



Republic of Uganda

MINISTRY OF WATER AND ENVIRONMENT
WATER UTILITIES REGULATION DEPARTMENT

Re: MWE/ CONS/16-
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PROCUREMENT PROCESS GUIDE FOR
PRIVATE WATER OPERATORS IN SMALL TOWNS & RURAL GROWTH CENTRES

FINAL REPORT

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EICC

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Table of Contents

List of Acronyms	3
Overview	4
1.0 Introduction	5
2.0 General Principals	6
3.0 Prequalification of eligible Private water Operators	6
4.0 Registration	8
5.0. Requirements and Criteria for Prequalification	10
5.4 Experience of the Firm.....	12
5.5 Personnel Capabilities.....	13
5.6 Equipment	14
5.7 Financial capacity	14
5.8 Margin of Preference / Proximity to area of Service	15
6.0 Technical Specifications – Scope and Statement of Requirement.....	16
6.0 Technical Evaluation of Bids.....	16
Annex 1: Classification of Private Water Operators	18
Annex 2 : Criteria for Grading of Small Towns Water Supply	22
Annex 3: Bidders’ Assessment Methodology	27
Terms of Reference	34
References.....	37

List of Acronyms

DCC	District Contracts Committee
DWD	Directorate of Water Development
MWE	Ministry of Water and Environment
PDE	Procurement and Disposal Entity
PDU	Procurement and Disposal Unit
PPDA	Procurement and Disposal of Public Assets Authority
PWO	Private Water Operator
RGC	Rural Growth Centre
SO	Scheme Operator
WURD	Water Utilities Regulation Department

Overview

The framework for public procurement in Local Government under decentralization governance is vested in duly constituted Districts Contracts Committees. While the procurement framework is well defined under the Local Governments PPDA Regulations with safeguards to ensure transparency and efficiency in procurement of goods, services and works, its application in procurement of Private Water Operators is not clear. This is because the requirement is complex and does not adequately fit in the PPDA description of either goods or services. In most cases, procurement of water operators has been classified as services and the Quality and Cost Based Evaluation Method commonly used in evaluation of bids. Besides, a number of Local Governments do not have the technical capacity within their Contracts Committees or User Departments to efficiently adjudicate over the procurement.

This procurement process guide is a culmination of a review of the relevant procurement regulations, consultative meetings with members of District Contracts Committees and Water Authorities in selected Districts, Small Towns and Rural Growth centers across the country. In addition, interviews were conducted with key stakeholders in the Ministry of Water and Environment, Regional Umbrella Organisations and PPDA. In addition, to a review of various sector documents and PPDA Regulations as amended.

This guide is intended to address ambiguity of the generic procurement framework and clarifying its application to the procurement of private water operators. Its purpose is to guide all entities to ensure that water supply and sanitation services are procured on a transparent, equitable and sustainable basis, and to nurture a procurement system that guarantees good management practices for water supply systems to assure quality and consistency appropriate to the standards for quality and safety of piped water.

This procurement guide is intended to be read in conjunction with PPDA Regulation 2014 and the Local Government Procurement Regulations 2006. Therefore the broad principles of procurement outlined in the Regulations will continue to be applicable to the extent possible for the procurement of Private Water Operators for Small Towns and Rural Growth Centres unless they have been amended or modified by the Authority. In the event of a conflict between the procurement process guide and Procurement Regulations, the Regulations shall prevail.

1.0 Introduction

Within the context of decentralization in Uganda, the procurement in Local Governments is vested in Procurement and Disposal Entity and exercised through duly constituted District Contracts Committees in accordance with Regulation 34 of the Local Governments Regulations 2006. Responsibility for initiating the procurement and specifying the requirement under this arrangement is vested in the Water Authorities who are users of the service.

Notwithstanding the well-defined procurement structure with well elaborated separation of responsibilities to increase transparency, ensure efficiency and minimize abuse of public funds, Water Authorities still suffer capacity shortfall particularly in regard scoping the requirement and evaluation criteria to guide DCCs in handling procurement for private water operators and scheme operators for Water Authorities. This arises in part because the context of provision of urban water and sanitation services is governed by both Uganda and international regulations and standards aimed to safeguard health and safety water users. These regulations and standards place procurement of Private Water Operators and private scheme operators outside the standard definition of goods, works and services as provided under the PPDA generic Regulations.

This notwithstanding, Water Authorities have in the past left District Contracts Committees to adjudicate over procurement with neither adequate scoping of the requirement nor guidance as to the relevant regulations or standards governing water and sanitation services provision. Consequently there have been cases of acrimony between contracting parties as to the scope of requirements resulting selective application of the PPDA Regulations to procurement of unqualified providers often without technical and management capacity to efficiently manage the complex task of providing water and sanitation services on a sustainable basis.

This Procurement Process guide to is a culmination of wide consultative process involving various stakeholder including; Procurement and Disposal Entities, District Contracts Committees, Water Authorities and Water Operators, and Regional technical Support Units and Umbrella Organisations. Its purpose is to streamline procurement of Private Water Operators and Operators of Small Towns and Rural Growth Centres with the goal of enhancing the efficiency of District Contracts Committees and Water Authorities in executing their respective procurement mandates. The guide attempts to ensure that procurement of Private Water Operators and Scheme Operators by Districts Contracts Committees takes into account relevant standards and issues of water regulation to enhance efficiency and transparency, ensure integrity of the procurement process, assure water safety for consumers, warrant proper Operation and Maintenance to safeguard water supply investments and ensure sustainability services.

This process guide focuses on a number of areas to increase efficiencies in procurement of water operators by Districts Contracts Committees; Prequalification of eligible Private Water Operators; Classification of Private

water operators on basis of technical and commercial competence; Grading of water supply schemes in Small Towns and Rural Growth Centers on the basis of water supply technology and size of operations; and Evaluation Criteria to guide in the selection of service providers..

The guide is intended to be used within the framework of PPDA Regulations 2014 and the Local Government Procurement Regulations as amended. In case of conflict of this guide with PPDA Regulations, the Regulations shall prevail.

2.0 General Principals

2.1 All Private Water Operators and Scheme Operators procured must fulfill required standards for quality and safety of piped water including criteria for staff and personnel, facilities, equipment, materials, and water quality control and testing.

2.2 All providers procured through the prequalification process shall fulfill requirements for management operations to ensure, Performance, Effectiveness and Service level requirements.

2.3 The strategic objectives of procurement of Service Providers should be;

- procure the most technically responsive providers to manage services on a sustainable and cost effective basis
- ensure supplier reliability with respect to service and quality;
- technical and management capacity to safeguard water supply investments; and
- achieve the lowest possible evaluated cost.

3.0 Prequalification of eligible Private water Operators

Prequalification of private water operators relates specifically to the selection of competent contractors, prior to the issue of the Invitations to Bid by procurement and disposal entities acting on behalf of Water Authorities. PPDA Regulations 2014 specifies circumstances under which prequalification can be used and specifically, Sub-regulations 120 (2a,c) and regulation 126 provide a guide as to the use of Prequalification method to obtain a shortlist of tenders and to ensure that invitations to tender are confined to capable providers only .

Provision of water and sanitation services is a complex undertaking requiring providers to apply a mix of technical, management and business skills to provide a service. More so, the performance contract entered between a Water Authority and the Minister responsible for water places a number of imperatives on the Authority which are expected to be executed through a private water provider. These include service Standards

for water quality and safety, level of service and as well as contractual obligations related to safeguarding water supply investments and reporting. For purposes of assuring quality in light of the complexity and specialized nature of the of services to be provided by Private Water Operators and Scheme Operators, it is recommended that Ministry of Water and Environment retains mandate of prequalifying providers and this should be executed through the Water Utilities Regulation Department..

3.1 Pre-qualification shall be carried out only for the purposes of assuring quality and standards by evaluating prospective providers' capacity and reputation before bids are solicited by Water Authorities through District Contracts Committees for procurements of private Water Operators or scheme Operators.

3.2 The list of pre-qualified suppliers/providers shall be revised at least once in three years to;

(a) Enable Water Utilities Regulation Department to seek out potential Providers in order to maintain competitive pressure on entities that had been pre-qualified previously.

(b) determine that there are new market entrants or new applicants that the Water Utilities Regulation Department may at its own discretion, at any time, pre-qualify on the most recent and identical criteria by which other providers have been pre-qualified in order to maintain competition.

(c) ensure that the pre-qualification criteria for any specific provider are consistently applied to all such potential entrants and the process is carried out fairly and transparently.

3.3 The pre-qualification process referred to above shall be based on documentation.

(a)The Water Utilities Regulation Department shall, particularly in the case of new applicant, for whom there is no past track record, verify the authenticity of documentation submitted by any such applicant pertaining to registration aspects, by independently obtaining confirmation from the authorities which purportedly have issued such certification.

(b) The Water Utilities Regulation Department, shall also obtain independent confirmation from the relevant authority to ensure that the applicants who are to pre-qualified have not been blacklisted/suspended by such authorities nor have had their services recalled for contractual infractions.

3.4 Validity of the prequalification

(a) Once pre-qualified, the provider shall be deemed to remain pre-qualified until the next revision, unless there have been noncompliance with contract obligations, or a change in the status-quo of provider stated at the prequalification stage, which warrants a review.

(b) An applicant who did not pre-qualify previously is eligible to re-apply at the next revision.

(c) Water Utilities Regulation Department shall initiate and maintain a contract review and operator performance database on a central databank accessible to Procurement and Disposal Entities, Water Authorities and other stakeholders for reference.

3.5 The District Contracts Committees shall solicit bids for each Water Authorities from the list of such prequalified providers.

3.6 For reasons of enforcing standards, it is prudent the Ministry of Water and Environment through Water Utilities Regulation Department conducts due diligence on applicants and takes into account the capability and resources of the bidder in accordance with PPDA Regulation 124 and attendant sub regulations.

3.7 Water Utilities Regulation Department shall have discretion to refer to information in its database regarding the operators past performance as part of the due diligence to prequalify or grade service providers.

3.8 In accordance with PPDA regulations, a clear statement of the requirements for qualification shall be published in a Newspaper of wide coverage a copy of which shall be sent to all PDUs, District Contracts Committees, Us to be posted on notice boards. Prequalification shall be open to all applicants who wish to be considered for prequalification.

4.0 Registration

The Ministry of Water and Environment shall establish and maintain and update a register of shortlisted Private Water Operators and accredited Scheme Operators for every three years but renew it each financial year through open invitation to allow for new entrants who wish to be considered for registration. All firms and individuals prequalified through the prequalification process shall appear on the register of providers and will not need to reapply for registration until the next round of a call for registration

4.1 All Private Water Operators and Scheme Operators to be procured by the Contracts Committees on behalf of Water Authorities shall be registered by Water Utilities Regulation Department

4.2 The Invitations for bids shall state registration in 4.1 as a requirement and all bidders shall be required to attach a notarially certified copy of the original registration certificate and any re-registration certificates where applicable to the bid documents. Submission of back-dated registration certificates after bid opening shall be rejected.

- 4.3. If the bidder submits evidence that he/she has applied for re-registration at least six months before the date of expiry of the current registration, as per the relevant notification, this shall be deemed sufficient to satisfy the requirements of registration.
- 4.4 No contract shall be awarded to any bidder unless the bidder is in possession of a valid certificate of registration at the time of the award of contract.
- 4.5 The requirement of registration stipulated above may be waived off in exceptional circumstances with by way of a waiver obtained from the Commissioner Water Utilities Regulation Department clearly stating the reason and duration of the waiver provided that the Commissioner ascertained whether the particular Service Provider meets the requisite criteria to provide services by;
- (a) Perusing the available documents accompanying the said request ; and/or
 - (b) on the submission by the provider of any additional documentation as required by the Commissioner for the said services; and/or
 - (c) on the submission by the provider a certificate issued by a recognized independent professional body which is identified by Commissioner
 - d) To be considered for registration, corporate entities shall submit necessary documents that may include;
 - i. Certificate of registration or certificate of incorporation
 - ii. Memorandum and articles of Association
 - iii. Audited accounts
 - iv. Valid Income Tax Clearance Certificate
 - v. List of Directors (Company Form 7)
 - vi. Location of registered office
 - vii. Record of current and past contracts executed by the applicant
 - viii. Any other documents as the contracts committee may determine.
 - e) to be considered for registration, individual scheme operators shall submit necessary documents that may include;

- i. Certified copies of academic and or professional qualifications
- ii. Copy of the National Identity card
- iii. Tax registration Number
- iv. membership to a professional body / association where applicable
- v. Employment history or Record of current or past contracts executed
- vi. Bank Account details
- vii. Any other documents as the contracts committee may deem fit

4.6 The Ministry of Water and Environment through Water utilities Regulation Department shall be responsible for the Registration and of eligible Private water Operators and Scheme Operators and shall maintain and post a list of approved providers in the media, on its websites, and circulate the list of to all Procurement and Disposal Entities and Water Authorities throughout the country. The list shall be kept under review and updated annually at the beginning of each financial year to remove defunct providers and allow for new applicants obtained through a call for prequalification or registration.

5.0. Requirements and Criteria for Prequalification

5.1 Criteria for pre-qualification must be clearly stipulated in the call for pre-qualification under open national or open international tendering. The pass fail basis shall be used to check for compliance of prospective bidders with eligibility requirements under in accordance with PPDA Regulations.

5.2 Invitation to pre-qualify

(a) The invitation to pre-qualify for bidding on specific contracts or groups of similar contracts shall be given wide local and international publicity. The Water Utilities Regulation Department shall publish such advertisement:

- in at least one widely circulated in national newspaper;
- On MWE Noticeboards
- transmit such invitations to Water Authorities and PDEs / District Contracts Committees and trade journals targeting providers are likely to participate;

- post list of registered / prequalified providers on relevant websites such as MWE and Ministry of Local Government (MoLGs)

(b) The pre-qualification document setting out the scope of the contract (i.e. the magnitude of the contract in accordance with thresholds issued by the authority in guidelines) and a clear statement of the requirements for qualification shall be issued to the prospective providers who responded to the invitation to pre-qualify.

(c) The results of the prequalification shall be informed to all the applicants who have applied to be pre-qualified, in response to such advertisement.

(d) After the pre-qualification is completed, the list of applicants who meet the specified criteria (qualified prospective bidders) will be circulated in the media and to all District Contracts Committees, Water Authorities and PDEs and shall be used at the time the Contract Committees /PDEs at their discretion to invite bids for provision of services.

(e) Verification of the information provided in the submission for prequalification shall be confirmed by District Contracts Committees at the time of award of contract. No award shall be made to a bidder who is determined to no longer have the capability or resources to successfully perform the contract

(f) The Water Utilities Regulation Department may at its own discretion and where it deems necessary, carry out physical inspections of the facilities of any Provider(s) which it intends to pre-qualify for purposes of verifying the information provided by such manufacturer bidder.

5.3 The Ministry of Water and Environment shall prequalify applicants in categories basing on their capability to perform in specific categories of contracts described in the Water Supply Scheme Classification criteria (Annex 1)

5.3 Technical Evaluation

Applicants satisfying the preliminary stage described in (5.1) above shall be subject to a detailed technical, management and financial assessment. The assessment shall rely on the apportionment of scores on the basis of requirements listed in prequalification, and will seek to evaluate bidder's competences which relate to characteristics that are essential to ensure satisfactory execution of specific water supply contracts based on the water supply scheme classification criteria (Annex 3)

5.3.1 To assess the firm for its ability to perform in a specific category of schemes, the applicant shall furnish a company profile showing;

- a. Experience of the firm in executing similar contracts in the country, region or internationally
- b. Performance on similar contracts within the country, region or internationally
- c. Capabilities in respect to equipment and other tools related to the execution of the contract
- d. Qualifications and experience of key personnel
- e. Financial capacity to perform the contracts
- f. The available capacity to undertake the assignment
- g. Litigation record
- h. Any other relevant criteria such as Memberships or registration with professional Organizations such as MUIPE and APWO– to enhance the credibility and /or demonstrate adherence to minimum professional standards

5.3.2 In respect to the above, an applicant shall in addition to eligibility documents furnish the following documents;

- a. Memorandum and articles of association in the case where applicants are registered companies;
- b. list of owners of the firm;
- c. name, address and physical location of business;
- d. a record of current and past relevant contracts;
- e. annual business turn over for the last five years where applicable; and
- f. List of equipment and tools owned by the applicant

5.3.3 To enable potential bidders to be prequalified, this prequalification process shall seek only such information as is essential to determine the applicant's capabilities to perform the in a contracts or specified groups of contracts satisfactorily. These capabilities shall be categorized under the headings of experience, personnel capabilities, equipment capabilities, financial position, and proximity to service area / margin of preference. A checklist of the evaluation for this requirement in shown in Annex 2

5.4 Experience of the Firm

5.4.1 The applicant's general capabilities shall be related to the availability of relevant experience and the value to the provision of management and operation services for piped water supply schemes in small Towns and Rural Growth Centres. Minimum experience requirements shall be stipulated as an annual value of the management contracts carried out over the past five years or as may be appropriately determined by the Water Utilities Regulation Department for new entrants.

The value of relevant work carried out shall be presented as the annual turnover, in terms of invoices to clients for work carried out during the year, expressed in its equivalent in a in Uganda Shillings or other convertible

currency, i.e. US\$. In which case, the value of each contract shall be calculated at the exchange rate at the end of each year reported.

Testimonials and certificates of contract completion shall be considered in assessing applicants' capabilities, and shall be required as part of the submissions for prequalification.

5.4.2 Applicants shall demonstrate that they have carried out work of a nature, size, value, and complexity similar to that defined in the prequalification document. Two principal criteria for prequalification shall be applied as follows;

- ◆ the applicant should have carried out similar work of at least a magnitude, approximating that of in the scheme classification of work for which prequalification is sought. Depending on the nature of the contract to be bided, the criterion shall be related to the applicant having carried out one or more projects of a magnitude referred to - in the last five years
- ◆ the applicant should have performed operations of a volume and quality similar to those required for the project. For example, where a water supply scheme is classified as large and complex, the applicant shall demonstrate experience at the level commensurate with the requirement and, having performed them satisfactorily.

5.4.3 Applicants shall not be disqualified solely because they have not carried out the exact type of contract proposed if their experience is comparable. For example, a contractor who has not done so before may be capable if such contractor has adequate comparable civil works and water engineering experience.

5.5 Personnel Capabilities

5.5.1 The managerial and technical competence of a contractor is largely related to its key personnel. The extent to which the applicant shall demonstrate having staff with the requisite experience shall be limited to aspects of the call requiring critical operational or technical skills. The prequalification criteria shall therefore state the number of such key personnel, for instance, the Technical Manager, Commercial manager, Water Quality Analyst and those superintendents working under them or tasked with responsibility for executing major components of the contract in line with the Statement of Requirements.

5.5.2 Applicants shall be required to name a principal candidate for each key position. Criteria of acceptability should be based on:

- a. Qualification of personnel
- b. minimum number of years of experience in a similar position; and

- c. minimum number of years of experience and/or number of comparable projects carried out in a specified number of preceding years.

5.5.3 The requirement of specified education and academic qualifications and training necessary for such positions, consideration of evaluators may be drawn to the fact that some contractors employ competent staff who have learned their profession “on the job” but lack formal qualification. It may be appropriate for the bidder to specify in their proposal that certain positions shall be filled by individuals who have held posts of comparable responsibility for a specified number of years with the applicant. This shall demonstrate that key staff, in key positions, have acquired technical and knowledge of the applicant's management, policy, procedures, and practices to act with confidence and authority to execute specific aspects of a contract.

5.6 Equipment

An inventory of equipment represents a high capital cost to a contractor. In consequence, not all competent potential bidders will maintain an inventory of high-value equipment, chemicals and tools that are necessary and in suitable condition for executing specific aspects of the contracts. In most cases applicants can readily purchase, lease, or hire equipment. It may be unnecessary for prequalification to depend on the contractor's owning generally available items of equipment however; this requirement should be expressly stated in the statement of requirements for prequalification.

The evaluation criteria shall therefore be limited only to those specialized items that are critical for the type of contract to be implemented and which may be difficult for the applicant to obtain quickly.

Even in such cases, main applicants may not own the equipment; rather they may rely on specialist subcontractors or equipment hire firms. The availability of the subcontractor and the specified equipment alluded to by a bidder in his/her bid shall in that case be subject to verification (at the time of prequalification, or at the time of bidding)..

5.7 Financial capacity

5.7.1 Financial statements or balance sheets shall be sought as a general guide to the financial health of the applicant. Consistent losses or a risk of insolvency shown in the accounts may be cause for determining the category town scheme an applicant shall be eligible to manage.

The prequalification process shall require applicants to provide the following background information to support the presentation in the prequalification application:

- ◆ audited annual financial statements for the last five years supported by audit statements or tax returns. Individual scheme operators may not be required to maintain audited accounts by the laws of

Uganda. In such cases, their balance sheets should be certified by a registered accountant, and supported by tax returns.

◆ names and addresses of the applicant's banker(s), as well as the names and addresses of individuals familiar with their financial standing, including authority to seek reference from them.

5.7.2 The evaluators must be satisfied that the applicant will, at the time of bidding, demonstrate financial resources to implement the contract satisfactorily. Prequalification followed by updating information with the bid, and verification financial documents tendered by the applicant at the post prequalification bidding stage prior to award of contract are both necessary to determine the financial capabilities of the potential contractor, prequalification being a preliminary stage in the process.

The cash flow qualifying criterion shall be based on the capacity of the applicant to finance fully the O&M estimate of cash flow requirements for a specified “critical” period. Assuming monthly periodic payments, a suggested method of determining these requirements shall be based on a straight line monthly cash flow for the contract over a period of at least three months, neglecting any effects of the advance payments and retention monies.

The amount estimated from the above calculations shall be stated in the prequalification documents as the pass/fail criterion. Applicants shall demonstrate their access to liquid assets, lines of credit, unencumbered assets, and other financial means sufficient to meet the specified cash requirement, net of other known commitments at the time of award, and subject to verification.

5.8 Margin of Preference / Proximity to area of Service

This requirement is intended to give advantage to firms in close proximity to the area of services and increase their participation in the management of water and sanitation services as well as increase such capacity in local governments.

5.9 Monitoring Pre-Qualified Provider’s Performance

(a) Selected pre-qualified provider shall be monitored by the Water Utilities Regulation Department through a process which considers compliance with contract terms, service quality and reliability, financial viability and compliance with reporting requirements

(b) Any service provider whose performance is deemed unsatisfactory by the Water Utilities Regulation Department, particularly in compliance with contract obligations shall not be eligible to participate in any future bidding process for that particular service, for a period of at least two (02) years.

6.0 Technical Specifications – Scope and Statement of Requirement

Responsibility for preparation of technical specifications and statement of work rests with Water Authorities being User Departments of services of private water operators and scheme operators. However, considering the complexity of procurement of water supply management providers as the field assessment revealed, such competency may not be available in a number of Water Authorities or Local Governments.

Considering however that MWE is in possession of technology profiles, design details, and scheme characteristics for all gazetted water supply areas, it is prudent on the part of MWE to develop standardized statements of requirements and evaluation criteria for each water supply technology type for customization and use by Contracts Committees in bid documents.

MWE should work in collaboration with Water Authorities and District Contracts committees to among others;

- a. Developing scheme specific requirements to detail to enable appropriate scoping of technical requirements and statement of requirements informed by complexity and size of a water supply schemes.
- b. Where competency is available, the Contracts Committees through their respective User department shall prepare technical specification and evaluation criteria of requirements and only seek a review or a ‘no objection’ from Urban Water Regulation Department/MWE to proceed with the procurement.
- c. The review shall be sought prior to commencement of procurement and shall allow ample time in any case not less than 6 weeks to enable the Urban Water Utilities Regulation Department study the detail and respond in time to enable the procurement to proceed.

6.0 Technical Evaluation of Bids

Responsibility for evaluation of bids is vested in Contracts Committees and executed through an evaluation Committee as provided in Local Government Regulations 2006. However, the complexity of water supply procurement means such competency may not always be available in a number of Local Governments. PPDA Regulations prescribes circumstances where a Contract Committees may delegate, subcontract or coopt

services of a third party procurement entity to adjudicate over specified aspects of procurement. In these circumstances the Contracts Committee may;

- a. I co-opt the WURD/MWE to provide technical assistance to the Evaluation committee in evaluating bids for procurement of private water operators.
- b. Coopt a third party procurement entity to adjudicate over specified aspects of the procurement

Annex 1: Classification of Private Water Operators

Regulation 24 of Public Procurement and Disposal of Public Assets 2014 provides a guide for registration and classification of providers. In accordance, the Ministry of Water shall grade Private Water Operators in five categories on the basis of physical and financial resources, technical capacity to perform specific contracts and performance track record. The classification shall inform the type of scheme that operators can apply for based on the scheme grading system.

Table below, provides a guide to the classification of operators to be obtained through a call for prequalification / registration. Classes A to D shall apply to corporate entities while Class E applies to individual Scheme Operators. The operator classification should be interpreted alongside the categorization guide for water supply schemes in Annex 3.

The classification of providers shall be developed to ensure that only contractors who are well qualified to carry out work in a specified scheme category as per scheme classification are permitted to bid. The objective of the classification is to neither inhibit competition nor set a predetermined number of firms to be prequalified: all firms that meet the eligibility criteria shall be invited to bid. The prequalification criteria for joint ventures shall be the same as those for single applicants in line with PPDA regulations

% Score	Class	Comments
80 - 100	A	Category A can manage schemes in class A and any other lower schemes of any complexity
70 - 79	B	Category B can manage in class B and any schemes below this category
60 - 69	C	Category C can manage Class C schemes and schemes below this category
50 - 59	D	Category D can manage simple water supply in Class D
40 - 49	E	Not Pre-Qualified but can manage small schemes (RGCs) as individual/scheme operators

The operator classification shall be subject to periodic reviews by the MWE to allow for upgrading firms that meet or exceed their performance, and or relegate those whose performance in post contract performance is considered to be below the required standard for the category in which the operator was initially placed.

The classification above forms an accreditation system and sets tiers in which private water operators' fall;

1. Category A Operators

An operator qualifying for this category shall;

- i. score a minimum of 80% in the combined prequalification evaluation
- ii. have proper organizational management structures and track record of not less than 10 years in managing similar works
- iii. have proof of ownership, lease or hire of specialized tools and equipment for handling contracts of complexity required under town classification including possession of water testing laboratory equipment
- iv. have full time employees; Technical personnel Team leader/manager shall at a minimum be a civil / water engineer at a Diploma level and at least three plumbers each at a minimum of Certificate in plumbing from recognized institutions
- v. have a water quality analyst with appropriate experience and seniority
- vi. demonstrate electromechanical capacity; at least a relevant certificate mechanical / electrical or pump mechanic
- vii. demonstrate understanding of water treatment requirements and understanding of WHO and Uganda Standards for quality and safety of drinking water.
- viii. have full time employees; Commercial personnel Team leader / manager shall at a minimum be a holder of Diploma in Business (finance and Accounting) and a Cashier with a minimum of a certificate in accounting all from recognized institutions
- ix. experience in using computerized billing systems will be an added advantage

2. Category B Operators

An operator qualifying for this category shall;

- i. score a minimum of 70% in the combined prequalification evaluation
- ii. have proper organizational management structures and track record of not less than five years in managing s works of the complexity of a town B scale
- iii. have proof of ownership of specialized tools and equipment for handling contracts of complexity required under town classification B
- iv. have full time employees; Technical personnel Team leader/manager shall at a minimum be a civil / water engineer at a Diploma level and at least two plumber at a minimum of Craft Certificate II in plumbing from recognized institutions

- v. demonstrate electromechanical capacity; at least a relevant certificate mechanical / electrical or pump mechanic
- vi. have full time employees; Commercial personnel Team leader / manager holding a minimum of Diploma in Business (finance and Accounting) and a Cashier with a minimum of a certificate in accounting all from recognized institutions
- vii. experience in using computerized billing systems will be an added advantage

3. Category C Operators

An operator qualifying for this category shall;

- i. score a minimum of 60% in the combined prequalification evaluation
- ii. have proof of ownership of specialized tools and equipment for handling contracts of complexity required under town classification C
- iii. have full time employees; Technical personnel Team leader/manager shall at a minimum be a civil / water technician at a Diploma in Water Engineering level and at least one plumber with a minimum of Craft Certificate II in plumbing from recognized institutions
- iv. have full time employees; Commercial personnel Team leader / manager holding a minimum of Certificate in Business (finance and Accounting) and a Cashier with a minimum of a certificate in accounting all from recognized institutions
- v. experience in using computerized billing systems will be an added advantage

4. Category D Operators

An operator qualifying for this category shall;

- i. score a minimum of 50% in the combined prequalification evaluation
- ii. have proof of ownership of basic tools and equipment for handling contracts of complexity required under town classification D
- iii. have full time employees; Technical personnel Team leader/manager shall at a minimum be a civil / water technician at a Craftsman Certificate I and at least one plumber at a minimum of Craftsman Certificate I in plumbing from recognized institutions
- iv. have full time employees; Commercial officer holding a minimum of Certificate in Business (finance and Accounting) from recognized institutions
- v. experience in using computerized billing systems will be an added advantage

5. Category E Operators – Scheme/individual Operator

An operator qualifying for this category shall;

- i. score a minimum of 80% in the combined prequalification evaluation

- ii. shall have a minimum qualification at a Craftsman Certificate II from recognized institution and at least one plumber with proven experience in handling similar works or
- iii. shall have an A level certificate with a minimum of 3 years demonstrable experience gained in water operations under a class 'C' operator or above
- iv. A part-time cashier or assistant holding a minimum of Certificate in Business (finance and Accounting) from recognized institution

The categorization presents an entry point for new service providers in the sector with an indication of the kind of water supply scheme such new entrants can operate. The grading system arising out of this classification shall be subject to periodic reviews by the MWE to allow for upgrading firms that meet or exceed their performance, and or relegate those whose performance could potentially put lives and public assets at risk.

Annex 2 : Criteria for Grading of Small Towns Water Supply

This Small Towns Water Supply grading criteria has been developed to guide stakeholders in determining the category of providers to consider for invitations to bid for services. . The objective of the grading criteria is to neither inhibit competition nor set a predetermined number of firms to be considered: all firms that meet these eligibility criteria to provide services in the specified category shall be invited to bid.

The Ministry of Water and Environment shall circulate classification to a Water Authorities and District Contracts Committees and other stakeholders as appropriate and shall conduct reviews of the water supply scheme grading on three year basis or at any such time to take into account new investments that may change the characteristics or affect the grading of a scheme.

4.2.1 System Complexity / Technical Requirements

Water supply schemes in small Towns and Rural Growth centers shall be classified as: very simple, simple, complex, very complex in regard to technical requirements for operation and management. Different water supply schemes and water supply systems require a mix of different capabilities to manage as influenced by installed capacity and size of the scheme and water supply technology use.

Broadly, Small Towns and RGC water supply schemes in Uganda are run on the following technology types:

- a) Fully Fledged Conventional Treatment Systems – water supply schemes in this category comprise surface raw water abstraction/low lift pumping to a treatment plant, treatment with all the stages of coagulation, flocculation, filtration and disinfection, high lift pumping/transmission to a reservoir and then distribution.

The water supply schemes are characterized by electromechanical installations require higher operation and management expertise and therefore require an operator with a multi disciplinary staff to efficiently manage all aspects of operation and management. Such systems have long transmission and distribution pipe networks and a larger number of service connections requiring more ground staff.

- b) Borehole systems – The system has one or more boreholes, water is pumped from the well fields with a submersible pump, to a collector sump and thereafter to a second level pumping/transmission to the reservoirs for storage and distribution – The majority of towns and rural growth centres are in this category and they will require an operator with some expertise on both electromechanical and underground installations. The treatment facilities on such schemes are mostly limited to online chlorine dosing. Depending on the number of boreholes and sumps, such schemes may require a number of employees

including security guards at the various installations. Water treatment plant operators are not required on such schemes.

- c) Gravity Flow Systems (Surface Water) – These are systems which use the force of gravity to transmit water from the source; crater lakes, streams and rivers to treatment works with installations as described under (a) above, storage tanks, through the distribution pipe network to the users. The distinguishing feature of this technology is none use of electrical energy for transmitting water, save for limited requirements such as back flow pumps required for cleaning of sand in the filters
Skills in management of treatment works are required as is plumbing,
- d) Gravity Flow System (Springs) – Similar to (c) above, no electrical energy is required on these schemes. Water is abstracted from the spring eyes to a collection chamber and then transmitted to a number of reservoirs along the transmission lines, followed by distribution to service areas. Spring water is most often clean, requiring no treatment other than a sedimentation tank to provide for settlement of silt following heavy downpours.

4.2.2 Size of a water supply scheme

Size of small Towns water supply schemes are defined on five broad characteristics a mix of which determines the complexity or simplicity of technical and management requirements;

- Length of the network – transmission and distribution
- Number of Connections
- Volume of water supplied
- Installed system capacity
- Population served

Combining the technical complexity and the size of a water supply scheme, the following matrix defines water supply scheme characteristics;

Category	Very Simple, D	Simple, C	Complex, B	Very Complex, A
Small, D	DD	CD	BD	AD
Medium, C	DC	CC	BC	AC
Large, B	DB	CB	BB	AB
Very Large, A	DA	CA	BA	AA

Notes:

- Horizontal Continuum; from D.....to A, the water supply system is increasing in complexity and such a scheme require technical staff;
- Vertical continuum; from D.....to A, the system is increasing in size and as such, it might need more staff;
- Where a system falls in the table will determine whether such a scheme requires more of the technical team or more of the commercial team or both;
- applying this categorization denotes DD as the simplest and AA as the most complex;
- In the shaded area, both the commercial and technical staff might have to be equally balanced.

4.2.2.1 Type A Town Water Supply System

These are large and complex systems typically running on surface water abstraction with fully fledged water treatment plants with or without(GFS) electromechanical installations. Where such systems are operating on borehole technology, the volume requirement is attained by using more than three water sources each installed with a pump with associated electromechanical fittings. Typically such schemes are characterized by;

Length of the network – transmission and distribution 35 km+

Number of Connections 1200+

Volume of water supplied/day 500m3+

Installed system capacity/day	1000m ³ + (Intake and Water Treatment Plant)
Population served	40000+

4.2.2.2 Type B Town Water Supply System

These are large and complex systems typically abstracting water from high yielding protected springs or multiple boreholes (a maximum of three) each installed with associated electromechanical fittings. Treatment requirements are minimal. Typically such schemes are characterized by;

Length of the network – transmission and distribution below 35km but more than 20km

Number of Connections	800 - 1200+
Volume of water supplied /day	300m ³
Installed system capacity/day	600m ³
Population served	40,000+

4.2.2.3 Type C Town Water Supply System

These are medium sized systems typically abstracting water multiple boreholes (a maximum of two) each installed with associated electromechanical fittings. Treatment requirements are minimal. Typically such schemes are characterized by;

Length of the network – transmission and distribution below 20km but more than 10km

Number of Connections	300 - 800+
Volume of water supplied/day	200m ³
Installed system capacity/day	400m ³ (Boreholes)
Population served	10,000 -20,000+

4.2.2.4 Type D Town Water Supply System

These are small sized systems typically abstracting water from a single borehole (or maximum of two) installed with associated electromechanical fittings. Treatment requirements are minimal. Typically such schemes are characterized by;

Length of the network – transmission and distribution below 15km but more than 8km

Number of Connections	100 - 300
Volume of water supplied/day	< 100m ³
Installed system capacity/day	< 200m ³
Population served	5,000 – 10,000

4.2.2.5 Type E Town Water Supply System

These are small sized water supply systems typically abstracting water from a single borehole installed with associated electromechanical fittings. No conventional water treatment requirements. Normally such schemes are characterized by;

Length of the network – transmission and distribution below 10km

Number of Connections	10 - 100
Volume of water supplied/day	< 50m ³
Installed system capacity/day	< 100m ³
Population served	< 5,000

NB

The town classification system shall be subject to periodic reviews by the RU/MWE to take into account new connections and network extensions. This means towns shall be upgraded periodically in view of increasing urbanization and network expansion investments undertaken by Town Authorities.

Annex 3: Bidders' Assessment Methodology

A) Personnel (Max 40 Points)

Assigned as follows;

Technical Personnel 25 Points

Commercial Personnel 15 Points

Evaluation of technical and commercial personnel shall be further subjected to a merit point score criteria for qualifications and experience as follows:

a) Technical Considerations:

A head of the technical area with the following qualifications and experience

Type of Qualification	Degree	Diploma	Certificate
Civil Engineering – Water Related	6	5	3
Civil Engineering - Other	5	4	2
Mechanical or Electrical Engineering	5	4	2
Other Engineering	4	3	1

Type of Experience	5+ Years	3 – 4 Years	1 – 2 Years
Plumbing	6	4	2
Pump maintenance	6	4	2
Structures	3	2	1

ii) Commercial considerations:

A head of the Sales/Commercial area with the following qualifications and experience

Type of Qualification	Degree	Diploma	Certificate
Marketing & Sales	6	5	3
Other Business	5	4	2
Non-Business	3	2	1

Type of Experience	5+ Years	3-4 Years	0-2 Years
Sales & Marketing	5	4	2

iii) Finance and Accounting Requirements

A head of the Finance/Accounting area with the following qualifications and experience

Type of Qualification	Degree	Diploma	Certificate
Accounting	5	3	2
Other	3	2	1

Type of Experience	5+ Years	3-4 Years	0-2 Years
Accounting/Bookkeeping	5	3	2

B. Experience of Firm (Maximum 25 Points)

Defined as experience of the applicant in executing similar contracts within the country, region or internationally. Evaluation of the Firm's experience shall be further subjected to a merit point score criteria as follows:

Nature of utility/operations 10 Points

Duration of Operations 10 Points

Customer Base

5 Points

Each of the sub requirements above shall further sub-scored as follows:

i. Nature of Utility/Operations

Water Supply Services management	Civil Works Engineering / other utility management	Other Trading or Services management
10	8	5

ii) Duration of Operations

Defined as the number of years the applicant has been engaged in a specific business relevant to the requirement.

+5 Years	3 – 4 Years	0 – 2 Years
10	7	5

iii) Customer Base

Defined as the number of customers served by the firm in the last five years?

10,000+	5000- 9,999	1000 – 4,999	Under 999
5	4	3	2

c. Financial Capacity Maximum Points (25 points)

The requirement is defined as financial capacity to execute a proposed contract. Evidence of financial capacity shall derived from audited accounts and bank statements and evidence of other financing arrangements from a recognizable financial institution

Source of capital	Ugsh 40M+	Ugsh. 25-40M	Ugsh 10 – 25M	Under Ugsh 10M
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Own funds	40	25	10	<10
Score	10	8	5	3

d. Proximity to service area / Margin of Preference (10 points)

Location of applicant’s head office / operational base

Defined as location of the applicant’s facilities or representation at or near a specific location for performance of the contract.

0- 50 kms	50 - 100	100 – 150	Over 150
10	7	5	2

10 points for demonstration of proof of equipment

The major items of equipment proposed for carrying out the Works are:

Item of Equipment	Description, make and age (years)	Condition (new, good, poor) and number available	Owned, leased (from whom?), or to be purchased (from whom?)

4.0 Prequalification Report

MWE shall evaluate the applications received and prepare a report for circulation to PDUs for review. The report shall address for every applicant each of the pass/fail criteria set in the documents. Disqualification of applicants who marginally fail to meet the criteria should be highlighted, and in marginal cases, details should be submitted.

Relevant PPDA Regulations

Subject	Regulation	Form
Declaration to abide by the Code of Ethical Conduct in Business	3(4)	13
Request for Approval of Procurement by User Department Form	3(5), 7(10), 12(2), 12(3), 13(8)	18
Record of Minutes of Pre-proposal meeting	29(5)	21
Record of Issue of request for Proposals	23(4)	20
Record of Receipt of EOI/ Pre-qualification applications/Proposals	35 (3), 35(8), 36(2), 36(7)	22
Record of Opening of Technical Proposals	39(11)	23
Record of Financial Proposal opening	53(8)	25
Evaluation Report under Technical Compliance Evaluation Method	35(5)	16
Technical Evaluation Report for Consultancy Services / Providers	49(4), 51(6) 62(9)	24
Evaluation Report for EOI for Consultancy Services	9(13)	19
Evaluation Report under	35(3)	17
Evaluation Report for Consultancy Services	59(9), 60(7), 61(9), 63(13)	26
		25

List of assigned Districts and Schemes visited

	Region	Scheme / TC	CAO / DCC	WSDF
1	Central	Buikwe	Buikwe	Central
2	Central	Kayunga	Kayunga	Central
3	East	Magale	Manafa	East
4	East	Serere	Serere	East
5	North	Dokolo	Dokolo	North
6	North	Oyam	Oyam	North
7	South West	Isingiro	Isingiro	South West
8	South	Kinoni	Masaka	Masaka

TERMS OF REFERENCE

1. Introduction

The Ministry of Water & Environment is continuously seeking means of enhancing clarity and transparency in the business environment for provision of equitable and sustainable water supply services in small towns and rural growth centers. As part of this process, the Ministry of Water and Environment established a dedicated Urban Water Regulation Department (UWRD) to among others, strengthen contract management, performance monitoring and evaluation, water quality monitoring, dispute resolution and also enhance transparency in water services provision. It is envisaged that with the establishment of this department, follow up on regulatory compliance will be further strengthened. It is however envisaged that to in order to enforce compliance and foster improvement in performance and transparency, a number of regulatory tools will be required. One of the areas where improvement of the regulatory framework is required is the procurement process.

MWE enters into Performance Contracts with Local Urban/Water Authorities, which in turn sign Management Contracts with Private Operators. The responsibility for procurement of Private Operators has therefore shifted over time from the MWE under the decentralization policy to Urban Water Authorities/Water Supply and Sewerage/Sanitation Boards to Town Councils in the immediate past and is currently vested in District Contracts Committees. Currently, the MWE enters into Performance Contracts with Local Urban/Water Authorities, which in turn sign Management Contracts with Private Operators.

These changes have come with inherent shortcomings which have led to acrimonious disagreements over compliance, or lack of clarity among the contracting parties, technical support institutions and between District Authorities and Urban Councils. In addition there is confusion and misunderstanding of the evaluation process and criteria for selection of Private Operators or Scheme Operators among the different stakeholders.

This has resulted from lack of a common, comprehensive and documented guide for reference in the procurement process leading to selective interpretation of existing procedures. Moreover the procedures commonly referred to are only applicable to procurement of services and works not directly related to water supply. It is in this regard the MWE through the Regulation Department seeks the services of a consultant to develop a procurement guide that will be adopted for use by all entities for the purpose of procurement of Private Operators or Scheme Operators for Small Towns and Rural Growth Centers.

2. Main Objective

The main objective of this assignment will be to prepare a procurement guide and evaluation criteria specific to piped urban water supply for use in procurement of Private Operators eligible for provision of water supply service operations and management in the Small Towns.

3. Scope of Work

Considering that water supply does not specifically fit within the description of goods and services as provided under the PPDA, the scope of work for this assignment shall include broad consultative and document reviews to highlight the uniqueness of urban water and sanitation services provision in relation to general provisions of the PPDA Act and attendant procurement regulations. The objective of this shall therefore include seeking appropriate classification and clarifying a context for urban water and sanitation services provision.

The assignment is envisaged to include activities outlined below;

- a. Review policy documents, laws and regulations and standards applicable to provision of safe water for human consumption
- b. Review the existing PPDA Act and PPDA Regulation 2014 and assess its adequacy in regard to procurement of providers for urban water and sanitation in Small Towns, RGCs and very small towns
- c. Review policies, laws and regulations relevant to procurement of services and works at lower local government levels
- d. Review of the existing criteria used by DWD to prequalify PWOs
- e. Assess the capacity of existing operators based on on-spot assessments to provide services detailed in both performance contracts and management contracts of current water services providers in selected water authorities
- f. Carry out consultations with contracts committee members from districts selected by the Regulation Department.
- g. Recognizing the uniqueness of water services provision, consult with the PPDA on the possibility for and the process of gazetting the procurement process guide as part of the procurement guidelines/regulations

- h. Prepare for discussion a draft of the Guide and make presentations as and when required to stakeholders as will be deemed necessary by the Regulation Department
- i. “Looking at a possibility of incorporating individual operators for very small towns into this selection criteria”-

4. Outputs

The following outputs will be expected from the Consultant;

- Inception Report detailing how and what steps the Consultant will take to accomplish this assignment.
- 1st Draft Guide for internal discussion by the MWE, Regulation Department
- 2nd Draft for circulation and comments to Stakeholder including local governments, Water Authorities and PPDA.
- Final Draft Guide for adoption by MWE

References

- The Constitution of Uganda, 1995.
- The water Act Cap 152 ; Laws of Uganda
- Local Government Act Cap 243
- Decentralization Policy
- Public Procurement & Disposal of Public Assets Act 2003
- Public Procurement and Disposal of Public Assets Regulations 2003 (As amended)
- The Local Governments (Public Procurement and Disposal of Public Assets) Regulations 2006
- Poverty Eradication Action Plan
- Water Supply and Sanitation Strategic plan
- Water Supply and Sanitation Investment Plan and Allocation Principles
- Operation and Maintenance Framework for Urban Water
- Long Term Strategy for water Supply and Sanitation in Small Towns and Rural Growth centres
- Letter of Understanding between MWE and Local Governments (Town Councils or Sub county)
- MWE Water Supply Design Manual 2013
- Water and Environment Sector Performance Reports (2012-2014)
- MWE Management Audit Report Small Towns Water Supply Authorities 2009
- Water Sector Strategic Investment Plan (2009)
- Local Government (Financial Management) Regulations 2011
- Decentralization Policy and Legal Framework
- Strategy for Umbrella Organisations
- Generic Performance contract for Water supply and Sanitation systems Management 2009
- Generic Management Contract for Small Towns/RGCs
- Relevant Quarterly Reports for the period under study 2013 - 2017