



PUBLIC PROCUREMENT PROCEDURES HANDBOOK

VOLUME I

STANDARDISED PROCUREMENT PROCEDURES

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ABBREVIATIONS AND ACRONYMS

BOQ	Bill of Quantities
BZD	Belize Dollar
CARICOM	Caribbean Community
CFR	Cost and Freight
CG	Contractor-General (Office)
CIF	Cost, Insurance and Freight
CIP	Cost and Insurance Paid
CQS	Consultant's Qualifications Selection
DRB	Dispute Review Board
DRE	Dispute Review Expert
EOI	Expression of Interest
EPA	Economic Partnership Agreement
EXW	Ex-Works
FA	Framework Agreement
FARA	Financial and Audit (Reform) Act of 2005
FBS	Fixed-Budget Selection
FIDIC	International Federation of Consulting Engineers
FO	Financial Orders of 1965
GCC	General Conditions of Contract
GOB	Government of Belize
ICB	International Competitive Bidding
ISO	International Standards Organisation
ITB	Instructions to Bidders
ITC	Information to Consultants
ITT	Invitation to Tender
LC	Letter of Credit
LCS	Least Cost-Based Selection
LOI	Letter of Invitation
MOF	Ministry of Finance and Economic Development
MSMEs	Micro, Small and Medium Enterprises
NCB	National Competitive Bidding
PE	Procuring Entity
QBS	Quality-Based Selection
QCBS	Quality and Cost-Based Selection
RFQ	Request for Quotations
RFP	Request for Proposals
SBDs	Standard Bidding Documents
SCC	Special Conditions of Contract
SO	Stores Orders of 1968
SSS	Single Source Selection
ToR	Terms of Reference

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PART II

GUIDELINES ON GOVERNMENT TENDERING FOR THE PRIVATE SECTOR

CHAPTER 10. DOING BUSINESS WITH THE PUBLIC SECTOR

Find out about public sector procurement or sale contracts, what they mean, under which principles they operate, and how they offer a readily accessible market for private sector businesses, specifically micro, small and medium enterprises (MSMEs), in Belize.

Section 35 Introduction

35.1 Public sector procurement means all those goods, works and services in Belize which are paid for out of government funds or international donor partners' funds, including the disposal of surplus goods and equipment already purchased. It is a rather big market offering a range of varied opportunities, from a few hundred to a few million BZ dollars, to the business community including small businesses, either by contracting directly with the government or by becoming a sub-contractor to another company.

35.2 In order for the private sector to successfully address public markets in Belize, it is essential for suppliers or purchasers to understand how the public sector operates, what are the rules and principles to observe, and how to respond effectively to its needs. Part II of the Procedures Handbook is intended to provide advice and information to local businesses to assist them in competing successfully. It provides an easy reference to enhance knowledge of the procurement processes by outlining the steps which should be taken into consideration to prevent making errors in submitting bids.

35.3 These guidelines are deliberately general enough to apply to a wide variety of Belize companies across many different industry sectors, while addressing specifically MSMEs.

35.4 The information given is however for general information only, and cannot be used and is not intended to be used as a substitute for legal advice in any factual situation. Potential bidders should also be acquainted with Part I of the Handbook containing the working guidelines more geared towards public Procuring Entities, as well as the tender documentation used by the government, such as the Standard Bidding Documents (SDBs) which are readily available to the public.

Section 36 Principles of Public Sector Procurement

36.1 Public sector procurement in Belize is undergoing substantial changes as part of a wider reform process of the Public Financial Management (PFM) system. The Government of Belize is determined that public procurement shall be carried out according to the legislation and associated guidance, in a transparent and accountable manner.

36.2 The public sector needs to buy or sale products in a structured way usually relating to their quantity and value, through the process of tendering, and observes certain fundamental principles in all dealings with private sector suppliers or purchasers. Purchasing and sale decisions are thus liable for control and audit. The following basic general principles shall govern the administration of government procurement and provide the framework for public contracting. Suppliers and purchasers need to be familiar with those in order to submit offers in the right conditions.

Value for Money

36.3 The underlying principle behind government purchasing is seeking the best “Value for Money”, which means gaining the best possible outcome when buying or selling goods, works and service. For suppliers, this means that it is not only about demonstrating the lowest price possible, but also the value of quality and whole-life costs, as well as the benefits of broader factors whether environmental, social and/or economic.

Fairness and Equal Treatment

36.4 In line with the principle of Equal Treatment all suppliers and purchasers shall be treated equally and with the utmost fairness at every stage of a contract award procedure. This means that the selection of applicable suppliers or buyers, the receipt and treatment of tenders must be carried out in a non-discriminatory manner.

36.5 Fairness of treatment requires also that:

- Demands placed upon suppliers or purchasers shall be both relevant and directly related to the contract being awarded, and that no excessive conditions for participating in the tendering procedure shall be placed upon prospective suppliers;
- Contractual payments shall be promptly paid, as late payments may cause suppliers or purchasers to experience serious cash flow problems.

Transparency and Accountability

36.6 Transparency standards require that potential suppliers be informed of the rules that will be applied in assessing their application for tender lists and the criteria to be used in the evaluation of bids. A competitive tendering process cannot be carried out properly in the absence of this information. Openness of the procurement process also means when applicable and relevant:

- Advertising of contract opportunities
- Public accessibility of procurement documents

- Publication of contract awards
- Debriefing of bidders and consultants
- Participation of civil society to bids openings.

Ethical Standards

36.7 Legal Codes of Conduct set out the ethical standards of behaviour that Procuring Entities and public officials are expected to respect in carrying out their duties that apply to procurement activities. Procurement-related staff and officials are not to engage in, nor give the appearance of engaging in, dishonest, collusive, or unethical actions, or being subject to sanctions for misconduct or fraud. Legislation limits government officials from receiving gifts, entertainment or services of a value that may exceed BZ\$250.00.

Section 37 What Is Expected from Suppliers

37.1 To do business with the public sector, suppliers and purchasers must respect and not undermine the procurement process, and adopt the highest business standards at each stage of the process. Any supplier, purchaser or consultant who attempts to influence a procurement process, or the administration of a contract by any unfair method, shall also be subject to sanctions. This may include blacklisting of the company or the individual from government contracts for a certain period (usually from three to five years), besides other legal civil, criminal or administrative sanctions.

37.2 When considering becoming a supplier, applicants should be prepared to:

- Demonstrate that their firm has the resources and experience to do the job successfully;
- Disclose the firm's management, ownership, financial situation and performance;
- Ensure that the firm obligations are up-to-date, including regarding payment of taxes and wages.

37.3 When submitting a bid or a proposal, potential suppliers or purchasers, or anyone acting on behalf of a supplier, are prohibited from trying and inhibiting competition or exploiting business or political relationships. Such prohibited behaviour includes not to:

- Cooperate or share pricing information with other competitors;
- Submit artificially high or low bids to make a competitor's price look more reasonable;
- Submit bids or proposals that are deceptively attractive with an expectation to receive additional costs after winning the contract, or inflate profits in case of single source competitive advantage;
- Offer any gift of any kind to a public official to directly or indirectly influence the drafting of procurement requirements, evaluations, awards, or payment (with exception of the gifts under BZ\$250.00);

- Discuss employment prospects with any public officials involved in the procurement process;
- Circumvent the procurement process by asking a current or former official to provide information to which bidders are not entitled.

37.4 Contractors are also expected to perform fully, timely, and honestly in accordance with the terms of their contracts. Unethical behaviour examples include:

- Delivery of goods or services that fall below contractual requirements at the initial contractual price;
- Falsification of labor or material costs, or misrepresentation of progress reached, to obtain faster payments;
- Improper claim for costs reimbursement.

Section 38 Variety of Goods, Works, Services, and Assets

38.1 Public authorities among the central and local government ministries and departments who are most likely to enter into contracts with the private sector are the large ministries, such as Ministries of Works, Education, Health and Finance, as well as the smaller ones.

38.2 Potential suppliers or purchasers may be involved in different forms of tender according to what they are supplying or buying. Government purchases are broadly broken down into three categories: Goods, Works, and Services. Goods and services can particularly offer a readily accessible market for Belize MSMEs. Public assets are referred to in the context of sale contracts or disposal of assets.

Goods

38.3 Goods contracts are usually for financial value and confirmed in writing by a purchase order. Goods can be for the purchase, lease, or rental, of products such as:

- Stationery
- Office equipment and furniture
- Consumables (food and drinks)
- Vehicles
- Uniforms
- Computer and software
- Telecommunications equipment
- Electrical supplies.

Works

38.4 Public works contracts have as their object the execution and/or the design of activities associated with construction and civil engineering, which include:

- The creation of a new building, or structure, including all associated site works;
- The alteration, refurbishment, repair or improvement (other than ordinary maintenance which is regularly schedule), extension or demolition of an existing building, or structure.

38.5 Works may include materials, installation of equipment, and support services incidental to works, and involve the following infrastructures:

- Roads and bridges
- Railways
- Airports
- Seaports
- Communication facilities
- Civil works components of information technology projects
- Irrigation
- Flood control and drainage
- Water supply
- Sanitation
- Sewerage and solid waste management systems
- Shore protection
- Energy/power and electrification facilities
- National buildings
- School and hospital buildings

Services

38.6 Public procurement usually draws a distinction between general support services and consulting services of a more intellectual or advisory nature. Mixtures of services and supply of goods are usually put in the category to which more than 50% by value belongs, which explains why general maintenance services procurement could follow the less strict procedures of procurement of goods or comply with minimum tendering timescales.

38.7 General support services may be needed in the pursuit of any government undertaking, project or activity, and include for example:

- Advertising
- Catering
- Office cleaning
- General maintenance and repair
- Publishing and printing
- Security
- Transport services

38.8 Consulting services are any service to be performed by a Consultant, natural or legal person, under a service contract, and normally associated with the provision of a particular skill or of specialist knowledge, such as management consultancy, market research, legal or financial advisory, study development, etc.

Assets

38.9 Public assets are obtained as the result of the expenditure of public funds in the acquisition of goods, works and services, or those supplied through donor assistance. Where assets (stores, plant, equipment or other) become unserviceable due to fair wear, or become obsolete, or surplus, Procuring Entities shall instigate their disposal using bidding procedures or public auction.

38.10 Assets disposed of are usually classified into categories such as: unused items, damaged items, obsolete items, surplus items or scrap items.

Section 39 Characteristics of a Good Supplier/Purchaser

39.1 In order to meet the requirements of their own institutions, public authorities must also carefully evaluate suppliers and purchasers. Below is a general perception of what procuring entities may seek from a good supplier/purchaser:

- Value for money
- Compatibility and adaptability to required use
- Overall response times and quality of service
- Security of supply
- Quality of product
- Consistency of product
- Delivery times and schedules consistently met
- Ability to supply in required quantities
- Ability to deliver to required locations
- After-sale services
- Ability to provide spares
- Flexibility to new/additional requirements
- Courtesy and cooperation.

The Public Sector Needs Belize's MSMEs

The Government of Belize is keen on helping more micro, small and medium-sized enterprises (MSMEs) to compete for government business as it shall increase better value for money for the public sector and best use of taxpayers' money. There are ways in which government can improve the chances of success for MSMEs such as:

- Ensure open and effective competition;
- Maximise opportunities for local businesses;
- Provide equal access to government business opportunities;
- Ensure adequate information about new business opportunities, especially the smaller tenders which do not have to be publicly advertised;
- Work with representative organisations, such as the Chambers of Commerce, to help businesses understand the tender process.

CHAPTER 11. UNDERSTANDING THE TENDERING PROCESS

What is the tender process and how does it work? Find out about the different types of tenders and the documents likely to be found in the tender package; and what guides the evaluation of companies and tenders.

Section 40 What is Competitive Tendering?

40.1 Competitive tendering provides suppliers or purchasers with the opportunity to sell their products and services in competition with other interested parties. The competitive tendering process is normally used because it enables the government to source products and services from the best suppliers at prices that reflect true market conditions.

40.2 From the perspective of the public sector organisations, the procurement process is very much linked with the tender process, which includes the various stages as shown below:

First the Procuring Entity decides what it needs to buy, what is the contract value, and must make sure that enough money is there for the actual purchase.

The Procuring Entity chooses the procurement method and procedure, and put together the tender package deciding on specifications, conditions of contract, documentation, etc.

Tendering comprises all the stages between advertising the tender and/or issuing invitations to tender up to and including opening of tenders.

Tenders are compared to ensure they meet the requirements from both financial and technical aspects. A recommendation is made as to the most suitable tender.

Procuring Entities have certain authority levels for purchase approvals and often require sign-off at a higher level on a decision to award the contract.

Includes the issue of the order, overseeing the delivery and handling the relationship with the successful supplier up to the conclusion of the contract.

Section 41 Types of Procurement Procedure

41.1 Once the public entity has decided what it wishes to purchase, it must also select an award procedure to follow. The most widely used procedures are the Open tendering procedure, the Selective and Limited tendering procedures. In exceptional cases, use may be made of non-competitive procurement with the direct purchase method (Sole source) that requires only one verbal or written quote to identify a supplier. The competitive procedures are outlined below - full details can be found in Part I of this Handbook.

Open Tendering Procedure

41.2 In the open procedure, which shall be normally used, other than for small value contracts, any interested supplier or purchaser may request the tender documents and submit a tender in response to a contract notice advertised. This does not mean, however, that all tenders received will be evaluated: Tenderers will be required first to meet minimum requirements - selection criteria - regarding their financial and/or technical capacity. Tenders that qualify will then be evaluated against the award criteria. Once the successful tender is selected, the purchase order/contract is issued to the winning tenderer and the unsuccessful tenderers are notified in writing.

41.3 Under certain circumstances, such as when the scope of works is large, and/or cost estimates are high, complex services are required, or else technical specifications have not been established in advance, the Procuring Entity may use the two-stage open tender process. In this case, tenderers are first invited to submit their technical proposals, then to revise and clarify their offers after evaluation, and finally invited to submit their financial proposals based on the revised technical proposals.

Selective Tendering Procedure

41.4 Under the selective procedure, only pre-selected suppliers or purchasers will be invited to tender. The pre-selection of candidates is based on selection criteria made available in advance to interested parties. These criteria are applied in order to draw up the tender list. Invitations to tender are then issued to short listed suppliers or purchasers (usually more than three). The pre-selected suppliers or purchaser can be come from a permanent list of qualified suppliers or purchasers maintained by the relevant public authority and usually updated every year.

41.5 Tenders received are then evaluated against the award criteria. Once the successful tender is selected, the purchase order/contract is issued to the winning tenderer and the unsuccessful tenderers are notified in writing.

Limited Tendering Procedure

41.6 The limited procedure is used when the open and the selective procedures have failed to provide any interested suppliers or purchasers, or the tenders received failed

to qualify. It is also used in specific circumstances such as national emergency or security, urgency, expediency in the public interest, continuity (spare-parts, additions, extensions), or day-to-day operation needs.

41.7 In these cases, Procuring Entities may use the Shopping method where they simply request for the submission of price quotations for readily available off the-shelf goods or ordinary/regular equipment, or simple civil works of small value to be procured directly from suppliers of known qualifications. They may also use the Direct Contracting or Sole source method where the supplier or purchaser is simply asked to submit a price quotation or a pro-forma invoice together with the conditions of sale or purchase.

Section 42 Selection and Award Criteria

Candidate Selection Criteria

42.1 In order to be eligible to participate in a Selective Tender, and for tenders to be considered in an Open Tender, suppliers or purchasers must be able to demonstrate that they meet a number of criteria. The requirements have to be specified in the advertisement (invitation to tender) and/or the tender documents, may vary in detail and structure, but should be applied fairly with the sole consideration being “Can this supplier/purchaser fulfill this contract reliably?” These criteria can be classified into two broad areas:

- (i) Financial and Economic Information. Evidence of financial and economic standing is usually ascertained through the provision of:
 - Statements of overall turnover and turnover related to products or services, over previous financial years (usually 3 years);
 - Balance sheets;
 - Bankers’ reference;
 - Evidence of no history of bankruptcy or professional misconduct, or tax evasion, etc.;
 - Relevant professional risk indemnity insurance.

- (ii) Information Supporting Technical Capacity. This information will relate to the nature, quantity and purpose of the products or services to be supplied, and should be confined to the subject of the contract. For suppliers of products, it may include the following elements:
 - List of principal deliveries effected over the previous years (usually 3 years) with details of amounts, dates and recipients (whether public or private organisations);
 - Supplier's technical, quality assurance and research facilities;
 - Technicians or personnel responsible for quality control or compliance with other standards;
 - Technical bodies responsible for monitoring quality control and conformance to other standards;
 - Samples, descriptions or photographs of the products, authenticated if required;

- Recognised third party certification of conformity of the products to given specifications and standards;
- For complex or special products, a possible check on the supplier's production capacity;
- Information on Health and Safety aspects;
- Information on Environmental Controls.

For services providers, the key aspects to be considered are their skills, efficiency, experience and reliability, such as:

- Educational and professional qualifications of managerial staff and of those responsible for providing the services;
- List of the principal services provided in the past years (usually 3 years) with amounts, dates and recipients (whether public or private organisations);
- Technicians or personnel responsible for quality control or compliance with other standards, and the related monitoring;
- Average annual manpower and number of managerial staff for the last years (usually 3 years);
- Tools, plant or equipment available for the carrying out of the services;
- For complex or special purpose services the technical capabilities of the service provider with regard to study and research facilities and / or quality control measures may be checked;
- Indication of the proportion, if any, of the contract which the service provider intends to subcontract;
- Quality assurance standard;
- Service providers' registration on official lists.

42.2 Suppliers have the right to protect their legitimate interests as regards to technical or trade secrets, and should clearly be stated in the tender response.

Contract Award Criteria

42.3 These are the criteria used in determining to whom a contract should be awarded. Awarding entities must decide and make known, in advance of the tender process, the criteria they intend to use in choosing the successful tenderer(s) for each contract. Two sets of criteria can be used to choose between eligible tenders:

- (i) Lowest price. Where the public authority decides to choose this option as basis for awarding the contract, they must go on to make the award to the supplier or purchaser who submits the lowest priced.
- (ii) Most economically advantageous tender. Where this option is chosen, the awarding entity must specify the particular factors chosen for the contract in question. Depending on the nature of the contract, these criteria could be quality, technical merit, aesthetic, functional characteristics, after-sales service and/or delivery date and period, as well as price. For products in particular, the "whole-life cost" factor means not just the purchase price but the cumulative aspect of associated costs such as maintenance, spares, training, manuals,

waste management, disposal, etc. Thus, under this option, the tender with the lowest price will not necessarily be successful.

CHAPTER 12. APPROCHING THE PUBLIC SECTOR MARKET

Before tendering for contracts, private sector suppliers and purchasers need to investigate the public sector market: Getting good, up-to-date information on public sector customers and prospects is critical to increasing the chances of success, and reducing the risks of wasting time and money.

Section 43 Market Research

43.1 Finding suitable business opportunities within the public sector requires keeping eyes and ears open for prospects. The most effective way of approaching the public sector with a view to winning contracts is to adopt a pro-active approach:

- Step 1 - Analysing the market. Information gathering about public customers and their needs is one of the most important market research activities. Prospective suppliers and purchasers should notably identify:
 - Which public entities buy their products and services, or sell what they are interested in;
 - When do they buy/dispose of assets, if there is a planning cycle linked to the annual budget process;
 - How do they buy/sell and which procedures are used;
 - How often they award contracts and what are the contracts values;
 - Which contract award strategy they are using, if they have one (price and/or most advantageous);;
 - Who the current suppliers/purchasers are and how long they have been supplying/buying;
 - Who the other players are.

- Step 2 - Making contact and introducing company. This stage is aimed at ensuring that Procuring Entities become aware of the supplier/purchaser enterprise and the products/services provided. It is better to start by writing the relevant authority than telephone (at least for a first contact), and give information such as:
 - Introductory letter about the company;
 - Outline of products/services/business;
 - Brochures;
 - Samples (if relevant);
 - Details of successes to-date;

- Step 3 - Meeting the public entity. Suppliers/purchasers are encouraged then to request a direct meeting with the relevant authority, as they get the opportunity to make a good impression of their company,

products/services and after-sale services. It is recommended that not more than 2 persons should attend and to keep the meeting short and focused. This offers also the opportunity to confirm the real and immediate interest of the entity in the products/services presented.

43.2 Places to look for public sector tenders are the following: official Gazette, national press, chambers of commerce, and government websites. In order to build a company reputation it is important to constantly improve and to submit strong, realistic tenders.

Section 44 Getting on Qualified Suppliers or Purchasers Lists

44.1 Are ongoing lists of suppliers kept by different public entities and are they regularly updated? This is a question that suppliers/purchasers should ask themselves. In many instances, it is widely accepted practice that Procuring Entities develop these permanent lists to be used in the context of selective or limited tendering. Lists can be a useful tool to streamline future tender processes in providing a number of pre-qualified suppliers/purchasers who have already satisfied certain preconditions.

44.2 Where pertinent, businesses should look at being registered as qualified suppliers or purchasers with the relevant public procuring entities (ministries, departments, local authorities, etc.), which may have their own qualification criteria to be met, such as quality and timeliness of the work and other attributes. Public entities should ensure that suppliers or purchasers may apply for qualification at any time and that all qualified suppliers/purchasers are included in the lists within a reasonably short time. In the same way, qualified suppliers/purchasers should also be notified of the termination of any such lists or of their removal from them.

44.3 Earning a place for a business on a permanent list can be the right ticket to winning more government contracts because it puts businesses one step closer to participating in public procurement. Although being on a permanent list does not guarantee work, it does mean that public entities have recognised businesses capacity to perform, and could mean the difference between being invited to compete for a particular opportunity or not.

Section 45 What to Consider Before Tendering

Evaluating Opportunities

45.1 Writing and preparing a business response can be expensive, time-consuming and is not guaranteed to succeed. Tendering for contracts where there is no realistic chance of winning wastes time for both parties. To enable suppliers/purchasers to make a quick decision whether it is worthwhile to submit a response, or whether the company needs improvement, it may be useful to consider the following questions regarding the potential opportunity, and if it does:

- Fit your company profile?
- Match your experience?
- Match your staffing and facilities?
- Match your business strategy?
- Require a capital investment?

- Require to show successfully completed similar work in the past?
- Require to have policies and systems in place such as health and safety, sustainability, standards and/or quality?
- Require additional registration, accreditation or certification?
- Require additional staff and/or resources?
- Enable to develop new product lines?

45.2 Attention should be particularly given to the factors of qualification and experience, as suppliers should be qualified to complete the works or supply the goods within the stipulated timeline. Suppliers should examine these elements in conjunction with the magnitude of the contract in question and their current commitments. Procuring Entities shall provide sufficient information in the bid/tender invitation about the scope of the works/supply, the qualification, capacity and experience required for the award of contract.

45.3 When in doubt, suppliers/purchasers should be allowed to request the Procuring Entities for free examination of the tender documents before purchasing them, if they are not provided free of charge (usually for contracts funded by international donors).

Understanding What to Respond to

45.4 When suppliers/purchasers make their initial approach, it is essential for them to understand what kind of request they are responding to. It could be the following cases as described below.

A Direct Request

45.5 A direct purchase/sale, in the case of sole source procurement, requires only one verbal or written quote to identify a supplier/purchaser. Procuring Entities are allowed to use this method in specific circumstances strictly defined in the applicable legislation (refer to Part I of the Handbook).

A Request for Quotation (RFQ)

45.6 The number of suppliers/purchasers requested to quote may range from three to five or more, for one contract, in order to demonstrate competition. The RFQ will include the relevant specifications and selection requirements. Subjected to the limits given in the applicable legislation, Procuring Entities are permitted to use the Shopping procedure for small value procurement and off-the-shelf goods. Wherever possible, the invitation for quotation should be sent to the suppliers/purchasers who are registered in a permanent list of qualified suppliers or purchasers.

A Call for Expression of Interest (EOI)

45.7 Calls for Expression of Interest (EOI) are used mainly when Procuring Entities are unsure of the market's ability or desire to meet their needs regarding a certain type of product or service required and to ensure a more cost-effective process by using the selective tendering procedure. This is more often used for consulting services. The objective of this first stage of the process is to pre-qualify and shortlist a number of eligible providers, which can be used to progress to the second stage of the process, generally referred to as Request for Proposal (RFP).

45.8 Preparing a response to an EOI represents an effort that can range from short to lengthy depending on the nature of the product or service to be provided, as it is designed to determine candidates' fitness, capacity and experience. Companies should be careful to stick rigidly to the requirement and make sure their answers are relevant, complete and backed up with evidence. Failing to get shortlisted at this stage entitles companies to feedback. It is important to receive the feedback critically in order to improve responses in future opportunities.

45.9 Not responding to an EOI means a potential risk of not being shortlisted and thus not receiving the invitation to tender, or an RFP, for the second stage of the process. The decision to respond can only be made by each company when weighing up the benefits and disadvantages, as responding to an RFP is an even a lengthier and more demanding effort. There, shortlisted bidders will prepare comprehensive technical offers and submit their financial offers that will be separately evaluated.

An Invitation to Tender (ITT)

45.10 Invitations to tender or request for bids are more often used for goods and works. Under the open and advertised procedure, any interested company may request the tender documents and submit a response, while under the selective procedure only pre-qualified shortlisted bidders may do so. In any case, suppliers need to take the time to read the documents carefully in order to compile their offer appropriately. Tender documents are likely to include some or all of the following:

- A letter of invitation to tender;
- Background information on the Procuring Entity;
- Instructions - including the tender deadline and the arrangements for submission of tenders;
- Specification - details of what is being purchased including any special product requirements;
- Plans, drawings relating to the equipment and the specification;
- Templates for pricing and delivery schedules;
- Terms and conditions of contract;
- Selection and award criteria, and the anticipated date of contract award;
- A list of the mandatory documents required - including certificate, tax certificate, tender security, etc.

Helping Tips

- Bidders do not have to be established in any particular location (although they must have the ability to meet response times).
- Bidders do not need to have a permit issued by a government department or be on an "official list" in order to apply for a contract. However, these should not be confused with tender or permanent lists, which the public sector commonly uses when seeking prequalified suppliers/purchasers. The aim is to be on these lists!
- Specifications in tender documents must not favour or eliminate certain candidates or standards.
- Specifications should not mention goods or products of a specific make, source, process or trademark, or patent, but if they do, they should also use the words "or equivalent".
- Bidders are not permitted to sub-contract an entire contract to another supplier.
- Bidders have the right to protect their legitimate interests as regards technical or trade secrets.
- When specified in tender documents, bidders might tender for one or more items in a list of required products - however quoted items should be clearly indicated.

CHAPTER 13. PREPARING AND SUBMITTING TENDERS

Identifying and compiling the required information to ensure a successful tender may be a meticulous task depending on the contract work complexity. Contracting authorities expect offers to be provided in the format requested and according to any rules such as the maximum number of words or pages. Allocating enough preparation time and getting the details right can make all the difference.

Section 46 Preparing the Tender (Bid)

Pulling the Information Together

46.1 Bidders are strongly advised to study carefully the instructions given in the bidding or tender documents with special attention to the Instruction to Bidders (ITB) and Bidding Data. Non-compliance with the conditions given for preparing the bid in the bidding documents may lead to a rejection of the bid irrespective of the bid price.

46.2 A substantially responsive bid should be one which conforms to all terms, conditions and specifications of the bidding documents, without material deviation or reservation. There are a few critical aspects to particularly consider:

- (i) Composition of the Bidding Documents: Bidders should ensure that all the sections listed in the bidding documents are received as it is their responsibility. If any document is missing, they must make a written request to the Procuring Entity's contact person(s) mentioned in the ITT, to obtain such documents.
- (ii) Amendments to Bidding Documents: If any amendments are made and sent, bidders should acknowledge their receipt and incorporate new requirements in their bid. Bidders can request for a time extension to submit the bid, if these amendments are substantial, and Procuring Entities will advise all bidders of the new deadline if any.
- (iii) Clarifications: Bidders are entitled to receive responses to any questions asked to the procuring entity. Questions must be made in writing and sent to the contact person mentioned in the ITT (usually by e-mail). Some tenders may have a deadline for the submission of questions that is likely to be well before the tender return deadline. All questions and answers will be also sent to all other tenderers, although in an anonymous way. In case several questions are on the same topic from different companies, the PE may decide to send to all potential tenderers a 'composite' response covering all the questions asked or points raised.
- (iv) Extension of the Tender Period: If a PE decides to extend the tender validity period, all bidders will be informed of the revised tender deadline. They will also be advised that they may, if they wish, submit a revised tender within that deadline. In this case, the new tender

must be accompanied by a covering letter to that effect. The PE should provide a blank pro-forma letter for that purpose.

- (v) Site Visits: Whether an official site visit is arranged by the PE or not, visiting the project site is recommended in work contracts to gather more information about under what circumstances and environmental conditions the contract will have to be performed. These are also an opportunity to find out who else is tendering and what questions they are asking.
- (vi) Pre-Bid meeting: Bidders are encouraged to participate in Pre-bid meetings if any (particularly for complex works contracts) and ask for clarifications to be included in the minutes of such pre-bid meetings.
- (vii) Bid Currency: Bidders should use only the currencies provided in the bidding documents for pricing the bid. The use of non-specified currency may result in the rejection of the bid.
- (viii) Bid Prices: To avoid difficulties during the execution of the contract, bidders should pay careful attention to pricing and what it does include, and consider the following factors before preparing the price schedule:
 - Under goods contract, risks and obligations involved for the supplier;
 - Under work contracts, generally items for which no rate or price is entered will not be paid for by the PE when executed, and shall be deemed covered by the other rates and prices in the Bills of Quantities;
 - Under goods contracts, if it is stated that bidders shall quote for all the items, not pricing an item may be a reason for rejection of the bid;
 - Obligations on the payment of taxes and duties and other factors that should be included in the item price;
 - Effect of bid validity period to the price quoted, especially when price fluctuation clauses are not included in the contract;
 - Contractual obligations such as submission of insurance policies, performance security, related services, furnishing of samples, tests, incidental expenses and manuals, which are not reimbursed directly under the contract.

Details to Get Right

46.3 Contracting authorities will always be pleased to see a clear proposal, a logical structure and a professional presentation. In particular, they don't want to have to search through a tender to find information. Bidders should always refer to the numbering in the ITT in their bid, or include a reference sheet in case of large and/or complex bid. These are also a few other elements to look out for, such as:

- How many tender copies? Some PE may only want a single copy but it is also possible that some others request two or five, or more;

- What format is required? The bid could be bonded or in loose-leaf pages for allowing photocopying depending on instructions;
- Is there a limit on the number of pages that will be accepted? The limit, if any, could also be on the number of words;
- All questions must be answered and the information required given. It is recommended to double check to make sure nothing has been missed;
- Are all the required mandatory documents included and signed? Failure to sign, for example, the Bid Submission Form which corresponds to a certificate of bona fide will result in automatic rejection of the proposal;
- Are certificates, such as tax certificates, or accreditations up-to-date? If not, this may lead to rejection of the proposal;
- Is the tender signed?

Tender Preparation Checklist

46.4 Compiling a checklist of what should be in the tender will ensure bidders to be less likely to forget anything. The checklist should include critical actions or items to be completed or provided in the tender document, with dates and name of the person responsible. A sample checklist is given below for reference purposes.

Sample Tender Checklist

Requirement	Action/Items	Responsibility	Complied with
<i>CLOSING DATE</i>	<ul style="list-style-type: none"> - Acknowledge receipt of ITT and intention to bid - Note the day and time - Make necessary arrangements for prompt delivery 		
<i>AWARD CRITERIA</i>	<ul style="list-style-type: none"> - Is it lowest price or most economically advantageous tender? - If the latter, which factors are involved? 		
<i>COMPANY GENERAL INFORMATION</i>	<ul style="list-style-type: none"> - Staffing - Structure - Management - Current commitments 		
<i>FINANCIAL INFORMATION</i>	<ul style="list-style-type: none"> - Turnover (past 3 years) - Audited Accounts - Bank References - Guarantees 		
<i>TECHNICAL INFORMATION</i>	<ul style="list-style-type: none"> - Plant & equipment - Health & Safety Policy - Accident Records - Environmental Issues - Quality Assurance - Contract Management Proposal 		

<i>SPECIFICATIONS</i>	- Understanding the full requirements - if not, seek clarifications - What standards are required? - Can requirements be met?		
<i>INSURANCE</i>	- Is the appropriate insurance in place? - If not, can it be arranged? - Liability		
<i>GUARANTEES</i>	- When required, normally agreed with banks. Usually for large contracts. - Bid security, usually for larger contracts (1 to 2% of contract value).		
<i>PRICING</i>	- How is pricing required? - Are tender pricing sheets included? - Identify additional costs, taxes such as VAT, expenses allowed (applicable rates) , etc.		
<i>SIGN OFF</i>	- Sign and stamp relevant documents - unsigned and unstamped documents will not be considered		

Section 47 Submitting the Tender

47.1 The tender documents will state clearly the date and time by which the tender must be submitted to the Procuring Entity's contact person, as well as the location. Bidders may be allowed to mail, e-mail, hand deliver and/or deposit their offer in a Bid Box, depending on the specification in the ITT (General conditions of contract). Whatever the way(s) specified, it is the bidders' responsibility to submit their bids before the deadline. Late bids will be returned unopened.

47.2 In order to ensure fair competition, tenders must be submitted anonymously in an outer envelope with no marks which might identify the company making the submission. The PE should not be able to recognise which company has submitted a tender until the outer envelope has been opened. The ITT also gives clear instructions regarding the sealing and marking of bids, how to enclose the original and copies of documents in the respective required envelopes (technical and financial). Failure to comply will lead to the rejection of the bids.

Common Tendering Mistakes

- Failure to register an Expression of Interest or respond to the prequalification - which means the company cannot receive the Invitation to Tender.
- Not providing the information requested.
- Not relating the tender response to the relevant sections of the Invitation to Tender.
- Not including mandatory documents or key documentation - or even explaining why it's not there.
- Failure to provide evidence of recent experience.
- Failure to ensure an anonymous response - for example by including the company logo on the outer envelope.
- Missing the submission deadline.

CHAPTER 14. CONTRACT AWARD AND BEYOND

Once the tender is submitted, what happens next? What happens to late or incomplete tenders? This Chapter answers these questions and covers also the final selection, contract award, what to do when an offer is unsuccessful, and how to keep good business relationships with the public sector.

Section 48 Bid Opening & Evaluation

Bid Opening

48.1 The invitation to tender documents should have included a timetable for decision-making as well as any intermediate stages such as inviting some or all of the tenderers to make a presentation. But it is not uncommon for these deadlines to slip and for decisions to take a little longer.

48.2 All of the tenders received will be opened in public at the place, date and time stated in the invitation to tender by the tender Committee of the relevant Ministry, Department or District. Some important aspects of the opening process are:

- (i) Bids are open in one location only;
- (ii) Bidders are highly encouraged to participate in the bid opening; it is always an advantage that a person who is knowledgeable of the enclosures of the bid participates in the bid opening;

- (iii) Bidders should ensure that their bid is opened at the bid opening, the prices and discounts are correctly announced; a bid not announced at the bid opening may not be considered for evaluation;
- (iv) Bidders should mark the attendance when requested.

48.3 **Late** tender submissions - those received after the submission deadline - are set aside and cannot be considered subject to the conditions stated in the invitation to tender. Also, any offer not received **in full** by the nominated closing time and date, at the nominated location, is considered as a late Tender. Bidders who have submitted late or incomplete bids will be formally notified.

Before the Evaluation

48.4 Before evaluation process, the procurement entity must establish if there are any points to clarify with the different bids. If there are apparent genuine arithmetical errors in a tender, the bidder will be notified in writing. Subject to a formal agreement between both parties, the resulting alterations will stand as part of the original tender. This is not an invitation to submit a revised tender; it is merely a clarification and confirmation of what appears to be a genuine arithmetical error.

48.5 A bidder may also be asked in writing to confirm the bid price. This may be because the price appears to be unreasonably high or low compared to other tenders, or because the prices quoted by the majority or all of the bidders differ greatly from the anticipated price. If it appears that the specifications were unclear or incorrect, then the procuring authority could invite all bidders to submit a revised tender. In effect, this means that the tender process is starting again with a new deadline for submission, evaluation and contract award.

48.6 The contracting authority expects bidders to agree to the terms and conditions of contract included in the invitation to tender package. If a bidder states in his offer that he does not agree to any of these or have requested that they be amended in any way, the procuring authority will ask the bidder in writing to withdraw these qualifications or reservations in order for the tender to be considered further.

Bid Evaluation

48.7 The Ministry, Department, or District's Tender Evaluation Committee will then evaluate all those tenders which are considered to be compliant. If they are evaluating for price only, the process should not take very long. Otherwise, using predetermined criteria to determine the most economically advantageous tender is more time consuming. The instructions for members of the Evaluation Committee together with evaluation scoring models are described in Part I of the Handbook.

48.8 Tenders are normally evaluated in two stages. First, the technical stage is to ensure the product or service will meet the specifications and performance requirements. If a product or service is not technically acceptable, the tender will be rejected and not considered further. The second stage of the evaluation is the financial evaluation, where only tenders that comply with the specifications and general requirements of the tender documentation will be evaluated. The pre-published award criteria may not be altered by the procuring authority in carrying out the evaluation process.

48.9 Some important aspects of the opening process are:

- (i) The Evaluation Committee will consider only the information submitted along with the bid, unless specifically requested; for example when tenders selected move to a shortlist stage - shortlisted bidders may have to attend an interview and/or make a presentation;
- (ii) Any other information received from a bidder will not be considered for evaluation, even if it was registered prior to the closing of bids but received after the closing of bids;
- (iii) Bidders should promptly provide any further information or clarification requested by the procuring entity;
- (iv) Any attempt made by bidder(s) to influence the evaluation process may be a reason for rejection of the bid(s);
- (v) If a request is received from the procuring entity to extend the validity of the bid, if any bidder decides to stay in the competition, they will have to extend the validity of the bid before the expiry of the original bid;
- (vi) If the validity of the bid is extended, it may also be required to extend the validity of the bid security;
- (vii) Bidders should be prepared to be ready with initial works, such as recruitment procedure of staff if necessary, specialized equipment, material supply and/or programming, when they are expecting to be the successful bidders.

Section 49 Contract Award & Debriefings

49.1 When the Evaluation Committee has finished its assessment of the tenders, it reports its findings and recommendations to the relevant authority, or authorities if different levels of approval are necessary, which makes the final decision on which bidder is awarded the contract. Successful bidders are normally informed of their success in writing - this may be preceded by a phone call. A formal contract will be issued which is legally binding for both parties, with the submitted tender forming part of this contract. Sometimes 'variations' (changes) are agreed during the contract negotiations; variations may be negotiated where either party wishes to alter the original specifications or where unforeseen circumstances may affect the requirements of the contract. Some contracts provide a mechanism for "variations" to allow for this type of changes.

49.2 Contracting authorities will publish a Contract Award Notice in the official Gazette and possibly on the government website, giving brief details on the successful tender and contractor(s), the contract total value and duration. Unsuccessful bidders will receive a letter giving the name of the successful firm and total price for the maximum contract duration, which should also include an offer to those bidders to be given feedback on their tender during a debriefing meeting.

49.3 Debriefing Panel meeting. After the notification of contract award, a post-tender debriefing to unsuccessful bidders should be available upon request from the procuring authority's contact person. This debriefing should help unsuccessful bidders to ascertain the grounds on which their bid was not selected and identify areas where they could have improved their offer, analysed against the selection requirements and the bidders ranking. However, it should be emphasised that the debriefing is confined to discussing the individual bidder's performance and not their competitors. Minutes of the debriefing should be kept.

Section 50 Complaints & Protest Process

50.1 If an unsuccessful bidder has a genuine problem or grievance, he/she should in the first instance contact in writing the procuring authority's contact person. Both parties may be able to put things right. If not, the bidder may want to take the grievance to the next stage, which is the Head of the Procuring Entity, as described in detail in Part I of the Handbook and summarised below.

50.2 In general, any supplier, contractor or consultant that claims to have suffered, or that may suffer loss or injury due to a breach of a duty imposed on the Procurement Entity, may seek a review of the procurement process. However, the claim shall not relate to aspects such as: the selection of the method of procurement or selection procedure, or the decision to reject tenders, proposals, offers or quotation.

50.3 A complaint means a written objection, submitted by one or more supplier, contractor or consultant (the complainant) within five (5) days, regarding a solicitation, contract award or proposed contract award for goods, works or services. The complaint must be received in a written form and should contain information related to details of the complainant, nature and background of the problem, supportive facts, and debriefing requested information.

50.4 The Head of the Procuring Entity shall, within ten (10) days after the submission of the complaint, issue a written decision. If it fails to do so, the complainant is entitled to ask for an administrative review by the Contractor-General's Office. However, complainant should be aware that this complaint would have to be accompanied by a registration fee of 2% of the estimated value of the protested contract.

Section 51 Public Sector Customer Relationships

51.1 Once the contract is in place, the supplier, contractor or consultant should be ready to start its execution within the delay agreed upon. The relationship with the public sector "customer" now becomes increasingly important. Public sector customers are similar to commercial customers in some ways and different in others. Suppliers, contractors or consultants need to understand thoroughly the values and objectives of the public sector entity.

51.2 Some more demanding aspects of the relationship could relate to:

- Government budgets may change more radically from year to year and may derive from a number of sources including donor partners;
- The demands of accountability mean that monitoring, reporting and audit processes can be stringent - contractors need to keep excellent administrative records, invoices, etc.;

- Contractors may be subject to clauses from the government's own code of practice. For instance, in case of subcontracting work, public tendering procedures may need to be followed;
- Projects may need to be managed through acceptable and/or approved project management;
- Monitoring and/or reporting information may be also required and must be understood, as this could also lead to external audit.

Managing Good Relationships

In order to maintain good relationships and maintain more public market opportunities open, contractors should give particular attention to some key points:

- Meet contract requirements, with delivery on time and of high quality.
- If several deliveries/works over a certain period are required, contractors should ensure to meet these timescales.
- Meeting with the Procuring Entity and users occasionally to ensure they are satisfied with the product, delivery and response times.
- Respond quickly to queries or problems, and provide an explanation and a timescale for solving the problem.
- Submit invoices on a regular basis, in accordance with the conditions of contract.
- Before the contract is due for renewal, meet with the Procuring Entity and users to gain an understanding of the requirements for the next contract, find out if they are satisfied with the contract performance and going to use the same specification next time.