

## Making a Procurement Decision-Making Framework Work

You make procurement decisions. These include decisions in every phase of procurement that cover a broad spectrum such as what sort of procurement process to use, what should go in the evaluation criteria, and how to respond to non-standard questions from a potential bidder. Some organizations have formal procurement directives that give direction to some of your decisions... if you're lucky. Frequently, however, the decision is a new challenge with little specific information available.

**Making the best decision** is important. Almost as important (and sometime more important, especially in a public setting) is being able to **explain WHY you made the decision** that you did.

So, what do you do if there is “nothing in the book” to help you decide?

**Be very wary of precedent.** Just because it worked last time is no guarantee that it will work well again. You may have been lucky last time and nobody called you on it. Or the situation may be subtly different and you're heading down a different track this time around.

Some procurement organizations provide a list of general **procurement principles**. Most people skip over these in their search for concrete answers. But those principles provide the **framework for procurement decision making** in the absence of hard direction. Consider them like a **checklist** that you go through when making each decision, and as an **outline** for the written justification you might prepare for your procurement file in the case of a potentially controversial decision.

Here is a typical list of procurement principles with top-level questions for each. Annex A at the end of this document covers these with more specific questions you might answer when deciding upon and documenting a procurement decision.

- **Fairness.** Does this treat everyone equally? Or does it give an advantage to some?
- **Transparency.** Is all the information presented clearly up front? Or are there hidden secrets?
- **Fiscal responsibility.** Does this make financial good sense for internal and external stakeholders? Or is the payoff not worth the investment?
- **Competition.** Is this open to as many as possible? Or are there (unreasonable) limits about who can participate?
- **Accountability.** Is this easy to justify and explain clearly to internal and external stakeholders? Or will this be embarrassing when attention focuses on it?

In the ideal situation, your decision will be such that you can truthfully answer “yes” to the first question for each principle above; you should aim for this. But sometimes for very good reasons, you may need to go against one of these principles. When you do, you should make a clear, conscious decision to do so,

and not leave it as something you discover afterwards then scramble to justify when things turn bad. If you do go against one of these principles, document the thought process that led you to that decision in the context of that principle, even if only to refresh your memory later when someone asks.

For example, you might need a temporary bridge on a busy road to replace one swept away in a flash flood. Or you may require specialized expertise to help resolve a ransomware attack at a health centre. For reasons of urgent public safety, you cannot wait weeks to conclude a competitive procurement. Because a contractor is right there with the capability to solve the problem quickly, you decide to award an immediate contract directly to them. You can easily meet the principles of transparency and accountability (tell everyone what you're doing and why), and fiscal responsibility (the risk and cost of doing otherwise would be much higher). As far as fairness goes, was there really only one contractor suitable and available? And you certainly limited competition but that was justified by the urgency of the requirement in balance with the other principles. So, document the reasons for your decision in the context of each principle... and move on to the next challenge.

When making a procurement decision, then, know WHY you make that specific decision and consider documenting your reasons if you suspect it will be controversial. This is easy using the checklist/outline framework of your procurement principles.

*Contact TimmiT if you are unsure about how to apply this structured process to making and documenting real procurement decisions using the framework of procurement principles.*

More details on procurement principles and some related questions appear in Annex A below.

## Annex A

### Procurement principles with more detail

Use the procurement principles here as a **structured outline for making your decision and for explaining why you made it**. Or if your organization has its own procurement principles, use them.

Even if only for your own consumption, actually writing out a structured explanation (point form is fine) of why you made the decision often helps confirm that your decision was the right one. This is especially true if your decision goes against one or more of the principles; you should be able to explain why logically and with a clear conscience.

Note that some of your explanations may overlap more than one principle. That's a good thing.

You may not have good explanations of how you respect or why you intentionally disregard some of the principles. That's a bad thing.

#### Fairness

Does this treat everyone equally? Or does it give an advantage to some?

- Are you following all the procurement rules and regulations? Lawsuits are made of not doing that. Bidders must be able to rely on a fair process.
- Are you following the process you described in the solicitation document? Saying one thing and doing another is unfair.
- Is every criterion actually related to the statement of work? Throwing in unrelated criteria just to get a specific contractor is unfair. See also competition below.
- Does the previous contractor have some advantage? This might come up in a service contract where the previous contractor has a very good idea of work volumes. In such a case, you should (must!) provide the work volume info to other potential bidders so they can all bid on an equal footing.

#### Transparency

Is all the information presented clearly up front? Or are there hidden secrets?

- Do you have studies or data that would be useful to bidders in preparing quality bids to solve your problem? If so, share it with all of them.
- Are the evaluation criteria clear and objective to the point where bidders can score themselves before bidding? If not, you are setting the stage for many potential problems. If your criterion is *"Tell us about your plan (or company or experience). [100 points]"* then no one but you knows the secret of how many points go for what. This is a flagrant lack of transparency. The "no secrets" transparent approach makes many things easier and reduces risk.
- What do you do when you get a question during the bidding period? Answering everyone simultaneously by addendum, not just the questioner (doing otherwise would be unfair), inside one business day would be a good idea. If you can't get the answer that fast, say so immediately

and follow up ASAP. Consider expanding the answer to head off other related questions not yet asked. This frank transparency helps build your credibility as a potentially good customer that bidders would like to work with.

## Fiscal responsibility

Does this make financial good sense for internal and external stakeholders? Or is the payoff not worth the investment?

- How complicated is the bidding process? Complication means expense for the bidders. If the expected revenue of the contract is not sufficiently more than the bidding cost, then the whole exercise is a waste of time and money. (An example of this was a small RFP that required bidders to enter 6 numbers for each one of 1000 categories on a spreadsheet... easy to evaluate with a few calculations but expensive for the bidders to prepare even if they did have all 6000 numbers readily available.)
- How complicated is the evaluation process? Have you committed to checking five references for every bidder? What if you receive 50 bids? This would quickly become an expensive exercise. How could you even score these objectively and would the scores actually separate good bidders from bad? Would that expense of staff time give you value in the context of the rest of the RFP criteria?
- How much will you pay for quality? If you receive two bids that both meet your minimum technical specifications, will you be happy with the one with the lower price? What if one gives you extra functionality that you could really use but didn't ask for, and the price is higher? Does your evaluation structure mean that you reject it, or can you accept it? How much extra cost is justified for how much extra quality, and how do you evaluate that? This is related to fairness because you must respect the evaluation process you publish in the solicitation document.
- What if you only receive one bid? Before you issue the RFP, use your actual evaluation scores to wargame out the situation of lowest possible acceptable points for every quality criterion and the highest possible points for price (i.e., rock-bottom price). Could you actually live with a contractor who bid that if they were the only bidder?
- Does the value of the procurement justify a long expensive procurement process? You may have to live with specific regulations for your organization that govern when you must use various processes even if they don't make financial sense.
- Is your statement of work something that bidders can put an accurate cost on? If not, they may not bid at all (see competition below) or they may just pad the price to account for uncertainty.

## Competition

Is this open to as many as possible? Or are there (unreasonable) limits about who can participate?

- Lack of fairness (above) can lead to limited competition.
- Is your solicitation document (especially your evaluation structure) ambiguous or badly written? If so, smart, well-qualified bidders (they are probably also busy bidders) may decide you are not worth the trouble and skip bidding. That leaves you with the second-rate bidders who are more desperate for work. You have done yourself a disservice by limiting competition.

- Is the selection process slanted toward geographical location? There might be valid reasons for that, e.g., the requirement for onsite work. But be very careful. Delivery of many services is increasingly possible online and trade agreements might specifically prohibit geographical preference.
- Are your pre-requisites (e.g., professional certifications for key personnel, insurance coverage) mandatory at bid time or at contract time? If the former, you may be limiting who would bid because they may not want to take on extra cost now just hoping to get the contract later.
- Is your evaluation such that you are open to new ideas? Rigidly demanding exactly the same “thing” as you had before instead of the same “capability” might limit who bids and leave you behind current industry trends, which may not be financially responsible.

### **Accountability**

Is this easy to justify and explain clearly to internal and external stakeholders? Or will this be embarrassing when attention focuses on it?

- If you’re in a government and questions on this reach the political level, is it defensible? Or even how do you explain this to your boss?
- Can you justify this if questioned by potential bidders during the bidding process?
- Can you justify this with a clear conscience if challenged by unhappy unsuccessful bidders after contract award and is your explanation plausible?
- Have you considered everyone’s perspective?
- Would a reasonable person agree with your reasons for making the decision?