

Information Commissioner



Information Commissioner's Office
Promoting public access to official information
and protecting your personal information

TENDERING GUIDE

V1.

1. Introduction
2. Management Board
3. EU Procurement
4. Tendering process

1.0 Introduction

- 1.1 Budget holders have authority to purchase goods and services within the budget provision allocated to them, following the requirements of the ICO Purchasing Guide.
- 1.2 Wherever possible goods and services should be obtained through competition in order to ensure that the most suitable supplier is selected on terms which are likely to offer the best value for money.
- 1.3 A minimum of three competitive quotations shall be obtained in writing for goods and services with a value of £5,000 or more. Where the value of goods and services exceed £50,000, tenders should be invited from suitable suppliers following the guidance below. The value of a contract shall be the total amount of expenditure under the contract over the whole life of the contract, and not just the amount to be spent in one year.
- 1.4 Procurement can be expensive and administratively burdensome, and a tender is often not the best procurement solution.
- 1.5 There are other options to undertaking a tenders exercise, such as the use of pre-tendered Framework Agreements, available through, for example, the Office of Government Commerce (OGC) of Central Office for Information (COI), or through other ICO contracts such as the IS Managed Services Agreement.
- 1.6 Single tender contracts are normally not permitted, though it is recognised that there may be exceptional circumstances where this may be necessary. The intention to let any single tender contract in excess of £10,000 including VAT must be reported to the Ministry of Justice in advance of contract award.
- 1.7 It is recommended that you explore all of the options by consulting with the Finance Manager at the commencement of the project
- 1.8 Any procurement will result in the entering into a contract between a supplier and the ICO. **Any contract must be reviewed by the ICO Central Legal team prior to signature and it is the duty of the budget-holder to initiate this involvement.** Adherence to this will be monitored by the Central Legal team and appropriate Executive Team members advised of any non-compliance.
- 1.9 Contract documentation should as a result be passed to the Central Legal Team to be held in a central repository, rather than individual departments holding their own original contracts.
- 1.10 All contracts will be logged on the Contracts Register by the Central Legal team. The Central Legal team will remind budget-holders when contracts fall due for renewal.
- 1.11 It is impossible for any set of tendering guidance to cover every eventuality, and also as the ICO procures such diverse product and services, from stationery to research, a one size fits all set of rules has been avoided, in order to some

flexibility within the guidance to meet the overriding requirement for demonstrating open competition and obtaining value for money.

2.0 Management Board

- 2.1 It is a requirement to obtain Management Board approval for any expenditure that exceeds £100,000 (including VAT).
- 2.2 It is the duty of the budget holder to seek such authority in advance of the procurement commencement.

3.0 EC Procurement

- 3.1 The ICO is legally obliged to comply with implemented European Community Directives for the supply of goods and services, which are aimed at widening the opportunities for competitive tendering throughout the European Community. The Directives and associated regulations apply where the ICO intends to let a written contract (or series of contracts) above or equal to €211,000 (currently £144,371, June 2007) in value for the purchase, lease, rental or hire purchase of goods and services.
- 3.2 **For tenders which may be subject to EC Procurement Directives, guidance must be sought from the Finance Manager before proceeding.**

THESE TENDERING GUIDELINES ARE NOT TO BE USED UNDER ANY CIRCUMSTANCE FOR A PROCUREMENT UNDER EC PROCUREMENT DIRECTIVES.

EU PROCUREMENT DIRECTIVES SET OUT SPECIFIC AND DETAILED PROCEDURES THAT MUST BE COMPLIED WITH.

- 3.3 Any infringement of the Directives could lead to an award of damages to persons harmed by the infringement.

4.0 Tendering Process

4.0.1 Tenders should ideally be project managed using the stages set out below.

4.1 Approval

4.1.1 Ascertain the level of budget available for the procurement, and that the procurement is being undertaken by or with the authority of the budget holder.

4.1.2 If costs are likely to exceed £100,000 including VAT, ensure the Management Board has been approached for approval.

4.2 Stage 1: Supplier sourcing

4.2.1 The tendering process should be as open as possible, and thus consideration should be given at the outset to compiling a tender list of potential suppliers.

4.2.2 In selecting potential suppliers, consideration should be given to the skills and experiences or qualities that will be required.

4.2.3 Ideally a tender proposal should be advertised to attract a wide pool of potential suppliers. When advertising, a wide range of media is available in order to reach the target audience.

4.2.4 Consider using the ICO website, national or local press, trade magazines, mailing lists, representative bodies or even public meetings.

4.3 Stage 2: Document writing

4.3.1 The procedure for seeking sealed bid tenders is designed not only to obtain best value for money, but also to protect the ICO in the event of any subsequent dispute or legal challenge brought by a disgruntled tenderer.

4.3.2 The over-riding principle is that all bidders must be given an equal opportunity to win the business, so to this end, all invitations to tender must be identical.

4.3.3 A tender specification should be prepared. It is important that this is a functional document, describing the goods or services required in terms of their intended function and the required level of performance, rather than simply a generic description or brand name. A well drafted specification will set out the quality and performance standards for the resulting contract and will provide the greatest scope for maximising value for money.

4.3.4 The tender package should contain:

A covering letter of email

Tendering instructions

Tender details

Advice on the form of tenders, and any forms you require completing

Contract documents (if not standard terms)

4.4 Stage 3: Tendering

- 4.4.1 The tender package should be assembled allowing the potential supplier a reasonable time to respond.
- 4.4.2 The period that should be allowed for completing and returning tenders depends will depend on the type of procurement or complexity of the project.
- 4.4.3 It is in order for potential bidders to attend group or individual briefings in order to compile their bids, with the over-riding proviso that each bidder receives the same opportunities and information.
- 4.4.4 An evaluation team should be selected comprising at least three people, and generally no more than six. Team members must be prepared to set aside sufficient time to undertake an individual evaluation of the written bids and to attend a wash up meeting with the rest of the team. In selecting the evaluation team consideration should be given to likely specialist areas such as Information Services, Communications and External Relations, Human Resources, or Finance.
- 4.4.5 Tender return procedures should be strictly observed to ensure probity. Tenders received after the time and date set in the tender package cannot be accepted, except under exceptional circumstances. When dealing with any late tender you must consult with the Finance Manager.
- 4.4.6 All tenders received should be kept in a safe place unopened, until the set date and time. Tenders should be opened and signed by a minimum of two people, and distributed to the evaluation team.

4.5 Stage 4: Evaluation

Criteria

- 4.5.1 Tender evaluation is an essential part of the procurement process. It is a means by which competing tenders are compared with each other against pre-determined criteria.
- 4.5.2 Evaluation criteria should look at the specification or service requirement and pick out the key areas with tenderers are expected to address. These key areas should be weighted according to their relevant importance.

Example approach to scoring bids

Score 0 to 5 where:

- 4 or 5 for a response that is acceptable by degrees
- 3 for a response that is acceptable
- 1 or 2 for a response that is less than satisfactory or unacceptable
- 0 for a response that fails to address the particular issue

4.5.3 Evaluators should make notes to support their scores, particularly where the score deviates from a 3, These notes are useful as the basis for debriefing unsuccessful tenderers or as points of comparison when scoring other tenders.

Pricing

4.5.4 As far as possible consideration of price should come after completion of the evaluation. In order to achieve value for money the ICO must take into consideration that the lowest price may not be the most economically advantageous and that a bid should not be judged on price alone.

4.5.5 Where a bid price exceeds the funding level, it would be pointless to take the bidder forward unless there is a realistic prospect of reducing the price to accommodate the budget. Grounds for assuming a price reduction would be if the bidder had shown signs of over-estimating the service or personnel needed, had included inexplicable or extraordinarily high on-costs, but in any event the bid price should be at least within sign of the budge limit (say no more than 15 – 20% above).

4.5.6 Where a preferred supplier is the more expensive but affordable option, it will be necessary to show the additional quality or level of service is worth the price i.e. that you are getting value for money. Value for money is the combination of whole-life cost and quality.

4.5.7 A means to support a value for money argument is to compare percentage difference in qualitative evaluation with percentage difference in price.

Example	Bidder	Evaluation score	Difference	Price	Difference
1	A	500	+25%	£12,000	+20%
	B	400		£10,000	
Example	Bidder	Evaluation score	Difference	Price	Difference
2	A	480	+20%	£13,000	+30%
	B	400		£10,000	

In example 1, there are grounds for saying that bidder a if offering value for money over bidder 2 despite being the more expensive, but in example 2 does not.

Presentations

4.5.8 If presentations are held, they should be conducted by the same team that is carrying out the paper based evaluation, plus an additional specialist, such as an IS or financial expert, if there are perceived weaknesses in these areas of their bid. Ideally the presentation panel should only see those tenderers that have a chance of winning. Presentations should also be scored, though not to the same criteria as the paper based evaluation.

Clarification

4.5.9 Where even the favoured bid has question marks hanging over it, which were not resolved at presentation or may have arisen out of the presentation, it is advisable to call that bidder back for further clarification of their bid.

Wash-up meeting

- 4.5.10 Once the independent assessments are complete, the evaluation team should meet to reconcile any variation in scores. Evaluators will inevitably score differently and therefore washup meetings will be necessary to come to an agreement. It is advisable for scores to be made without using the weighting factors until after the wash-up meeting has been concluded.
- 4.5.11 After the wash-up meeting the team should jointly determine the preferred supplier(s) and either take forward tenderers who achieve or exceed a pre-determined level of marks or take forward the top rated tender.

4.6 Stage 5: Awarding and managing an agreement

- 4.6.1 Award of the contract can be made by issuing an award letter or some form of contract. This should spell out the basis of the contract award in the broadest of terms (e.g.the basis for this contract will be the tender submission and any points of agreement reached in negotiation) and be signed and retained by both parties.
- 4.6.2 Sometimes suppliers will have their own standard contracts that can be used, subject to satisfactory review.
- 4.6.3 It is good practice to offer a de-brief to all unsuccessful tenderers. The debrief should be written up using the notes compiled during the evaluation, and if appropriate at presentation. If the tenderer is content with a telephone debrief, then the written up de-brief should be read out and the time and name of the persons noted and filed.
- 4.6.4 In accordance with the Purchasing Guide, any contract shall be reviewed by Legal Services prior to signature, and Legal Services will add the contract to the Contracts Register.

4.7 Stage 6: Post contract evaluation

- 4.7.1 The final stage of the process shall be a formal evaluation of the process, including costs and timings, noting any lessons learnt for the future. The evaluation should also include a review of the extent to which the key objectives or critical success factors identified in the tender documentation have been achieved, which should be filed with the Legal Services copy of the contract.