



GUYANA

PROCUREMENT PLANNING MANUAL

SEPTEMBER 2010

1 INTRODUCTION

PROCUREMENT PLANNING

Procurement planning is undertaken as part of the program/service planning process. The primary concept of procurement is that advanced planning, scheduling and bulk purchasing result in cost savings, efficient business operation, and increased value for money. The public sector is expected to use procurement planning as an opportunity to evaluate/review the entire procurement process so that sound judgments and good decision making will facilitate the success of the overall project implementation in the procurement of goods, works and services.

Group buying is the process of combining the total resource requirements for different departments and creating one procurement order. The departments can be physically located in a range of buildings, with the delivery dates, quantities, and conditions listed in the procurement order. This practice is increasingly common in government and public sector firms, where the same item can be procured for a range of different institutions.

Bulk pricing and negotiating is very important when completing procurement planning. Organizations that combine the total quantity required for a specific period of time are able to get lower pricing, based on a specific level of ordering.

WHAT THIS MANUAL IS ABOUT

The purpose of this manual is twofold. The first is to describe the preliminary considerations and activities that ensure the success of any procurement effort. These considerations include:

- determining the class of procurement, goods, works or services;
- identifying pre-procurement approval requirements and processes; and
- selecting the most suitable procurement approach for procurement.

The second is to lay out the foundation of the role of the buyer involved in a ministry or agency's purchasing authority program. This includes a discussion on conduct and ethics of the key players during and after the procurement process.

OBJECTIVES OF THE PLANNING MANUAL

Government procurement activities for goods, works and services are based on the principles of fair and open public sector procurement. In fulfilling these principles, the following objectives must be met:

- That acquisitions are managed consistent with government policy;
- That Government receives the best value for money on contracts;
- That vendors have fair access to information on procurement opportunities, processes and results;
- That ministries and other government agencies only engage in a competitive process with the full intent to award a contract at the end of that process and are accountable for the results of their procurement decisions and the appropriateness of the processes followed;
- That the cost of the procurement process, to both vendors and ministries, is appropriate in relation to the value and complexity of each procurement;

2 ROLES AND RESPONSIBILITIES

Successful completion of a Procurement Plan requires action from multiple agencies and departments within a ministry or the wider public sector depending on the type and nature of procurement. Roles and responsibilities of project stakeholders are provided hereunder:

The Procurement Unit must: Plan, manage and fully document the process to acquire goods, works and services;

- Ensure that the procurement meets program requirements;
- Determine the type of procurement method to be undertaken, i.e., quality- and cost-based selection (QCBS), quality-based selection (QBS), selection under a fixed budget (FBS), least-cost selection (LCS), selection based on consultants' qualifications (CQS, and single-source selection (SSS).
- Be thoroughly familiar with the governments' procurement policy, procurement law, revised standard bidding documents, revised regulations and accompanying guidelines for the standard bidding documents.
- Manage solicitation and contract award processes in a prudent and unbiased manner that fairly treats all potential vendors and bidders;
- Ensure that contracts for goods, works and services are designed to provide the best value to government;
- Ensure that all ministry acquisitions are consistent with policy and applicable legislation;
- Not divulge any information that could impair the negotiating position of the government or that could benefit the competitive position of one contractor at the expense of another.

COORDINATION

The procurement unit must understand its roles and the roles of all other procurement entities in order to ensure smooth and orderly coordination in the approval and no objection processes. For ease of reference:

The *National Procurement & Tender Administration Board* is responsible for:

- Ensuring tenders and awards are executed in a manner that is transparent and fair and that all the processes applied are in compliance with the national procurement policy and/or legislation;
- Providing as requested official communications and interpretations of the national procurement policy and/or legislation;
- Monitoring and reporting for compliance with this procurement policy;
- Supporting an effective and productive relationship between procurement governance, procurement units and clients for shared service procurement delivery, including promotion of best practices for government procurement and resolution of procurement policy and service issues.
- Management of a procurement training curriculum;

Responsibility of the *Evaluation Committee*:

- Ensuring the tenders submitted are fully compliant with the special conditions outlined in the data sheet;
- Ensuring the evaluation and ranking of bidders is completed in a fully transparent manner without bias to any one bidder.

Responsibility of the *Ministerial Tender Board*:

- Managing solicitation and contract award processes in a prudent and unbiased manner that fairly treats all potential vendors and bidders;
- Ensuring that contracts for goods, works and services are designed to provide the best value to government;
- Ensuring that all ministry acquisitions are consistent with policy and applicable legislation;
- Supporting an effective and productive relationship between procurement governance, procurement units and clients for shared service procurement

delivery, including promotion of best practices for government procurement and resolution of procurement policy and service issues.

Responsibility of the Ministry/Permanent Secretary:

1. Review alternatives to acquiring new goods, services and works such as considering repairs to existing assets;
2. Have the appropriate authority and funding to complete a procurement project prior to soliciting proposals, awarding a contract, or contracting for any goods, services, or works;
3. Before taking any steps, ensure that a cost/benefit justification exists for the contract, including, where appropriate, comparing the cost of contracting out with the cost of providing the service in-house if the resources were available.
4. Contract outcomes must be defined; and the contract must be consistent with policy and applicable legislation;
5. A contract must not result in the establishment of an employer/employee relationship. Every contractor engaged by the government must be independent and operating at arm's length from government;
6. Ministries and staff must not divulge any information that could impair the negotiating position of the government or that could benefit the competitive position of one contractor at the expense of another;
7. Ministries must not bestow a favour on, or grant preferential treatment to, any prospective contractor.

Responsibilities of the Finance/Accounting Department

- Ensure that funding is available as per the deliverable and payment schedule as set out in the contract.
- Payments are made in a timely manner.

3 KEY STEPS IN THE PROCUREMENT PLANNING PROCESS

FORECASTING

Forecasting is the first, and arguably the most important step in the procurement process because it provides the opportunity to link the procurement plan to the overall business strategy and objectives of the ministry/project and the national budget. When forecasting, consideration should be given to the following:

- Defining your procurement requirements;
- Assessing the capacity for implementation;
- Determining the time frame of project implementation;
- Presenting realistic three-year budget forecast (external/counterpart funds) for project implementation;
- Seeking approval at the Ministerial levels and the Ministry of Finance financing
- Identifying all items that have to be procured;
- Creating sound financial justification for procurement.

At a minimum, forecasting should be an annual event, and ideally should cover a three-year period. Many country programs review their forecasts every six months. One advantage is that a year's forecast can be adjusted mid-year, based on actual—not projected—data. This increases the accuracy of the projections on which procurement and decisions are based. Disadvantages are that more frequent forecasts require regular, accurate data analysis that may burden the logistics management team; and changes to the annual procurement plan may be costly and administratively difficult.

DEVELOPING THE PROCUREMENT WORK PLAN

There are three steps involved in developing a procurement work plan:

- First, define the items you need to procure;
- Next, define the process for acquiring those items;
- And finally, schedule the timeframes for delivery.

Depending on the objectives of the agency a decision would have to be made as to the type of procurement to be undertaken.

Depending on the type of procurement to be undertaken, you can define the procurement requirements, identify potential suppliers, contract those suppliers and manage them to ensure delivery.

In order to minimize total procurement costs, there must be flexibility to adapt new procurement strategies to changes in initial assumptions. A completely specified procurement plan may be optimal at the time it is generated, but is extremely vulnerable to changes. On the other hand, some global planning is necessary to properly balance the procurement over time.

PROCUREMENT PLAN OVERVIEW

During the Initiation Phase of a Project, the agency defines the requirements and develops a business case to support its execution. The information provided herein assumes that the required approvals have been completed; both by the agency and by the necessary overview organizations as the project moves through the various gates and phases of its life. As part of the Project Plan, a Procurement Plan is established in the initial phase of the project life cycle. At this point in the procurement planning steps, the Plan is little more than a strategic vision, however, in most cases the decision to make or buy product has been established. Please note that most of the procurement efforts occur in the Project Planning and Design Phase, and in some cases decisions to procure services may be identified through the planning processes. In all cases, Contract Administration begins before a project moves to the Execution and Build Phase.

The Procurement Plan should include six key Steps:

- Requirement
- Requisition
- Solicitation - Selection
- Contract Administration
- Closeout

In the Requirement Step of the Procurement Plan, the agency conducts a “make vs. buy” analysis, and if it is decided that the product (equipment, services, project resources, etc.) will be procured, the agency proceeds to the Requisition Step.

In the requisition step, the agency creates a statement of work, develops product specifications (e.g. design, performance, functional), and identifies major project milestones and creates the RFP.

The Solicitation Step of the Procurement Plan includes issuance of the RFP, receipt of proposals, negotiation with vendors, evaluation of proposals, and award of the contract.

The next Step of the Procurement Plan is Contract Administration. In this phase, the agency manages the contract by working closely with the vendor to ensure that contract requirements are met.

The last Step of the Procurement Plan is Closeout. In this step, the agency verifies that the products or services have been received and are acceptable, verifies that there are not any outstanding invoices and makes the final payment. In addition they document and report any vendor performance problems to Statewide Procurement. The contract is closed when the Procurement Plan has been completely executed.

INITIATING THE PROCUREMENT PROCESS

1. **Requirement Step** (This process should begin at least 6 months prior to the start of the Step 2 below)
 - Prioritize the procurement/work plan.
 - Conduct market analysis to gain awareness of the products/services that are available for procurement.
 - Perform a make vs. buy analysis.
 - Estimate investment costs of the Procurement Plan.
 - Set clear and reasonable timelines for delivery or implementation.
 - Based on the Procurement Plan, obtain authorization to proceed from appropriate levels of approval authority (e.g., Procurement, Finance, IT, agency head, etc.). At this Step the appropriate Project Plan approvals for a Project should be obtained (e.g., ensure that sufficient funds are available

and approved for the project and that agency management officially supports and or approves the project)

- Prepare Statement of Work (SOW) which clearly identifies and documents the details of the work to be performed. The SOW should contain the following characteristics:
 - ✓ A detailed statement of the purpose, objective or goals to be undertaken by the contractor.
 - ✓ The job classification or approximate skill level of the personnel to be made available by the contractor.
 - ✓ An identification of all significant material to be developed by the contractor and delivered to the client.
 - ✓ An identification of all significant materials to be delivered by the client to the contractor.
 - ✓ An estimated time schedule for the provision of these services by the contractor.
 - ✓ Completion criteria for the work to be performed.
 - ✓ The name or identification of the contractor's personnel to be assigned.
 - ✓ The contractor's work hours required to accomplish the purpose, objective or goals.
 - ✓ The contractor's billing rates per work hour (as provided in the contract documentation).
 - ✓ Contractor's total cost.

2. Requisition Step

- Verify that necessary specifications have been provided.
- Establish evaluation criteria. Write clear, concise definitions for each criterion to facilitate a good understanding of its meaning.
- Develop a detailed, mathematically sound scoring plan that explains how proposals will be evaluated, and provides specific meaning of the scoring methodology. (For example, if a certain criteria is worth X points, a description should follow of what the points mean.)
- Determine if pre-solicitation conference will be used.
- Develop a change request management plan.
- Develop a vendor payment plan.
- Prepare solicitation package.

- Utilize standard solicitation documents;
- Review by procurement team and, with final approval of the RFP by the responsible approval authority, send solicitation to the respective Donor or Approval Board for review and approval;

3. Solicitation - Selection Step

- Issue the Request for Proposal document (RFP) via advertisement or through selective tendering.
- Answer questions received from vendors in a public forum.
- If necessary, prepare for vendor product demonstrations, or oral presentations.
- Form an Evaluation Team.
- Receive and evaluate Technical Proposals (by Evaluation Team)
- The Evaluation Team Should:
 - ◆ Gather the facts,
 - ◆ Develop objectives (min-max positions);
 - ❖ Seller minimum willingness to accept,
 - ❖ Buyer maximum willingness to pay.
 - ◆ Evaluate each vendors competitive position,
 - ◆ Define your strategy and tactics,
 - ◆ Perform a complete cost analysis,
- Receive and evaluate financial proposals using scoring method to select Best Value.
- Make selection recommendation to the responsible Procurement Officer.
- Procurement Officer reviews recommendation and drafts contract then forwards to the respective Donor or relevant authority for review and approval.
- Agency awards and signs contract, then issues procurement order once the requisite approval is obtained.

4. Contract Administration Step

The purpose of the Contract Administration Step is to ensure that the contractor (vendor) and the products or services delivered comply with the contract requirements. Each project should be assigned a Contract Administrator, who will perform the following functions:

- Interpret specifications.
- Ensure that quality of the product or service is maintained.

- Manage product warranties.
- Manage sub-contractors (if required by the contract).
- Direct change management:
 - Administrative changes,
 - Budgetary changes,
 - Contract modification (if necessary) and associated change order (get proper approvals),
 - Manage smaller, incidental contracts for work associated with the project.
- Resolve contract disputes:
 - Part of the work may be accepted, or
 - All of the work may be rejected, or
 - Work may be accepted with provisions for corrections in the future.
- Completion of the project:
 - Ensure that all project requirements are complete per contract,
 - Product is technologically out of date (contract language should guarantee current technology),
- Terminate the contract:
 - Default of contract:
 - ◆ Contractor fails to perform any provision of the contract including:
 - ❖ Failure to deliver by scheduled date,
 - ❖ Failure to make progress (endangers performance of the contract).
 - Termination for Convenience (e.g., project canceled)
 - Document contract problems and file formal vendor complaint with Agency Procurement Office, e.g., liquidated damages, opportunity cost, etc. (if necessary).
- Manage contract risk associated with the project.

5. Contract Closeout Step

- Verify product and services meet acceptance criteria.
- Complete fiscal activities:
 - Approve final payment (notify appropriate accounts payable office),
 - Update project and activity records,
 - Close procurement order (notify appropriate procurement office),

- Update contract file.
- Archive contract file (include completed Procurement Plan with Project Plan).

4 SAMPLE PROJECT PROCUREMENT PLAN

PROCUREMENT PLAN

Put your logo here Put your organization name here

PROJECT NAME:	
PREPARED BY:	
DATE (MM/DD/YYYY):	

Project Initiation Phase – This portion of the Procurement Plan document is used to provide the project selection team with general information about the possible procurement of goods and services. No approval signatures are required.

PROCUREMENT STATEMENT
<i>Describe, in general terms, what products or services are being considered for procurement:</i>
ESTIMATED COST
<i>Provide an estimated total cost of all procurements in this project. Include confidence limits for your estimate (e.g. plus/minus dollars or percent of estimate). Example: \$1,567,000 +/- 20%</i>
VENDOR SELECTION
<i>Describe what approach the project team will take to select a product or vendor (e.g. RFP).</i>

Project Planning Phase – This portion of the Procurement Plan document provides detailed information about how vendors, products and services will be chosen, what kind(s) of contract(s) will be used, how vendors will be managed and who will be involved at each stage of the process. This document should be approved by appropriate individuals before the actual procurement process begins.

PROCUREMENT DEFINITION			
<i>Describe, in specific terms, what items will be procured and under what conditions.</i>			
SELECTION PROCESS & CRITERIA			
<i>Describe the selection process. List selection criteria. Describe any analytical selection tool that you will use.</i>			
PROJECT PROCUREMENT TEAM			
<i>List all stakeholders who are involved in the Procurement Process, along with contact information and a description of their Procurement Role. Enter an [X] next to each project team member who is authorized to enter into contract agreements or procurement for the Team (insert rows as needed).</i>			
<i>e</i>	<i>Name:</i>	<i>Phone / email:</i>	<i>Procurement Role:</i>
[]			
[]			
CONTRACT TYPE			
<i>Document which types of contract(s) will be used and the actions required to initiate the contract.</i>			
CONTRACT STANDARDS			
<i>Provide the standards for documentation that will be used for each contract.</i>			
VENDOR MANAGEMENT			
<i>Describe what steps the project team will take to ensure that the vendor provides all of the products and/or services (and only the products and/or services) that were agreed upon, and that appropriate levels of quality are maintained.</i>			

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PROJECT PROCUREMENT PLAN / SIGNATURES			
Project Name:			
Project Manager:			
<i>I have reviewed the information contained in this Project Procurement Plan and agree:</i>			
Name	Role	Signature	Date (MM/DD/YYYY)

The signatures above indicate an understanding of the purpose and content of this document by those signing it. By signing this document, they agree to this as the formal Project Procurement Plan.

5 MANAGING RISKS IN THE PROCUREMENT PROCESS

Risks are inherent in all the stages of the procurement process especially fraud and corruption. Therefore an effective procurement process requires the application of sound risk management practices aimed at protecting the interests of the government and ensuring that the procurement outcomes are achieved. A structured approach to the identification, quantification and subsequent management of risks must be adopted so that risks is retained by or transferred to the party who can manage the risks most effectively. The level and nature of risk management in the procurement process will vary according to the nature, size and complexity of procurement.

In the design and development of a procurement process, it is vital that the planners are able to identify the risks involved in various stages of the procurement process. They should be able to evaluate the risk management process undertaken by management and see whether appropriate measures have been undertaken to overcome the identified risks.



BASIC CONCEPTS

Risk is defined as the uncertainty of an event occurring that could have an impact on the achievement of objectives. Risk is measured in terms of consequences and likelihood. It is a concept that managers use to express their concern about the probable effects of an uncertain environment. Since the future cannot be predicted with certainty, managers have to consider a range of possible events that could take place. Each of these events could have a material effect on the enterprise and its goals. The negative effects are called ‘risks’ and the positive effects are called ‘opportunities’.

There may be circumstances or events that should not occur for the procurement process to be successful. If you believe such an event is likely to happen, then it would be a risk.

THE RISK MANAGEMENT PROCESS

Risk should be identified at an early stage in the procurement planning. However, the identification of risk is not an end in itself, nor does the existence of risk indicate that procurement should not proceed. Therefore, the challenge is to decide whether or not risks are acceptable, i.e. whether they can be managed efficiently and effectively.

Risk management is an iterative process consisting of well-defined steps, which support better decision making by contributing a greater insight into risks and their impacts. It is the systematic application of management policies, procedures and practices to the tasks of identifying, analysing, treating and monitoring those risks, which impact on organisations' objectives. It is the process of measuring, or assessing risk and then developing strategies to manage the risk. It demands that a plan of action be developed in relation to identified risk that minimizes the likelihood and consequences of these occurring. In general, such a plan of action may include transferring the risk to another party, avoiding the risk, reducing the negative effect of the risk, and accepting some or all of the consequences of a particular risk. The plan needs to be continually monitored and reviewed since risks and their relative significance change over time. The level and nature of risk management in the procurement process will vary according to the nature, size and complexity of procurement or the procuring agencies.

The outcome of the risk management process should be a formal Risk Management Plan designed in the following stages.

1. Establish Contexts

The first stage in risk management processes involves determining key business objectives, processes and resources. In developing a strategy for managing the risks associated with the procurement process, it is important to understand, by all parties, goods to be delivered, the business outcomes and outputs that those goods support, the management environment and the business risks associated with the procurement.

This stage involves providing answers to the following questions:

- 1) What are the objectives and goals of the procurement? (*Objectives*)
- 2) Who is interested in or impacted by this procurement? (*Stakeholders*)
- 3) What are the measures of success for this procurement? (*Criteria*)
- 4) What are the key aspects that make up this procurement? (*Key Elements*)

Such information establishes the context that defines the overall priority of the procurement to the organisation's objectives, which in turn determines the level of resources that should be allocated to the procurement risk management process. The costs incurred in managing the risk should commensurate with the size, type and complexity of the procurement and the benefits in terms of reduced levels of risk in order to achieve the primary value for money objective.

2. Identify the Risks

This stage involves the identification of possible types of risks. The two major questions that should be asked at this stage are:

- 1) ***What events could occur*** that may adversely impact upon the objective of the procurement? (***What can happen?***)
- 2) How could these events happen and if they did, in what way would they impact upon the procurement? (***How could it happen?***)

3. **Analyse and Evaluate** the Risks

The risks should be evaluated in terms of likelihood and seriousness. Risks should then be graded to determine their significance and to identify those that need to be managed.

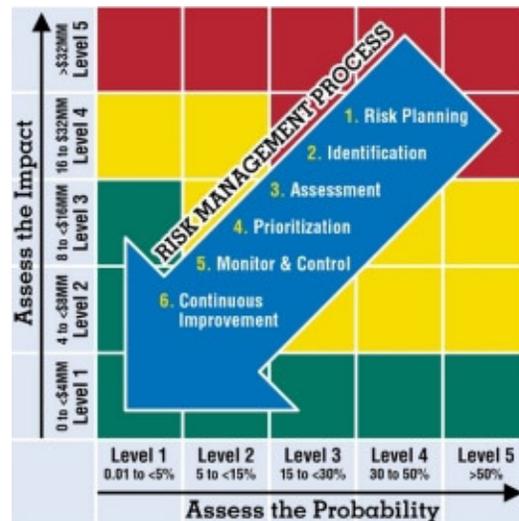
4. **Manage the Risks**

The significant risks can be managed by either implementing preventative actions or by developing contingency plans. These are documented in the Risk Management Plan and include information on:

- what action is to be taken;
- who by; and when.

6. **Monitor and review the risks** - throughout the project. Some new risks may be identified, and some risks may be downgraded or upgraded depending on the progress of the procurement and other circumstances.

7. **Communicate and consult** - keep users and other stakeholders informed throughout the procurement process.



Below is a sample of a Risk Management Plan detailing possible risks, consequence and possible remedial actions.

IDENTIFYING THE NEED AND PLANNING THE PROCUREMENT

Type of Risk	Likely consequences	Possible Actions
Lack of understanding of the need	<ul style="list-style-type: none"> • Procurement of unsuitable product or service • Money wasted, deliverable not met OR • Greater expense • Poor competition 	<ul style="list-style-type: none"> • Analyse need accurately; Be clear on specifications • Analyse need accurately • Use functional and performance requirements
Misinterpretation of the needs	<ul style="list-style-type: none"> • Unacceptable procurement of unsuitable product or service • Time lost • Increased costs • Possible downtime 	<ul style="list-style-type: none"> • Improve consultation with users; • Obtain clear statement of work and definition of need; • Be clear on specifications;
Insufficient funding	<ul style="list-style-type: none"> • Delay in the procurement • Additional costs for re-tender 	<ul style="list-style-type: none"> • Obtain appropriate approvals before undertaking process • Practice proper planning
Unrealistic timeframe	<ul style="list-style-type: none"> • Insufficient responses from bidders • Reduced competition • Delivery schedule not met 	<ul style="list-style-type: none"> • Improve forecasting, planning and consultation with users • Improve communication with potential bidders
Integrity issues	<ul style="list-style-type: none"> • Increased procurement costs • Misuse of resources • Most suitable product not obtained • Unethical conduct 	<ul style="list-style-type: none"> • Implement best practice policies, guidelines and practices • Maintain ethical environment • Improve training of personnel • Put suitable controls and reviews in place • Improve communication with potential bidders

DEVELOPING THE SPECIFICATIONS/STATEMENTS OF WORK

Risk	Likely consequences	Action
Definition of inappropriate product or service	<ul style="list-style-type: none"> • Need not satisfied • Time lost • Increased costs • Possible downtime 	<ul style="list-style-type: none"> • Ensure specification is consistent with needs analysis • Improve market knowledge • Use functional and performance specifications
Biased specification	<ul style="list-style-type: none"> • Insufficient responses from bidders • Claims of unfair dealings 	<ul style="list-style-type: none"> • Use functional and performance specifications • Implement a control mechanism to review specification before release
Inadequate statement of requirements	<ul style="list-style-type: none"> • Variety of offers • Insufficient responses • Products offered not meeting needs • Difficult to evaluate 	<ul style="list-style-type: none"> • Be familiar with requirements • Use functional and performance specifications • Use an Expression of Interest or Request for Information to clarify requirements (be careful not to infringe intellectual property rights or copyright)

SELECTING THE PURCHASING METHOD

Risk	Likely consequences	Action
Failure to identify potential sources	<ul style="list-style-type: none"> • Lack of offers from suitable bidders 	<ul style="list-style-type: none"> • Improve procurement planning processes • Improve market knowledge • Seek industry participation
Selecting inappropriate method	<ul style="list-style-type: none"> • Need to seek offers again • Possible cost variations • Failure to obtain value for money 	<ul style="list-style-type: none"> • Improve implementation of procurement policies, guidelines and practices • Improve tender documentation and clearly identify the evaluation criteria in Request for Tenders • Ensure staff is appropriately trained and experienced

PURCHASING DOCUMENTATION

Risk	Likely consequences	Action
Terms and conditions unacceptable to bidders	<ul style="list-style-type: none"> • Loading of costs in offers • Having to modify tender terms and conditions • Disruption • Low response 	<ul style="list-style-type: none"> • Select appropriate documentation for procurement type (ie. goods, services, goods and services, or information technology related) • Improve procurement planning • Assess and allocate risks appropriately • Provide staff with appropriate tender planning and procurement skills
Providing inadequate information	<ul style="list-style-type: none"> • Loading of costs in offers • Variations in offers • Having to provide clarifying information, causing delays in tender closing • Additional costs 	<ul style="list-style-type: none"> • Ensure staff have appropriate training and experience in completing the relevant documentation • Improve tender planning and preparation • Review tender documents before issuing them and ensure evaluation criteria contain the critical factors on which assessment of tenders will be based

INVITING, CLARIFYING AND CLOSING OFFERS

Risk	Likely consequences	Action
Failure to adequately address enquiries from bidders	<ul style="list-style-type: none"> • Claims of unfair practices • Offers with qualifications by bidders • Withdrawal of offers 	<ul style="list-style-type: none"> • Implement standardized procedures for responding to enquiries • Provide staff with appropriate tender management training and experience • Respond in a timely manner to enquiries • Allow adequate time for bidders to respond

Risk	Likely consequences	Action
Actual or perceived bias in providing information	<ul style="list-style-type: none"> • Complaints from bidders • Withdrawal of offers 	<ul style="list-style-type: none"> • As above, plus • Answer queries in writing and provide copies to all potential bidders • Ensure that all potential bidders are provided with any addenda
Actual or perceived breach of confidentiality	<ul style="list-style-type: none"> • Complaints from bidders • Mistrust by bidders 	<ul style="list-style-type: none"> • Establish formal security procedures • Train staff in their obligations • Perform regular audits and reviews of security processes • Advise bidders of security measures
Insufficient number of responses	<ul style="list-style-type: none"> • Need to undertake process again • Increased costs • Delayed delivery to the client • Poor value for money due to limited competition 	<ul style="list-style-type: none"> • Use appropriate tender advertisement strategy to increase competition • Provide potential bidders with advance notice of tender requests • Improve tender documentation and specifications • Allow sufficient time for bidders to respond
No response from known quality suppliers	<ul style="list-style-type: none"> • Reduced competition • Increased costs of products or services 	<ul style="list-style-type: none"> • Actions as above for insufficient number of responses • Improve your market knowledge • Review specifications or conditions • Seek feedback from known suppliers on their non-response

EVALUATING OFFERS

Risk	Likely consequences	Action
<p>Failure to follow effective evaluation procedures</p>	<ul style="list-style-type: none"> • Inconsistent evaluations • Possible complaints from bidders • Subjective not objective evaluation of offers 	<ul style="list-style-type: none"> • Provide staff with appropriate tender assessment and evaluation training and experience • Improve tender assessment and evaluation processes • Maintain, audit and review evaluation procedures • Ensure that Evaluation Committee members declare any conflicts of interest
<p>Breaches of security</p>	<ul style="list-style-type: none"> • Claims of unethical or unfair practices • Loss of faith with bidders 	<ul style="list-style-type: none"> • Maintain, audit and review security procedures • Provide staff with appropriate training and experience and monitor performance • Ensure that Evaluation Committee members understand and sign Confidentiality Agreements
<p>Offers fail to meet needs</p>	<ul style="list-style-type: none"> • Need to call tenders again • Additional costs • Delay in delivery 	<ul style="list-style-type: none"> • Improve market knowledge • Improve tender documentation • Conduct market research • Develop functional and performance specifications
<p>Failure to identify a clear winner Decision made on subjective grounds</p>	<ul style="list-style-type: none"> • Claims of unethical and unfair behavior • Complaints from bidders 	<ul style="list-style-type: none"> • Ensure evaluation criteria contain the critical factors on which the assessment of tenders will be based and that they are clearly identifiable to bidders in tender documents • Ensure evaluation criteria are appropriate and measurable • Ensure that Evaluation Committee members sign Declaration of Conflict and Confidentiality Agreements

SELECTING THE SUCCESSFUL BIDDER

Risk	Likely consequences	Action
Selecting an inappropriate supplier	<ul style="list-style-type: none"> • Failure to execute the contract 	<ul style="list-style-type: none"> • Provide staff with appropriate tender evaluation, financial and technical skills training and commercial expertise • Improve evaluation procedures • Improve evaluation criteria and clearly identify them to bidders in tender documents • Reject unacceptable offers • Perform financial, technical and company evaluations before awarding contract • Procurement Review Committee to review tender and selection process prior to awarding contract
Selecting inappropriate product	<ul style="list-style-type: none"> • Failure to meet the client's need 	<ul style="list-style-type: none"> • Ensure users are involved in the evaluation/selection process • Improve technical evaluation procedures and train staff as appropriate • Procurement Review Committee to review tender and selection process prior to awarding contract

NEGOTIATIONS

Risk	Likely consequences	Action
Not matching the expectations of buyer and bidder	<ul style="list-style-type: none"> • Contract disputes • Delivery delays • Cost variations • Reduction in value for money • Procurement of less suitable product • Inefficient use of resources 	<ul style="list-style-type: none"> • Improve communication, including ensuring that Conditions of Contract form part of the Request for Tender • Provide staff with training in contract planning and management • Define terms carefully • Record each party's obligations • Clarify all ambiguities before signing the contract
Deadlock on details of agreement	<ul style="list-style-type: none"> • Delays in delivery • Need to restart procurement • Possible cost of legal action 	<ul style="list-style-type: none"> • Look at alternatives to share risk • Distinguish between essential and non-essential goals and requirements
Failure to secure mandatory conditions	<ul style="list-style-type: none"> • Inability to conclude contract • Delays in delivery • Variations in cost • Inefficient use of resources 	<ul style="list-style-type: none"> • Establish baseline before negotiations • Distinguish essential goals • Consider variations to contract • Provide negotiators with adequate training
Unfair or arduous requirements on the bidder in the contract conditions	<ul style="list-style-type: none"> • Contract disputes • Invalidity of contract • Legal action • Poor supplier/customer relationship 	<ul style="list-style-type: none"> • Provide negotiators with adequate training and support • Negotiate commercial terms • Terms should be fair and reasonable
Failure to reflect the terms offered and agreed in the contract	<ul style="list-style-type: none"> • Contract disputes • Legal action • Poor supplier/customer relationship 	<ul style="list-style-type: none"> • Check final draft of contract with successful bidders • Keep records of all negotiations and agreements
Inadvertently creating a contract without prior approval	<ul style="list-style-type: none"> • Expense of negotiating out of the contract and paying damages 	<ul style="list-style-type: none"> • Procedure in place to ensure requisite approval obtained first

Risk	Likely consequences	Action
	<ul style="list-style-type: none"> Committing to other associated work prior to main contract existing 	<ul style="list-style-type: none"> Provide negotiators with adequate training

CONTRACT MANAGEMENT

Risk	Likely consequences	Action
Variations in price and foreign exchange	<ul style="list-style-type: none"> Cost overruns 	<ul style="list-style-type: none"> Agree on prices and the basis of prices Agree on a formula for calculating variations
Unwillingness of the supplier to accept the contract	<ul style="list-style-type: none"> Delays in delivery Need to restart procurement 	<ul style="list-style-type: none"> Seek legal redress if non-acceptance causes financial loss Negotiate but retain integrity of the contract
Failure of either party to fulfill the conditions of the contract	<ul style="list-style-type: none"> Contract disputes Failure to satisfy needs Delays in delivery Downtime Legal action 	<ul style="list-style-type: none"> Ensure good contract administration and performance management Hold regular inspections / meetings and ensure progress reports Ensure all staff know responsibilities and conditions Ensure good record keeping and documentation
Inadequately administering the contract	<ul style="list-style-type: none"> Cost increases Failure of contract Full benefits not achieved Delivery of unsatisfactory product Contract/supply disputes 	<ul style="list-style-type: none"> Maintain up-to-date agency procedures and practices Ensure all staff are suitably trained and experienced in contract planning and management
Commencement of work by the supplier before contract is exchanged or letter of acceptance issued	<ul style="list-style-type: none"> Potential liability to pay for unauthorized work Possibility of legal action for perceived breach of contract 	<ul style="list-style-type: none"> Confirm contract with written advice Accept all contracts in writing Ensure approvals are received before allowing work to start

Risk	Likely consequences	Action
Unauthorized increase in scope of work	<ul style="list-style-type: none"> • Unanticipated cost increases • Contract disputes 	<ul style="list-style-type: none"> • Ensure all contract amendments are issued in writing • Record all discussions and negotiations • Confirm instructions in writing
Loss of intellectual property	<ul style="list-style-type: none"> • Loss of commercial opportunity • Unwarranted reliance on supplier for product support 	<ul style="list-style-type: none"> • Ensure suitable clauses are included in the contract
Loss or damage to goods in transit	<ul style="list-style-type: none"> • Delays in delivery • Downtime • Liability disputes 	<ul style="list-style-type: none"> • Include appropriate packaging instructions in specification • Agree on insurance cover for supplier to provide • Accept delivery only after inspection • Know when title of goods is transferred to buyer
Fraud	<ul style="list-style-type: none"> • Misuse of resources • Legal action • Disruption to procurement activities 	<ul style="list-style-type: none"> • Maintain an ethical environment • Follow and maintain fraud control procedures
Key personnel not available	<ul style="list-style-type: none"> • Progress on project disrupted • Less expertise 	<ul style="list-style-type: none"> • Include requirement in specification and ensure compliance in post-tender negotiation • Know the market • Accept risk and manage possible delay

EVALUATING THE PROCUREMENT PROCESS

Risk	Likely consequences	Action
Failure to evaluate procurement and management processes	<ul style="list-style-type: none"> • Failure to improve procurement and management processes 	<ul style="list-style-type: none"> • Develop systematic evaluation methods, techniques and evaluation criteria
Failure to identify and address problems	<ul style="list-style-type: none"> • Procurement objectives not achieved • Possible failure in the future 	<ul style="list-style-type: none"> • Agree on performance criteria (with supplier and customer) • Develop good relationships with suppliers • Include evaluation clause in the contract • Implement performance management strategies

6 THE IMPORTANCE OF ETHICS IN PROCUREMENT

Ethics are the moral principles or values that guide officials in all aspects of their work. Ethical behavior encompasses the concepts of honesty, integrity, probity, diligence, fairness, trust and respect. Ethical behavior includes avoiding conflicts of interest, and not making improper use of an individual's position.

As an employee involved in the procurement process, you play an important role in preserving the integrity of Government contracting and assuring fair treatment of bidders and contractors. You might have access to procurement and other nonpublic information that could affect a contract bid or the award process. Improper disclosure of such protected information is violation of ethics rules can cause a bid protest or undermine the public's confidence in the procurement process.

Procurement/expediting units are responsible for knowing what their Ministry's policies are regarding incompatible activities. The best practice for buyers and employees involved in the procurement process, whether directly or indirectly, are discouraged from participating in the following activities:

- You may not knowingly obtain or disclose contractor bid or proposal information or source selection information before the award of the contract.
- Proprietary information must be secured to prevent disclosure. It includes certain nonpublic information submitted in connection with a bid or proposal, such as:
 - ✓ Cost or pricing data, including indirect costs and direct labor rates;
 - ✓ Information about operations, methodology and techniques;
 - ✓ Information marked as “contractor bid or proposal information”; and
 - ✓ Any other information related to a specific procurement that a company making a bid deems proprietary.
- Accepting directly or indirectly any gift, money or any other favor of value from any person who is doing or seeking to do business with the department you represent that may constitute a “bribe”.

- Using their position in government to bestow any preferential benefit on anyone related to them by family, business or social relationship.
- Situations that create the appearance of questionable or unethical practices.

Before accepting any suppliers' goods and services offered at no cost or obligation to the Ministry/department, consideration must be given to the perception of the acceptance to other suppliers.

Staff of the procurement/expediting units are encouraged to answer the following questions when dealing with suppliers who may offer gifts or gratuities:

- ✓ Will I violate a law or Ministry policy if I accept this gift?
- ✓ What is the intent of the gift?
- ✓ Do I or my relatives or friends benefit from the gift?
- ✓ Would I mind seeing acceptance of the gift publicized in the news media?
- ✓ How will accepting this gift be interpreted by others?