to the administrative unit, which uses them to prepare a book of conditions containing the technical documents for the procurement, including⁸:

- The general and special conditions and the technical specifications.
- Lists of goods and services.
- All technical annexes.

The administrative unit must make the book of conditions available for sale to prospective bidders. If the competent authority decides to invite offers from foreign entities, the administrative unit must translate the book of conditions into English.⁹ The translation must include text stating that in case of contradiction or confusion between the two languages, the Arabic text will prevail.

Submittal Requirements

Responses to an announcement of procurement by tender or negotiation must be submitted in two sealed envelopes.¹⁰ One envelope must contain the technical response and the other the financial response. The technical response envelope must include the bid bond, either in the form of a receipt for cash payment to the financial office of the administrative unit, a certified check, or a letter of guarantee issued by an approved local bank.¹¹ The technical response envelope must also contain the technical information required by the administrative unit, including:¹²

- All technical data about the submitted offer.
- The method and schedule for performing the work.
- A list of the sources and types of materials, equipment, and spare parts that the contractor will use to perform the work and copies of the manufacturers' catalogues for the same.
- Documents affirming the existence of an accredited maintenance and service center for the proposed equipment.
- Names, titles, and experience of the management personnel who will supervise performance of the work.
- Full data on any subcontractors to be used for performance of the work.
- Documentation of:
 - Enrollment in necessary registers (e.g., Commercial Register, Industrial Register, and Importers Register).
 - Membership in the Egyptian Federation of Construction and Building Contractors.
 - Registration with the Sales Tax Department.
 - Tax Card.
 - Evidence of legal establishment, such as articles of incorporation.

⁶Law 89/1998, Article 9.

⁷MoF 1367/1998, Article 3.

⁸MoF 1367/1998, Article 7.

⁹MoF 1367/1998, Article 7.

¹⁰Law 89/1998, Article 10; MoF 1367/1998, Article 8.

¹¹MoF 1367/1998, Article 70.

¹²MoF 1367/1998, Article 8.

Committees established by the competent authority must open and assess the technical response envelopes before opening the financial envelopes. The result of the technical assessment is identification of the technically accepted offers. The opening of the financial response envelopes is confined to only the technically acceptable offers.¹³ The financial response envelope is required to contain:

- Price lists.
- Method of settlement.
- Value of maintenance and spare parts.
- Operating requirements.
- Other elements affecting the financial value of the offer.¹⁴

Process Tracking

The Purchasing Department in the administrative unit is required to establish necessary registers and forms to track the procurement process from announcement through evaluation and contract signing.¹⁵ Among other things, the registers record:

- The respondents to a procurement announcement.
- The minutes of the envelope opening sessions.
- The decisions of the committee that performs the technical review.
- Notification of offer acceptance.

Bonds

In addition to establishing the technical specifications, the Technical Committee is required to estimate the costs of the contract and propose the amount of the bid bond.¹⁶ Each response to a public tender or a competitive negotiation must be accompanied by a bid bond in the amount established by the competent authority, but not to exceed 2 percent of the estimated value of the contract.¹⁷

The administrative unit is required to return the bid bond to bidders that submitted unacceptable offers within 7 working days after the expiration of the period of validity for the bid.¹⁸ In the case of the accepted offer, the administrative unit must return the bid bond before it collects the performance bond. If the submitter of an offer withdrew the offer prior to the date on which the technical response envelopes were opened, it forfeits the amount of the bid bond to the competent authority.¹⁹

Once a bidder is selected to provide procurement, it is required to post a performance bond of 5 percent of the value of the contract.²⁰ The bond must be posted within 10 days of notification of acceptance for a domestic contractor or 20 days for a foreign contractor (although the competent authority can extend these deadlines by 10 days). It may be posted via a cash payment to the financial department of the administrative unit, a certified check, or a letter of guarantee.²¹

The administrative unit holds the performance bond until full execution of the contract.²² In the case of a letter of guarantee, the letter must be valid from the date of issuance until 3 months after the end of the contract implementation period, unless otherwise agreed to by the contractor and the competent authority.²³ If the contractor with the accepted offer does not pay the performance bond within the time limit, the administrative unit may cancel the contract.²⁴ In that case, it can offer a contract to the bidder with the next lowest-cost, technically acceptable offer.

¹³Law 89/1998, Article 10.

¹⁴MoF 1367/1998, Article 8.

¹⁵MoF 1367/1998, Articles 6 and 11.

¹⁶MoF 1367/1998, Article MoF 1367/1998, Article 7.4.

¹⁷Law 89/1998, Article 17.

¹⁸MoF 1367/1998, Article 72.

¹⁹MoF 1367/1998, Article 60.

²⁰Law 89/1998, Article 18.

²¹MoF 1367/1998, Article 70.

²²MoF 1367/1998, Article 71.

²³MoF 1367/1998, Article 70.

²⁴Law 89/1998, Article 21.

Contracting

Once the competent authority has accepted an offer, the Purchasing Department in the administrative unit makes arrangements with the contractor to secure the performance bond.²⁵ At the same time, the implementing department in the administrative unit and the financial department will develop and sign a contract or a declaration with the contractor reflecting the requirements of the book of conditions and the financial response of the contractor.

The administrative unit must draft a contract if the value of the procurement exceeds LE 50,000.²⁶ If the value is less than this amount, then a declaration issued by the contractor containing all the required guarantees will be sufficient. There is no standard government contract. Each administrative unit uses its own form of contract; however, the contract must conform to the provisions of Law 89/1998 and its executive regulations.

The administrative unit must draft three copies of the contract:

- One for the financial department with all the submitted offers attached.
- One for the contractor.
- One for the implementing department in the administrative unit.

Each copy of the contract must include the value of the performance bond, its kind, and the date of its delivery.

Cancellation of a Procurement

A procurement may be cancelled by the competent authority before he or she issues a final decision if to do so is for the public good, or for any of the following reasons:²⁷

- If only one offer is submitted, or after the elimination of the technically unacceptable offers, only one offer remains.
- If all or most of the offers include technical or financial reservations.
- If the amount of the lowest offer exceeds the estimated value.

In these cases, the cancellation shall be decided by a substantiated decision from the competent authority upon the recommendation of the committee conducting the technical review. However, the competent authority can accept a sole offer upon the recommendation of the review committee, if the following conditions are fulfilled:

- The pressing need for the procurement does not allow for re-announcement.
- No benefit is expected from a re-announcement.
- The sole offer meets the specification in the book of conditions and is suitable in price.

In case of cancellation before the due date for opening the envelopes, the price of the book of conditions and specifications will be refunded to the buyers upon their request providing that they return the book and its annexes to the administrative unit.²⁸ If the cancellation is after the due date for opening the envelopes, then the price of the book of conditions and specifications will only be refunded to the buyers who submitted an offer, upon their request and provided they return the book of conditions to the administrative unit. However, if the cancellation of the procurement was due to the non-compliance to the terms and specifications, then the price of the book of conditions will not be refunded. In the cases where the competent authority decides to cancel a procurement and re-announce it with the same terms and conditions, then the price of the new book of conditions will not be collected from the bidders who bought the original book of conditions.

²⁵ MoF 1367/1998, Article 31.

²⁶ MoF 1367/1998, Article 32.

²⁷ MoF 1367/1998, Article 29.

²⁸ MoF 1367/1998, Article 30.

PUBLIC TENDER

Public tender is a process through which the administrative unit advertises its procurement needs with detailed technical specifications and selects the lowest-cost bidder that meets its specifications. The specifications fully identify the good or service required. The bidders respond to the specifications, and those who meet or exceed the specifications are considered to be technically acceptable. A committee appointed by the competent authority opens the financial response envelopes of the technically acceptable offers and awards the procurement to the bidder with the least-cost technically acceptable offer. For tenders submitted for goods and services that can be supplied locally, Egyptian bidders are considered to be the least-cost bidder if their price does not exceed 15 percent of the value of the least-cost foreign bidder.²⁹

The law identifies three types of public tenders:

- General Tender.
- Limited Tender.
- Local Tender.

The procedures differ for each type of tender and are described below.

General Tender

General Tender is applicable in cases where advertisement will be completely public and offers will be solicited from all qualified bidders, foreign and domestic.

Announcement and Schedules--

The administrative unit is required to announce a General Tender twice, at an appropriate time in one or two mass circulation daily newspapers.³⁰ The announcement must contain:

- The name of the administrative to which the offers are to be submitted.
- The deadline for submission.
- A description of the goods or services to be supplied.
- The amount of the bid bond.
- The percentage of the performance bond.
- The price of the book of conditions and its annexes.
- Any other data that the administrative unit considers necessary.

If the administrative unit wants to solicit foreign offers it must issue the announcement in Egypt and abroad in both Arabic and English.

The competent authority is responsible for setting the deadline for receiving responses to the announcement for General Tenders (the offers). The deadline must be at least 30 days from the date of the first announcement in the newspapers.³¹ If necessary, the competent authority can reduce the response period, but not to less than 20 days.

All offers must be valid for a period of up to 3 months after the opening of the technical response envelopes. However, the competent authority can extend the period of validity if the level of complexity of the tender requires a longer period for technical review.³²

²⁹ Law 89/1998, Article 16.

³⁰ MoF 1367/1998, Article 12.

³¹ MoF 1367/1998, Article 14.

³² MoF 1367/1998, Article 14.

Committees and Review--

In addition to the Technical Committee, the competent authority must establish two other committees to initiate and complete a General Tender:³³

- Tender Envelopes Opening Committee.
- Decision Committee.

The Tender Envelopes Opening Committee is responsible for opening and recording the tender envelopes. It is chaired by a senior official and composed of a legal member, a technical member, a financial member, and the Director of the Purchasing Department or his delegate.³⁴ The committee opens the technical response envelopes on the day of the deadline for submittals.³⁵ Each bidder submitting an offer may send a representative to attend the opening.³⁶ In addition to opening the technical response envelopes, the committee:³⁷

- Checks the contents for required items.
- Reads aloud the name of each bidder submitting an offer, the amount and kind of the bid bond, and the contents of the envelope.
- Removes the bid bond and delivers it to the Accounting Department representative in attendance at the opening.
- Signs, without opening, the financial response envelopes.
- Makes the necessary records.

After the Tender Envelopes Opening Committee opens and records the technical response envelopes, it submits them to the Decision Committee.

The Decision Committee is responsible for reviewing and evaluating the technical offers to identify those that are technically acceptable.³⁸ The committee is chaired by a senior official and is composed of members with relevant technical, legal, and financial expertise.³⁹ If the value of the contract will exceed LE 250,000, the Decision Committee must also have a member from the Ministry of Finance, and if the value exceeds LE 500,000, the committee must also have a member from the competent Legal Opinion Department of the State Council.⁴⁰ The committee submits a report to the competent authority conveying its recommendations for technically acceptable offers, including the reasons for its recommendations.⁴¹ The Decision Committee may establish sub-committees as needed.

The competent authority, after receiving the recommendations of the Decision Committee, determines which offers are technically acceptable. The Purchasing Department of the administrative unit is required to notify each bidder that makes an offer, informing it of whether or not its offer has been determined to be technically acceptable. If an offer is not acceptable, the bidder must be informed of the reasons for its exclusion.⁴²

The Tender Envelopes Opening Committee reconvenes after the competent authority has identified the technically acceptable offers and the Purchasing Department has notified the bidders of their status. The committee opens, reports, and records the contents of the financial response envelopes for the technically acceptable offers. Representatives from each bidder that submitted a technically acceptable offer may attend the opening.⁴³

³³ Law 89/1998, Article 12.

³⁴ MoF 1367/1998, Article 15.

³⁵ MoF 1367/1998, Article 16.

³⁶ MoF 1367/1998, Article 67.

³⁷ MoF 1367/1998, Article 17.

³⁸ MoF 1367/1998, Article 23.

³⁹ MoF 1367/1998, Article 22.

⁴⁰ Law 89/1998, Article 12; MoF 1367/1998, Article 22.

⁴¹ MoF 1367/1998, Article 23 and 24.

⁴² MoF 1367/1998, Article 25.

⁴³ MoF 1367/1998, Article 25 and 67.

Once the financial response envelopes have been opened, one or more responsible officials verify the financial offers.⁴⁴ They are then submitted to the Decision Committee, which reviews the offers and makes its recommendation to the competent authority for award to the least-cost offer.⁴⁵ Based on the recommendations of the Decision Committee, the competent authority selects a bidder with which to contract.

Limited Tender

Limited Tender is applicable in cases where the nature of the contract requires restricting the participants in the tender to certain suppliers, contractors, consultants, technicians, or experts, whether foreign or domestic, provided that they have the technical and financial qualifications to fulfill the requirements of the work.⁴⁶ The procedures for a Limited Tender are the same as for a General Tender except for the means of announcement and the schedule for responding.

To announce a Limited Tender, the competent authority must first identify the suppliers, contractors, consultants, technicians, or experts with expertise in the desired field by consulting its registers or those of other relevant authorities. It may establish or update these registers through a pre-qualification process.

Once it has identified the potential bidders, it must notify them of the tender via registered mail or another suitable means.⁴⁷ The notification must be sent at least 15 days prior to the deadline for opening the technical response envelopes.

Local Tender

Local Tender is applicable in cases where the value of the contract does not exceed LE 200,000 and participation will be restricted to local suppliers and contractors.⁴⁸ Local suppliers and contractors are defined as those who perform their business in the territory of the Governorate in which the Contract will be executed. The procedures for a Local Tender are the same as for a General Tender except for its announcement, schedule for responding, and the number and membership of committees involved in the process.

To announce a Local Tender, the competent authority must first identify all of the local suppliers and contractors capable of delivering the desired goods and services by consulting its registers or those of other relevant authorities. Once it has identified the local suppliers and contractors, it must notify them of the tender via registered mail or another suitable means.⁴⁹ The notification must be sent at least 10 days prior to the deadline for opening the technical response envelopes. However, in urgent cases the notification can be delivered by a special courier at least 48 hours before the deadline for opening the technical response envelopes.

The Decision Committee for a Local Tender does not require membership from the Ministry of Finance or the competent Legal Opinion Department of the State Council. If the contract will not exceed LE 50,000, the competent authority can forego the use of both a Tender Envelopes Opening Committee and a Decision Committee, and can instead appoint one committee to oversee both the opening of envelopes and the review and assessment of offers.⁵⁰ The committee must be chaired by a responsible official and have two other members whose position and experiences are related to the subject of the tender.

⁴⁴ MoF 1367/1998, Article 27.

⁴⁵ MoF 1367/1998, Article 28.

⁴⁶ Law 89/1998, Article 3; MoF 1367/1998, Article 34.

⁴⁷ MoF 1367/1998, Article 35.

⁴⁸ MoF 1367/1998, Article 4.

⁴⁹ MoF 1367/1998, Article 37.

⁵⁰ MoF 1367/1998, Article 39.

COMPETITIVE NEGOTIATION

Competitive negotiation (“momarsa” in Arabic, sometimes translated as “practice” in English) is a process through which the administrative unit advertises its procurement needs with detailed technical specifications, identifies those bidders who have submitted technically acceptable offers, and then publicly negotiates with those bidders to select a contractor who will deliver the best service at the lowest cost. The law identifies two types of competitive negotiations:

- General Competitive Negotiation.
- Limited Competitive Negotiation.

The procedures differ for each type of negotiation and are described in the following sections of this report.

General Competitive Negotiation

General Competitive Negotiation is applicable in cases where advertisement will be completely public and offers will be solicited from all qualified bidders, foreign and domestic.

Announcement and Schedules--

The administrative unit is required to announce a General Competitive Negotiation in the same manner as a General Tender, with the exception that the competent authority is allowed to reduce the minimum response period to 10 days from the date of the first announcement if such a reduction is necessary due to the urgency of the procurement.⁵¹

Committees and Review--

In addition to the Technical Committee, the competent authority must establish a Competitive Negotiation Committee to oversee the procurement process. The committee is chaired by a responsible official and is composed of members with relevant technical, legal, and financial expertise.⁵² If the contract will be with an Egyptian contractor and its value will exceed LE 250,000, the committee must also have a member from the Ministry of Finance, and if the value exceeds LE 500,000, the committee must have a member from the competent Legal Opinion Department of the State Council.⁵³ For contracts with foreign contractors, the Ministry of Finance and the competent Legal Opinion Department of the State Council must be represented on the committee if the value of the contract exceeds LE 1,000,000.

The Competitive Negotiation Committee serves the functions of both the Tender Envelopes Opening Committee and the Decision Committee required for a General Tender. The committee opens the technical response envelopes at a public meeting to which each bidder submitting an offer may send a representative.⁵⁴ The committee follows the same procedures for opening the technical response envelopes as prescribed for the Tender Envelopes Opening Committee in a General Tender.

After the Competitive Negotiation Committee opens and records the technical response envelopes, it conducts the technical review of each offer to ensure that it meets the specifications developed by the Technical Committee and approved by the administrative unit.⁵⁵ The committee submits a report to the competent authority conveying its recommendations for refusal or acceptance of each offer and the reasons for its recommendations.

⁵¹ MoF 1367/1998, Article 42.

⁵² MoF 1367/1998, Article 40.

⁵³ Law 89/1998, Article 6; MoF 1367/1998, Article 40.

⁵⁴ MoF 1367/1998, Article 42 and 67.

⁵⁵ MoF 1367/1998, Article 43.

The competent authority, after receiving the recommendations of the Competitive Negotiation Committee, determines which offers are technically acceptable. The Purchasing Department of the administrative unit is required to notify each bidder whether or not its offer has been determined to be technically acceptable and include in its notification the reasons for its decision. The Purchasing Department then notifies the bidders with technically acceptable offers of the time and place for the opening of the financial response envelopes.⁵⁶ Each bidder with a technically acceptable offer is allowed to have a delegate at the opening of the financial response envelopes.

The Competitive Negotiation Committee reconvenes after the competent authority has identified the bidders with technically acceptable offers and the Purchasing Department has sent notifications. The committee opens, reports, and records the contents of the financial response envelopes. The committee then negotiates with the bidders in a public session to arrive at an offer that achieves the best technical conditions at the lowest cost.⁵⁷

Once the committee has negotiated a final offer, it submits a report to the competent authority recommending that the negotiated offer be accepted. The report must be signed by all of the committee members. The competent authority then makes his or her decision regarding which offer to accept and the administrative unit enters into the contracting procedures.

Limited Competitive Negotiation

Contracting through Limited Competitive Negotiation is permitted where the desired goods or services are:⁵⁸

- Neither manufactured, imported, nor available except from specific entities or persons.
- Of a special nature that dictates procurement from their manufacturing location.
- Of a technical nature that requires the use of specific technicians, specialists, or experts.
- Related to matters of national security that require confidential procurement.

The procedures for a Limited Competitive Negotiation are the same as for a General Competitive Negotiation except for the means of announcement and schedule for responding.

To announce a Limited Competitive Negotiation, the competent authority must first identify the suppliers, contractors, consultants, technicians, or experts with expertise in the desired field by consulting its registers or those of other relevant authorities. Once it has identified the potential bidders, it must notify them of the procurement via registered mail at least 15 days prior to the deadline for opening the technical response envelopes.⁵⁹ If the procurement is urgent, the competent authority can send notifications via a special courier, 5 days prior to the deadline for opening the technical response envelopes.

SOLE SOURCE CONTRACTS

Law 89/1998 allows Sole Source Contracts in the cases of extreme emergency where time does not permit using the public tender or competitive negotiation procedures.⁶⁰ Whenever a sole source contract is used, the competent authority must substantiate his or her reasons.⁶¹ The authority to decide to use a sole source contract varies with the type and value of the contract, as shown in Table 1.

⁵⁶ MoF 1367/1998, Article 44.

⁵⁷ MoF 1367/1998, Article 44.

⁵⁸ MoF 1367/1998, Article 5.

⁵⁹ MoF 1367/1998, Article 47.

⁶⁰ MoF 1367/1998, Article 7.

⁶¹ MoF 1367/1998, Article 50.

Table 1. Authority for Authorizing the Use of Use of Sole Source Contracts

Type of Contract	Value of Contract (LE)	Authority
Goods, Services, Studies, Technical Works, Transportation	≤ 50,000	Chief Executive of the Authority or Administration
Construction	≤ 100,000	
Goods, Services, Studies, Technical Works, Transportation	≤ 100,000	Minister or Governor
Construction	≤ 300,000	
Goods, Services, Studies, Technical Works, Transportation	> 100,000 and in dire need	Prime Minister
Construction	> 300,000 and in dire need	

Source: Law 89/1998, Article 7.

In all cases, a sole source contract can only be used once in the same financial year for the same good or service, unless the total value of all of the contracts for that good or service do not exceed the limits as shown in Table 1.⁶²

Sole source contracting does not require general or limited announcement. The competent authority is only required to identify those individuals in its organization who have experience in the field of the procurement and who will be responsible for concluding a contract to provide the desired goods and service.⁶³ These individuals will represent the competent authority in identifying a potential contractor and negotiating a contract to ensure that the administrative unit receives the goods and services as specified and at market prices. These individuals submit the proposed sole source contract to the competent authority, who is responsible for approving the contract.⁶⁴ The Purchasing Department of the administrative unit is required to maintain a register of all sole source contracts.⁶⁵

A bid bond is not required for a sole source contract, as there is no bidding. However, a 5 percent performance bond may be required by the competent authority, if the authority believes that delivery of the goods or services requires, by its nature, the contractor's warranty of soundness.⁶⁶ The administrative unit retains the performance bond until the end of the warranty period, as agreed to with the contractor.

⁶² MoF 1367/1998, Article 51.

⁶³ MoF 1367/1998, Article 50.

⁶⁴ MoF 1367/1998, Article 52.

⁶⁵ MoF 1367/1998, Article 6.

⁶⁶ MoF 1367/1998, Article 50.

CONTRACT PERFORMANCE AND TERMINATION

Law 89/1998 and its executive regulations address contract performance and termination as well as procurement procedures. If a contractor delays implementation of a contract, the law and its executive regulations allow the competent authority to extend the deadline for implementation and charge the contractor a delay fine.⁶⁷ The fine is charged at a rate of 1 percent of the value of the contract for each week or portion of a week that the implementation is delayed.⁶⁸ The fine cannot exceed three percent of the value of the contract if the contract is for goods, services, studies, or technical works, or 10 percent of the value of the contract if it is for construction.⁶⁹ The competent authority can implement the delay fine as soon as the delay occurs, without notifying the contractor.

The competent authority can exempt a contractor from the delay fine (after taking the opinion of the competent Legal Opinion Department of the State Council) if the contractor shows that the delay was due to reasons beyond its control or if the delay did not cause any damage.⁷⁰ The implementation of the delay fine does not prevent the administrative unit from seeking full compensation for its losses due to the delay.

An administrative unit can revoke a contract immediately if:⁷¹

- It has proof that the contractor used (either itself or through a third party) fraud or manipulation when dealing with the administrative unit.
- The contractor has been declared bankrupt or insolvent.

The administrative unit may also terminate the contract if the contractor does not comply with any of the terms and conditions of the contract and does not correct the noncompliance within 15 days of notification by the competent authority.⁷²

The competent authority must issue a decree to revoke or terminate a contract. The contractor must be notified of this decree by a confirmed registered letter.⁷³ If the contract is revoked or terminated due to the actions of the contractor, the administrative unit retains the performance bond as well as any goods or services delivered by the contractor prior to termination.⁷⁴ The administrative unit also is entitled to deduct from any outstanding payments to the contractor the full cost of the losses it will incur as a result of the contractor's nonperformance.⁷⁵ If the outstanding payments are not sufficient to cover the losses, the administrative unit has the right to make the deduction from payments due to the contractor from another administrative unit, as well as maintaining its rights to pursue legal action against the contractor.

If a dispute arises between the two parties during performance or termination of the contract, they may agree to settle the dispute through arbitration, after receiving the approval of the competent Minister.⁷⁶ If the parties agree to arbitration, they must continue to meet their contractual obligations during the period of arbitration.

In case of allegation by the contractor that the administrative unit failed to fulfill its contractual obligations, the contractor has the right to take legal action to claim compensation for the damages.⁷⁷ Alternatively, the contractor and the administrative unit can agree to resolve their dispute via arbitration according to the procedures prescribed in the Arbitration Law (Law 27 of 1994, as amended by Law 9 of 1997).

⁶⁷ Law 89/1998, Article 23; MoF 1367/1998, Article 83.

⁶⁸ MoF 1367/1998, Article 83.

⁶⁹ Law 89/1998, Article 23.

⁷⁰ Law 89/1998, Article 23; MoF 1367/1998, Article 83.

⁷¹ Law 89/1998, Article 24.

⁷² Law 89/1998, Article 25; MoF 1367/1998, Article 84.

⁷³ Law 89/1998, Article 25.

⁷⁴ Law 89/1998, Article 26; MoF 1367/1998, Article 84.

⁷⁵ Law 89/1998, Article 26.

⁷⁶ Law 89/1998, Article 23.

⁷⁷ Law 89/1998, Article 23.

APPENDIX B: EXAMPLE LIST OF TENDER COMMITTEE MEMBERS

CHAIRPERSON:

MEETING COORDINATOR/SECRETARY:

SPECIALITY	NAME AND TITLE/ POSITION
1. Public administration	
2. Accounting/finance	
3. Technical - Solid Waste Management	
4. Technical - Environmental	
5. Legal	
6. Public health	
7. Government official	
8. Government official	
9. Stakeholder -Customer, private	
10. Stakeholder - Customer, business	
11. Other	
12. Other	
13. Other	
14. Other	

APPENDIX C: EXAMPLE RFQ TABLE OF CONTENTS

General Project Information

- Introduction
- Proposed Contractor Responsibilities
- Responsibilities of the Governorate
- Anticipated Procurement Schedule

RFQ Submittal Requirements

- Submission Deadline and Address
- Number of Copies
- Signature
- Rights and Liabilities of the Parties
- Cost to be borne by Respondents
- Confidentiality Requirements
- Submittal Format and Forms
- Request for Clarification Procedures
- Joint Ventures, Subcontractors, and Supplier Requirements

Description of Proposed Contract Services

- General Description
- Residential Solid Waste Collection
- Commercial Solid Waste Collection
- Transfer Facility Construction and Operation
- Recycling and Composting Facility Construction and Operation
- Street Sweeping and Washing
- Sanitary Landfill Construction and Operation
- Industrial Waste Collection
- Medical Waste Collection and Treatment

Existing Solid Waste Management Services

- General Overview
- Residential Solid Waste Collection
- Commercial Solid Waste Collection
- Transfer Facility Construction and Operation
- Recycling and Composting Facility Construction and Operation
- Street Sweeping and Washing
- Sanitary Landfill Construction and Operation
- Industrial Waste Collection
- Medical Waste Collection and Treatment

Response and Submittal Requirements

- Mandatory Response Requirements
- Response for Specific Services
- Response Language

Pre-qualification Experience Requirements

- General
- Minimum Pre-Qualification Experience for Waste Collection
- Minimum Pre-Qualification Experience for Recycling and Composting
- Minimum Pre-Qualification Experience for Landfill Design, Construction, and Operation Experience
- Minimum Pre-Qualification Experience for Medical Waste Collection and Treatment
- Minimum Pre-Qualification Experience for Industrial Waste Collection and Disposal

Evaluation and Selection Process

- Objectives
- Methodology
- Pre-Qualification
- Technical Qualifications
- Financial Qualifications

APPENDIX D: EXAMPLE PROJECT SCHEDULE FOR INCLUSION IN RFQ

<u>Activity</u>	<u>Date</u>
Release of the RFQ to all interested parties	
Pre-submittal meeting	
Deadline for written comments and questions on RFQ	
SOQ submittal	
SOQ review and evaluation	
Announcement of Pre-Qualified Contractors.....	
Distribution of the (RFT) documents	
Tender submission	
_____ reviews Tenders	
[NAME OF AGENCY]	
_____ announces award of Tenders	
[NAME OF AGENCY]	

APPENDIX E: EXAMPLE LETTER OF INTENT

(To be typed on Letterhead)

(Date)

Dear Mr. :

We have reviewed the [NAME OF AGENCY] Request for Qualifications for [DESCRIBE] and, based on our review, we hereby enclose our Response.

We declare to the [NAME OF AGENCY] that we have the management skills, technical experience, and the financial capability to provide the solid waste management services for which we are submitting information in this Response. The specific services for which we believe we are qualified to provide include the following:

[PROVIDE A LIST OF SERVICES]

Further, to the best of our knowledge, the representations made in our Response are truthful and accurate.

In submitting pre-qualification information for review, we hereby waive any claim against the [NAME OF AGENCY] that might arise from any such decision of, or action by the [NAME OF AGENCY] related to this pre-qualification process.

AUTHORIZED OFFICER OF THE RESPONDENT

Name

Signature

(Corporate Seal)

Title

APPENDIX F: EXAMPLE QUALIFICATION SUBMITTAL FORMS

COMPANY PROFILE

Full Name of Business Concern:.....
Business Address:.....
Telephone/Fax Numbers:.....

Principal Contact Person: (The name, position, address, telephone, and fax number of the Respondent's contact person shall be provided.)
.....
.....

Business Structure (select only one):
Corporation Joint Venture (JV) Partnership.....
Other (describe)

The Respondent, if a Corporation, shall submit a copy of the Articles of Incorporation. If a Partnership, copies of the Partnership Agreement shall be submitted. If a Joint Venture, copies of the Joint Venture Agreement shall be submitted. If a Joint Venture is not already in existence, a document of intent to form a Joint Venture will be acceptable. The document must define the participation of the firms and division of work, including the responsibility for overall management and coordination, and the liability each firm will have as a contracting party.

Number of years in business:.....
If JV or Partnership list all Companies:

Name / Address

1.
2.
3.

Proposed responsibility of each Company: (For each company, provide a complete and comprehensive description of the work to be performed)

1.
2.
3.

If Responding firm(s) are a partially or fully owned subsidiary of another firm, please identify the firms and relationships:

Name of Parent Company

Name of Subsidiary

.....

Full name of Egyptian partner:

Local business address:

Local telephone/fax numbers:

Principal contact person:



SOLID WASTE MANAGEMENT EXPERIENCE SUMMARY

Total number of years experience in solid waste management activities (list for each JV company and/or subcontractor):

	Street Sweeping (Years)	Solid Waste Collection (Years)	Recycling/ Composting (Years)	Landfill Construction /Operation (Years)	Medical Waste Disposal (Years)
Company 1					
Company 1					
Company 1					

List prior solid waste related experience in Egypt:

Project Name	Company	Location	Starting Date	Ending Date

List prior solid waste related experience outside Egypt:

Project Name	Company	Location	Starting Date	Ending Date

For all projects cited above, and for other projects and work you wish to use to demonstrate your capability to meet the minimum qualification requirements, provide on attachments to this form complete descriptions including the size, scope and other details of the project:

MUNICIPAL SOLID WASTE COLLECTION, TRANSFER FACILITY CONSTRUCTION AND OPERATION, AND WASTE DELIVERY

Name of Company or JV:

.....

Number and description of current and past solid waste collection contracts in Egypt:

.....

Number and description of current and past solid waste collection contracts outside Egypt (Include only contracts that are for collection of over [INSERT CAPACITY] tons per day):

.....

Total annual value of current solid waste collection contracts listed by contract:

.....

List number of transfer stations designed, constructed, and operated by company or JV:

.....

Provide the requested information for existing waste collection and transfer station contracts:

.....

Name of Jurisdiction	Type of Service	Country	Population Served	Length of Contract	Annual Value of Contract (LE)

Total number of solid waste contracts in Egypt involving public education programs:

.....

Total number of solid waste contracts outside Egypt involving public education programs:

.....

**MUNICIPAL SOLID WASTE COLLECTION,
TRANSFER FACILITY CONSTRUCTION AND OPERATION,
AND WASTE DELIVERY (continued)**

Provide the following information for public education programs conducted in the last 5 years:

Name of Jurisdiction	Country	Population Served	Years of Public Education Program Experience	Program Description and Company Responsibilities

Are engineering services for transfer station design in-house or will they be subcontracted?

.....

If subcontracted, who is the prime engineering Subcontractor?

Full name of business:

.....

Business Address:

.....

Telephone/Fax Numbers:

.....

Principal Contact Person:

.....

List a minimum of three transfer stations designed and engineered by the company or the company's engineer. Provide location and client name.

.....

.....

.....

RECYCLING AND COMPOSTING SERVICES

Name of Company or JV:

.....

Number of recycling contracts in Egypt:

.....

Number of composting contracts in Egypt:

.....

Number of recycling contracts outside Egypt (include only contracts that are for recycling of over [INSERT CAPACITY] tons per day):

.....

Number of composting contracts outside Egypt (include only contracts that are for composting of over [INSERT CAPACITY] tons per day):

.....

Total annual value of existing recycling contracts (LE):

.....

Total annual value of existing composting contracts (LE):

.....

Provide the requested information for existing recycling contracts:

Name of Jurisdiction	Country	Type of Recycling Facility	Facility Capacity (TPD)	Length of Contract	Annual Value of Contract (LE)

RECYCLING AND COMPOSTING SERVICES (continued)

Provide the requested information for existing composting contracts:

Name of Jurisdiction	Country	Type of Composting Facility	Facility Capacity (TPD)	Length of Contract	Annual Value of Contract LE

Are engineering services for the design of recycling and composting facilities in-house or will they be subcontracted?

.....

If subcontracted, who is the prime engineering Subcontractor?

Full Name of Business:

.....

Business Address:

.....

Telephone/Fax Numbers:

.....

Principal Contact Person:

.....

List a minimum of [INSERT CAPACITY] ton per day or greater composting facilities designed by the company or the company's engineer. Provide location and client name.

.....

.....

.....

STREET SWEEPING AND CLEANING SERVICES

Name of Company or JV:

.....

Number of street sweeping contracts in Egypt:

.....

Number of street sweeping contracts outside Egypt (include only contracts that are for street sweeping of urban centers with over [INSERT POPULATION] people):

.....

Total annual value of current street sweeping contracts (LE):

.....

Provide the requested information for existing street sweeping contracts:

Name of Jurisdiction	Country	Population Served	Length of Contract	Annual Value of Contract (LE)

SOLID WASTE DISPOSAL (LANDFILL) SERVICES

Name of Company or JV:

.....

Number of solid waste disposal contracts in Egypt:

.....

Number of solid waste disposal contracts outside Egypt (include only contracts that are for landfilling of over [INSERT CAPACITY] tons per day):

.....

Total annual value of current solid waste disposal contracts (LE)

.....

Provide the requested information for existing solid waste disposal contracts:

Name of Jurisdiction	Country	Population Served	Landfill Capacity (TPD)	Length of Contract	Annual Value of Contract (LE)

Are engineering services in-house or will they be subcontracted?

.....

If sub-contracted, who is the prime engineering Subcontractor?

Full name of business:

.....

Business Address:

.....

Telephone/Fax Numbers:

.....

Principal Contact Person:

.....

List a minimum of three [INSERT CAPACITY] ton per day or greater landfills designed and engineered by the company or the company's engineer. Provide location and client name.

.....

.....

INDUSTRIAL WASTE COLLECTION AND DISPOSAL SERVICES

Name of Company or JV:

.....

Number of industrial waste disposal contracts in Egypt:

.....

Number of industrial waste disposal contracts outside Egypt:

.....

Total annual value of current industrial waste disposal contracts (LE):

.....

Provide the requested information for existing industrial waste disposal contracts:

Name of Jurisdiction	Country	Type of Disposal Facility	Facility Capacity (TPD)	Length of Contract	Annual Value of Contract (LE)

MEDICAL WASTE COLLECTION AND DISPOSAL SERVICES

Name of Company or JV:

.....

Number of medical waste disposal contracts in Egypt:

.....

Number of medical waste disposal contracts outside Egypt:

.....

Total annual value of current medical waste disposal contracts (LE):

.....

Provide the requested information for existing medical waste disposal contracts:

Name of Jurisdiction	Country	Population Served	Landfill Capacity (TPD)	Length of Contract	Annual Value of Contract (LE)

Are engineering services in-house or will they be subcontracted?

.....

If subcontracted, who is the prime engineering Subcontractor?

Full name of business:

.....

Business Address:

.....

Telephone/Fax Numbers:

.....

Principal Contact Person:

.....

List a minimum of [INSERT CAPACITY] ton per day or greater medical waste treatment facilities designed and engineered by the company or the company's engineer. Provide location and client name.

.....

.....

.....

STATEMENT OF FINANCIAL CAPABILITY

Name of Company or JV:

.....

Provide audited annual financial and cash flow statements for the past three years.
(In the case of a joint venture, audited financial and cash flow statements shall be provided for each of the joint venture participants.)

.....

Has the Company or any members of the JV declared bankruptcy in the last 10 years?

Yes No

If yes, please list each separate bankruptcy filing and provide for each a detailed description of the current status and terms of resolution:

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

APPENDIX G: EXAMPLE RFQ ADVERTISEMENT

REQUEST FOR QUALIFICATIONS

(INSERT DATE OF FIRST PUBLICATION)

Governorate of
(Administrative Unit)
(Address and Telephone Number)

(Official project name)

The (name of institution), intends to enter into a contract with a qualified firm to manage, operate, maintain, and provide all necessary customer services related to the provision of Solid Waste Management Services in the Governorate of..... . The service area comprises hectares having an approximate population of and numerous commercial and industrial facilities.

The (name of institution) is soliciting expressions of interest from firms seeking to be pre-qualified to submit proposals. The Request for Qualifications (RFQ) will provide a summary of the project and details of the required information. Only firms that are pre-qualified will be permitted to submit tenders for the work.

A Bid Bond in the amount of LE and a Performance Bond equal to.....% of the amount of the Tender Offer will be required to be provided by pre-qualified Bidders at the time of submittal of their Tender Offer. They are not required as part of the pre-qualification submittal.

Written requests for the RFQ must be received by (name of institution) not later than noon local Egyptian time on (date). The request may be mailed or sent by FAX to:

(Name, Address, Telephone, Fax Number, etc.)

The request may be faxed to the attention of (name of person) at (telephone number). Please provide the name and address of the contact person with address, phone, fax, and e-mail to which the RFQ is to be sent. The (name of institution) will not be responsible for the quality of completeness of fax transmissions.

Dated:

APPENDIX H: EXAMPLE RESPONSE EVALUATION FORMS

Date:

Full Name of Applicant Business:

Authorized Officer of the Applicant:

	Yes	No	Not Applicable
Applicant for Service Alternative (Describe)			
Applicant for Service Alternative (Describe)			
Submittal Requirements			
On-time Submittal			
Sealed and Properly Labeled Package			
Bound Document			
One Original			
Five Arabic Copies			
Two English Copies			
Signed Letter of Intent			
Letter of Intent Content			
Completeness of Forms			
Form 1			
Form 2			
Form 3			
Form 4			
Form 5			
Form 6			
Form 7			
Form 8			
Form 9			
Form 10			

EXAMPLE RESPONSE EVALUATION FORMS (continued)

	Yes	No	Not Applicable
General Requirements			
Egyptian Local Partner for Foreign Applicant			
Current in Payment of Egyptian Taxes			
Have or Will Provide Dedicated Management Team Officed in the Service Area			
Complete Project and Client References			
Company Part of More Than One Joint Venture			
Technical Requirements			
Municipal Solid Waste Collection			
5 Years Experience in Solid Waste Collection in Urban Area \geq [INSERT POPULATION] in Developing Country			
5 Years Experience in Solid Waste Handling and Transfer Station Operation in Urban Area \geq [INSERT POPULATION] in Developing Country			
5 Years Experience Public Information and Education in Urban Area \geq [INSERT POPULATION] in Developing Country			
Recycling and Composting			
Design & Construction Experience for \geq [INSERT CAPACITY] Tons/Day Capacity MSW Composting Facility			
Facility Operating at Design Capacity at Least 2 Years			
5 Consecutive Years Experience Within Past 10 Years in Composting Facility Operations			
Street Cleaning			
5 Years Experience in Street Sweeping and Cleaning in Urban Area \geq [INSERT POPULATION]			
Experience in Public Container and Litter Collection in Large City			
Landfill Design, Construction, and Operation			
Design Experience for a Minimum of 3 or More Sanitary Landfills with Capacity \geq [INSERT CAPACITY] Tons/Day			
5 Years Experience in Landfill Construction and Construction Management			

**EXAMPLE RESPONSE EVALUATION FORMS
(continued)**

	Yes	No	Not Applicable
5 Years Experience in Operating Landfill \geq [INSERT CAPACITY] Tons/Day Capacity			
Industrial Waste Collection and Disposal			
5 Years Experience in Collection and Disposal of \geq [INSERT CAPACITY] Tons/Day Industrial Waste			
Medical Waste Collection, Treatment, and Disposal			
5 Years Experience in Collection of \geq [INSERT CAPACITY] Tons/Day Medical Waste			
Design & Construction Experience for \geq [INSERT CAPACITY] Tons/Day Capacity Medical Waste Treatment Facility			
Facility Operating at Design Capacity at Least 2 Years			
5 Consecutive Years Experience Within Past 10 Years in Medical Waste Treatment Facility Operations			
Does Applicant Meet the Minimum Technical Requirements?			
Financial Requirements Financial Capacity to Provide the Proposed Solid Waste Management Services			
Have Previous Clients of the Applicant Been Contacted and Reported being Satisfied with the Applicant's Work?			
Is the Applicant Pre-Qualified?			

Solid Waste Technical Assistance

