



# Love Me Tender

a guide to procurement and tendering



## Foreword

Public procurement is a complicated business, and like everything else the more you become familiar with it, the more likely you are to become competent and successful at winning public tenders.

This guide doesn't claim to be an encyclopedia of 'all things' procurement but something to have as an easy reference, an aide memoire.

We first explore the local public procurement landscape. Then we look at the difference between Service Level Agreements and Contracts. From that we take a look at tendering and its core components of Pre-Qualification Questionnaire (PPQ) and Invitation to Tender (ITT). Drawing on lessons from the past we provide some Dos and Don'ts – that leads us to a checklist you can use when tendering. Don't worry if that sounds like a different language – it is. We close by providing a 'jargon buster' (glossary of some of the terms used by buyers).

We hope you find the guide useful and that you will dip into it from time to time. However, more importantly we hope the guide helps you become a winner in public procurement. Try to remember that not everyone who competes will win but that doesn't mean you should give up, instead persevere and treat every set back as an opportunity to learn and develop for the next time.

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# Women's Support Network

## Introduction to N.I. Public Procurement Landscape

There is no 'one size fits all' approach to public procurement. There are many different buying organisations, each with slightly different organisational structures and procurement rules. There are also many different types of buying teams and their approaches will vary in how they deal with potential providers.

### *Points of difference:*

- The make-up of the buying team. In some situations this may not include a professional procurement specialist;
- Job titles;
- Value of expenditure;
- Where the procurement opportunities are published;
- The value at which procurement opportunities are published;
- The Organisation's core objectives, for example, their interest in sustainable procurement and social issues;

### **Hint for success:**

- ✓ *Look at the buyers website and obtain a copy of their 'Selling to ...' guide*
- ✓ *Identify the thresholds for public advertisement*
- ✓ *Establish how you can be invited to bid for opportunities which are not published*
- ✓ *Identify the key people involved in the buying decision and target them within your communications strategy.*

- The choice of when to use a grant or a contract;
- The relative importance given to price and quality; and
- The choice and weighting given to evaluation criteria.

### *Points of unity:*

- The high-level procurement rules set out in the Public Contracts Regulations ('EU rules');
- The binding principles of EU on transparency, non-discrimination, proportionality, equal treatment, freedom of movement, mutual recognition, and objectivity;
- The need for public accountability in how money is spent;
- The primary importance of competition in achieving value for money;
- The current emphasis on cost reduction through procurement;
- No one person makes procurement decisions – there will always be a team, even though that team can vary in size; and
- Procurement is a process sometimes depicted as a cycle.

# The Procurement Cycle

## Procurement is sometime depicted as a procurement cycle.

The speed at which particular procurements progress through the cycle and the number of people involved in the procurement, depends on the:

- Value of the procurement; and
- Identified risk.

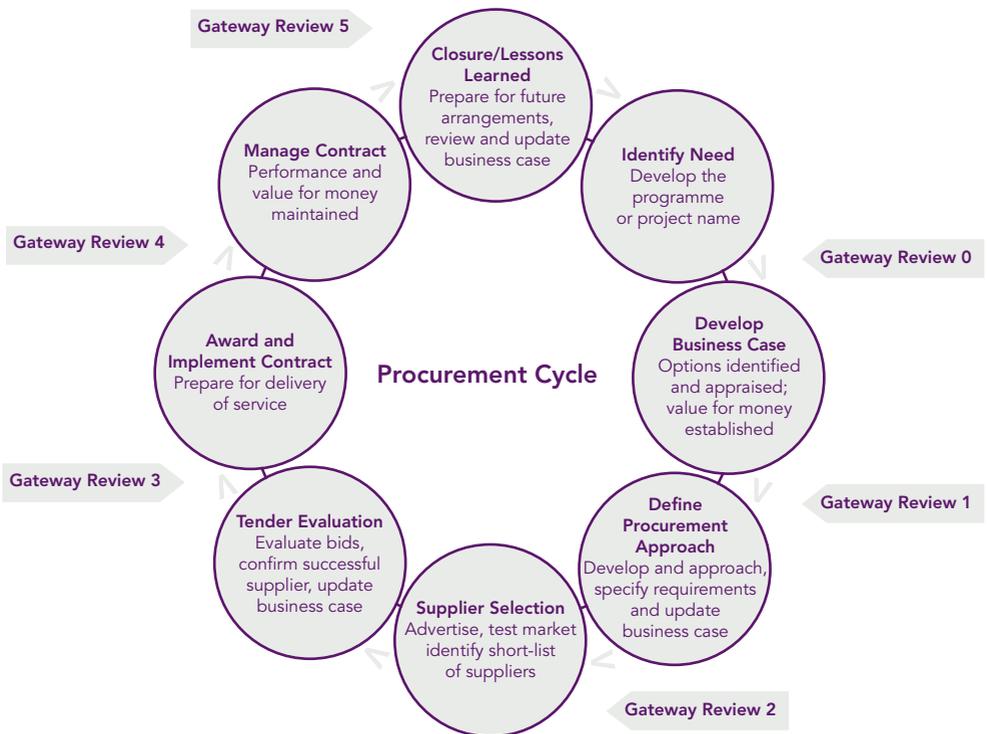
The greatest opportunity for influencing the procurement is in the earlier stages of the

procurement cycle. The government are keen for earlier supplier involvement in the procurement cycle. This provides an opportunity for you to help shape the:

- Specification;
- Emphasis on inputs, outputs and outcomes;
- Scope for innovation in delivery;
- Opportunity for cost reduction;
- Potential risk to service delivery; and
- Time scale for return of documents, etc.

### Hints for success:

- ✓ *Remind buyers of the government commitment for earlier supplier involvement*
- ✓ *Let the buyer know you can help them as a partner and want to be involved*
- ✓ *Ask how you can be involved in the 'pre-competitive' stages of the procurement.*



## The difference between Service Level Agreements and Tenders

SLAs (Service Level Agreements) and Tenders are not the same. Service level agreements have tended to dominate the former third sector 'grant making' approach to procurement. However, as there is a greater emphasis now on tenders and contracts it is important to be aware of some of the key differences:

Service Level Agreements:

- More often associated with grants;
- Not generally considered legally binding;
- Likely to be an 'offer' from the buyer;
- Provide some scope for the provider to accept or renegotiate;
- Can take the form of a 'grant letter';
- Are used to identify Key Performance Indicators for the release of funds; and

- Acceptance will establish the means of working and the release of funding.

*Tenders:*

- A product of a more formal competitive procurement process;
- Become part of legally binding contract documents;
- Set out what the buyer would like to obtain;
- The provider does not have to match the buyer's tender conditions but a non-compliant tender may be rejected unless the buyer has set out that 'variants' will be accepted; and
- The provider's response to the Invitation to Tender (ITT) sets out the basis of an offer from the provider which if accepted by the buyer forms a legally binding contract.

### **Hints for success:**

- ✓ *Check your own governing constitution to make sure you are not prohibited from submitting tender bids*
- ✓ *Check the date for return of tenders set out in the 'instructions' – late tenders will not be accepted*
- ✓ *Take care in studying 'the fine print' of tenders – you are committing to a legal agreement*
- ✓ *Where 'terms' are too onerous submit your own terms for acceptance.*

## Pre-Qualification Questionnaire

Procurement has its own jargon, but common within that jargon are two components, the PQQ and ITT. It is important that you understand that language if you want to be successful in public procurement.

In the previous section we met the ITT – the Invitation to Tender. The ITT is sometimes only issued to those providers who have already successfully navigated a pre-qualification phase. The ITT is part of the award process and the PQQ (Pre-Qualification Questionnaire) is part of the selection process.

The pre-qualification/selection phase considers core information that the buyer has decided is necessary. The assumption is that the buyer has identified the risks which may face the successful delivery of whatever is being procured. In order to protect (or mitigate) against those risks the buyer will only be prepared to deal with providers who have a certain pedigree. To simplify the process of pre-qualification and make sure every potential provider is asked for the same information, PQQs are frequently used.

The PQQ and selection phase is concerned with looking 'backwards' at your previous performance as an assurance that you could deliver, whereas the award stage is forward looking and concerned with whether your offer/bid represents the best of the selected bidders.

You should assume that PQQs are looking for the following generic information:

- You have the appropriate legal status to deliver the contract, for example are not bankrupt;

- You have sufficient financial stability to deliver the contract;
- You have sufficient technical capability and skills to delivery the contract; and
- You have sufficient numbers of staff at your disposal to deliver the contract.

It is worth remembering that while many buyers will ask for three years financial accounts, if you do not have three years accounts, you should discuss this requirement with the buyer and establish other acceptable methods of demonstrating financial stability.

Do not expect buyers will want to trawl through brochures and 'waffle' to find the answers to their questions – be explicit and as concise as possible making it as easy as possible for the buyer to select you.

PQQs are very important and need to be taken extremely seriously. If you are unsuccessful in the selection stage you will not be given an opportunity to have your bid considered. However, remember that sometimes buyers combine the PQQ and ITT stages.

### **Hints for success:**

- ✓ Use early involvement in the procurement cycle to help the buyer understand the risks they face and to influence the construction of the PQQ
- ✓ Accumulate a core of information from previous pieces of work, for example, case studies and references, so that you can tailor those and have them ready if asked for in a PQQ
- ✓ Always allow plenty of time for completion of a PQQ – they may take a considerable amount of time to complete
- ✓ Scan the PQQ and identify any questions you do not understand, then ask the buyer for clarification
- ✓ If you cannot see the relevance of some information requested in a PQQ speak to the buyer before the return date – non-completion is likely to lead to disqualification unless the buyer has provided an assurance that information will no longer be required
- ✓ Consider the content of a PQQ when you receive it and ask yourself ‘do I want this work/client and am I likely to be successful in selection?’ – if the answer is ‘no’ then do not progress any further
- ✓ At the PQQ stage do not submit a price unless the buyer has amalgamated this phase within an ITT
- ✓ Make it easy for the buyer to find all the information they want, be explicit and be concise.

## Invitation to Tender

Invitation to Tender (ITT), sometimes known as RFQ or RFP (Request for Quotation or Request for Price) are fundamental to procurement.

Remember that while earlier we considered PQQs and suggested a two-stage tender process, that is not always the case and some buyers combine the two stages.

Having said that, if you have received an ITT things are looking good. You are now in the competition and have been given a chance to demonstrate why you should win – make a compelling case in your response why you alone should win the business.

Don't just rush to completion of the pricing section of the ITT, the ITT will include other important sections which need to be really understood:

- Instructions for Tenderers – particularly how and when to submit your bid. There will be a clear 'latest time for receipt' and if you do not get your bid submitted on time your bid will not be considered
- The specification;
- A pricing schedule;
- The evaluation criteria which will be applied and the associated process;
- Terms and Conditions or Contract which will apply in the delivery of the contract and will be legally binding. These will include payment terms;
- Mandatory and desirable elements – mandatory requirements MUST be met otherwise your bid will be disqualified. Desirable features give you the opportunity to score additional points and differentiate your bid from that of the competition;

- A declaration relating to Fair Employment which you can safely assume you are 'not disqualified' – if you are disqualified you would have been aware of it!;
- Statement of 'Bona fide tender' which really means you are serious about the tender and do not intend to withdraw if awarded the contract; and
- Statement of non-collusion which means you are not working with other organisations who are submitting separate bids in the form of a cartel.

There may be other additional sections but if you are confused, just ring up the buyer and ask if they could explain the meaning and relevance.

### **Hint for success:**

- ✓ *Thoroughly read the ITT and understand what you need to submit*
- ✓ *Remember that a late tender will not be considered*
- ✓ *Remember that unless variants are acceptable, if you cannot match the specification your bid will be disqualified.*

## Tender Evaluation

So far we have only discussed elements within your control. You cannot control tender evaluation but you may be able to influence it through early involvement in the pre-competitive stages – help the buyer at that stage to come up with the best approach to deliver the required service to the public!

However, even if you do not have early involvement, it is important to understand what happens during Tender Evaluation. With that understanding you will be better able to submit your bid and also to learn from the process at the debriefing stage which we will discuss later.

Generally tenders are evaluated on the basis of lowest price or Most Economically Advantageous Tender (MEAT).

The more the procurement is concerned with a standardised product the more the emphasis will be on lowest price, for example, supplying oil or even bags of sugar. It is very rare though for lowest price awards to be considered good practice although you may need to help the buyer understand why lowest price does not represent best value for money.

Generally buyers will have agreed the relative weighting to be given to price and quality. The more the procurement is related to a service the more likely the weighting will veer towards 80% quality/20% cost. Conversely, the more the procurement is concerned with a 'product or service' the more the weighting will veer towards 20% quality/80% cost.

Within the quality scoring, there are a range of award criteria which buyers COULD use but this list is not exclusive:

- Quality;
- Technical merit;
- Aesthetic and functional characteristics;
- Environmental characteristics;
- Running costs;
- Cost effectiveness;
- After sales services;
- Technical assistance;
- Delivery date and delivery period; and
- Period for completion of the work.

Buyers have the discretion to select their own weighting and criteria but you can help them understand the most appropriate mix if you speak to them early enough and certainly before the tender closing date. However, if you want to take a longer-term view you can always influence the next procurement at debriefing.

The first stage of tender evaluation will be concerned with mandatory requirements. If you have failed to meet those requirements, you will progress no further – so demonstrating compliance is absolutely essential.

Next the buying team will consider the criteria and award scores. It is fairly normal for different aspects of the evaluation to be dealt with by different specialists, so do not assume only one person will complete the evaluation.

The bid scores will finally be brought together and an aggregated quality scores calculated. It is normal for different individual aspects of quality to be given different weights depending on their relative importance. Therefore, when preparing your bid focus on the areas which gain the highest percentage points.

Price scores are calculated on the basis of the percentage difference between the lowest price bid and the other bids, the lowest priced bid receiving 100 marks and then the others receiving the relative percentage of that score.

Finally the quality scores are brought together with the 'price' scores and the bidder with the best score wins.

#### **Hints for success:**

- ✓ *Focus your tender preparation time around those aspects which gain most points*
- ✓ *If you can not prove you meet the mandatory requirements, do not bid*
- ✓ *Use desirable features as an opportunity to differentiate your bid*
- ✓ *If you feel something isn't correct about the criteria or relative weighting and scoring, speak to the buyer prior to the latest time for receipt – you may be able to get it changed!*

## Debriefing

Debriefing should never be treated lightly; it is your opportunity to learn for the future. There is also a brief 'standstill period' when you may have the opportunity to help the buyer realise they may be in the process of making the wrong decision and you can help them avoid that.

Always ask for a debriefing, even if you have won. If you have won, you will learn why you won and what areas could have been improved. If you have been unsuccessful you can learn how to improve for the next opportunity.

Having said that, buyers can feel uncomfortable with debriefing, so have a strategy in mind beforehand:

- Expect obfuscation and probe for clarity;
- Do not expect a meaningful debrief in writing – buyers are wary of challenge;
- Remember to bring someone with you who can make notes;
- Target on the areas of information you want and prepare probing questions;
- Bring a copy of the tender documentation with you;
- Bring your own 'mock scoring' of your bid with you and try to understand why the buyer didn't agree with you;
- Probe how the successful bidder scored higher than you – be specific;
- Ask for guidance on how you can improve for the next time;
- Treat the buyer as someone you have opened a dialogue with and now want to retain; and
- Ask the buyer how you can be involved earlier in the procurement process the next time.

### *Hints for success:*

- ✓ *Remember the buyer is only likely to have been one part of the team*
- ✓ *Open the door for early involvement on the next procurement*
- ✓ *Treat debriefing as an opportunity to learn lessons and improve*

## Preparing for the future

Competing for public sector business is hard but you can win, persevere. Below is a checklist which will hopefully help you with your next bid:

- Review the PQQ and ITT early and thoroughly;
- Ensure your organisation is compliant;
- Create a table listing all that is asked for by the buyer;
- Identify the sources you will use and how to get that information;
- Aim to enthuse the buyer and show that you can reduce their risks;
- Identify your key messages;
- Be explicit – make it easy for the buyer to see that you fit their needs;
- Use the scoring information provided and complete a mock scoring – use that to identify potential strengthening of the bid;
- Allow plenty of time; and
- Remember bidding is a competition – you need to compete to win and you need to compete with the intention of winning.

## Jargon buster

1	Aggregation	Procurement look across the total spend of the organisation and combine similar expenditure categories together to increase purchasing leverage.
2	Collaboration	When organisations work together to achieve better outcomes.
3	Commissioning	Sometimes used as a substitute for purchasing but now central in place-shaping in determining needs and priorities of an area and satisfying those priorities. Should have an outcome focus.
4	Competitive dialogue	The procurement approach which involves various rounds of discussion and iteration with market in developing specification.
5	Consortium	When one or more organisations come together to buy or bid.
6	Cost plus	A method of pricing bids which is based on the actual cost incurred and then allows an additional 'plusage' to cover profits, etc.
7	Debrief	Formal feedback after bidding to inform successful and unsuccessful the basis on which contract award was made and the comparative performance of the bidder.
8	Demand management	A procurement technique which links with aggregation and decides when and how to place need to market.
9	Fixed price	A total price which encompasses all providers costs, including expenses. Prohibits any price changes during contract.
10	Framework agreement	There are various forms but more often used as a means of having a range of suppliers who have no guarantee of business but if the item is required it will be on the basis tenders – sometimes referred to a standing offers.
11	Full cost recovery	More relevant to grants than contracts but allows providers overhead costs to be funded too. In tenders this is irrelevant.
12	Grant	An amount of money paid with or without conditions of performance.
13	Invitation to Tender	In legal terms the stage prior to an offer being made by the bidder. It sets out the basis on which the client would like offers to be made. Referred to as an ITT.
14	Latest time	The latest time for submission of documents from bidders – even for receipt one minute late means offer will not be considered.
15	Lots	Small portions of the total contract amount which can be bid for separately.
16	Most Economically Advantageous Tender	Referred to as the MEAT (as opposed to lowest priced).
17	Negotiated	A procedure used when it is impossible to specify in advance the need.

18	Official Journal of the European Union	Where all contracts and awards over the EU threshold are published. Referred to as the OJEU.
19	Open	A single stage bidding process which includes bid price and all supplier qualitative information.
20	Points of clarification	Questions which can be asked by potential bidders prior to submission of bids. All of which are communicated to all potential bidders.
21	Pre-Qualification Questionnaire	A method of asking all potential suppliers to provide information, which will be used in supplier appraisal. Referred to as a PQQ.
22	Prime contracting	A procurement approach which leads to one major supplier being selected who be interface with buyer but who will sub-contractors aspects of work.
23	Procurement	The process from defining the need through selection of provider (which may be in-house) and management and review of contract.
24	Purchasing	Excludes options appraisal but includes supplier selection and contract award.
25	Quotation	Generally considered to be request for bids which are low value and not publically advertised.
26	Restricted	A two-stage procurement process. 1st looks at supplier credentials, 2nd at price.
27	Request for Quotation	In "A 'closed'" invitation to submit a comparatively low value price against a specification. Referred to as an RFQ.
28	Rise and Fall	A pricing mechanism which allows for fluctuations during the course of the contract period.
29	Service Level Agreement	An agreement stated the level of delivery to be provided but not intended to have legal standing. Referred to as an SLA.
30	Stand-still period	Refers to a mandatory 10 day delay between contract decision being communicated and contract signing. A period during which appeals have maximum impact. Referred to as the 'Alcatel' period.
31	Supplier Appraisal	The assessment of a suppliers ability to deliver the required quality of service. Generally using a PQQ. Does not consider price.
32	Total Acquisition Costs	Sometimes referred to as full cost of ownership. Includes purchase price and running costs. Referred to as TAC.
33	Tender	An advertised request for offers – in a two stage process the second stage is not advertised.
34	Tender evaluation	The process of evaluation bids.
35	Whole Life Cost	Includes cost of disposal as well as purchase and running cost. Referred to as WLC (or 'Cradle to the Grave').

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