



Procuring ICTs

An industry analysis of
best practices for government
decision-makers

Published in November 2004 by

INTERNATIONAL CHAMBER OF COMMERCE

The world business organization

38, Cours Albert 1er
75008 Paris, France

Copyright © 2004

International Chamber of Commerce

All rights reserved. No part of this work may be reproduced or copied in any form or by any means – graphic electronic or mechanical including photocopying recording, taping or information retrieval systems without written permission of ICC.

TABLE OF CONTENTS

Foreword	5
Introduction	7
<i>Section 1 – Background</i>	9
<i>Section 2 – Policy aspects of ICT procurement</i>	11
Fostering competitive markets	11
Supporting market-based technical standards	11
Adopting anti-corruption measures	12
<i>Section 3 – Industry bid decision process</i>	13
Is the procurement real?	13
Can the business do it?	14
Can the business win the procurement?	14
Does it make good business sense?	15
<i>Section 4 – The procurement process</i>	16
Needs definition / requirements	16
Request for information (RFI)	16
Request for comments (RFC)	17
Request for proposal (RFP)	17
Proposal	18
Live test and demonstration (LTD)	18
Best and final offer (BFO)	18
Award	18
Protest	19
<i>Section 5 – Lessons learned</i>	20
Obtain top management support	20
Involve end-users meaningfully and continually	20
Market to vendors pre-RFP	21
Develop a plan to use the RFC effectively	22

Section 5 – Lessons learned (continued)

Seriously consider vendor RFC comments	22
Require proven experience	23
Use functional (performance) specifications	23
Distribute risk equitably	23
Eliminate ambiguity in the RFP	24
Publish detailed evaluation criteria and methodology	25
Ensure evaluation criteria allow and require the selection of the best bid	25
Tell bidders everything	
Continue communication with vendors after RFP release	26
Use live test and demonstrations only to reduce unacceptable risk and uncertainty	27
Integrate debriefings into the overall process	27
Determine a small competitive range when possible	28
Hold oral presentations and discussions	28
Schedule the cost proposal after technical and management proposals	29
Allow reasonable time for proposal preparation, and stick to it	29
Allow sufficient time for best and final offers (BFOs)	29
Consider technical standards to improve effectiveness	30
Train and educate employees about ICT technology	30
Consider using online procurement systems	30
Assign Intellectual Property Rights (IPRs)	31
Integrate information security and follow best practices and relevant standards	31

Section 6 – Conclusion **33**

About ICC **35**

FOREWORD

By Allen Miller

*Chairman of the ICC Task Force on the Internet and IT Services
and Senior Vice President Global Affairs of ITAA, United States*

Governments place checks and balances in their procurement processes to promote fair competition. However, the slow wheels of procurement can delay Information Technology (IT) acquisitions, often to the point of obviating time-sensitive returns on investments. Thus, efficient information and communication technologies (ICT) procurement strategies are critical for successful technology deployments and to ensure that the efficiencies and effectiveness of information technology systems are introduced to benefit governments and their citizens as expeditiously as possible.

ICC hopes to contribute to making this process for governments more efficient by presenting this ICC guide to ICT Procurement to provide governments at all levels with a set of emerging best practices for developing a procurement system that enables them to get the best value for their investment in ICTs.

INTRODUCTION

Greater use of information and communication technologies (ICTs) by governments provides benefits that are exponentially related to costs, particularly in developing economies. The benefits of increased and effective use by governments of ICTs are significant, and are felt throughout the entire economy:

- Government ministries benefit from the increased productivity and reduced costs associated with use of ICTs.
- Citizens benefit from greater access to government services and the resulting increase in service levels.
- The ICT industry benefits from the increased opportunities and the experience gained from large and complex projects, particularly when procurements call for participation of local small and medium-sized enterprises (SMEs).
- The national economy benefits from the introduction of ICT into the private sector to interact with government systems, and from the increased familiarity with ICT gained by the government users.

The purpose of this document is to provide government decision-makers at all levels with a guide of emerging best practices for developing a procurement system to get the best value for their investment in ICT. The document outlines a process and a rationale for the conduct of government bids. Following the steps outlined will encourage more open, competitive, transparent, non-discriminatory and technology neutral procurement. In addition, the process is compatible with the WTO Government Procurement Agreement. Following these steps should give more confidence to governments in taking the decision to become signatories to the Agreement. Finally, decision-makers are also invited to consult the *ICC recommendations for WTO negotiations on transparency in government procurement*¹.

¹ June 2004, available online at http://www.iccwbo.org/home/menu_trade_investment.asp

While the procurement process presented can be applied to any procurement, the complexity and specific circumstances of any given procurement should dictate which steps need to be taken. Only an extensive and complex procurement of ICT will require all the steps outlined in this guide.

This guide addresses procurements only up to the point of award. The full life-cycle of procurements includes delivery, contract management, dispute resolution and completion review.

The process outlined here is applicable in any competitive bidding situation, whether national or international. Not every aspect of the process is applicable in those relatively rare situations requiring a limited bidding process.

The document is organized into six sections:

- **Background** – provides background information and a rationale for introducing good procurement practices.
- **Policy aspects of ICT procurement** – describes policy issues that result from governments being the largest player in most domestic procurement markets.
- **Industry bid decision process** – provides insight into the decision-making process of private sector companies on whether or not to bid on a particular procurement. By understanding the private sector view, governments are more likely to adopt rational processes to attract more and better-qualified bidders.
- **Procurement process** – describes a complete model procurement process that can be used as a guide by governments. Not all steps are applicable to all procurements.
- **Lessons learned** – provides concise descriptions of key lessons learned in past procurements that can immediately be applied in the real world.
- **Conclusion** – summarizes the major theme of the document.

Governments are encouraged to implement many of the practices described. The benefits will be a decrease in acquisition time and cost, more qualified bidders and increased competition, and improved service to the end-users.

Section 1

BACKGROUND

Governments around the world are significant purchasers of goods and services. A recent OECD analysis estimated that the value of potentially contestable government procurement markets was in excess of \$2 trillion. According to the same study, the value of local procurements exceeded the value of central government procurements by a factor of 2 to 3².

Governments are substantial buyers of ICT products and services. ICT benefits both governments and their citizens by streamlining processes, making services more readily available, and spurring the growth of the use of ICT more generally in the economy. In this way, governments as early adopters help to bring the benefits to local businesses and individuals.

Any government body that needs an integrated information system has many choices in selecting an approach to satisfy its needs. It can choose to provide the system entirely through internal resources, or it can hire an external and independent contractor to develop all or part of the system. There are also hybrid approaches such as obtaining specific skills and resources from outside, or developing a system jointly with an external service provider. Each approach has its own advantages and disadvantages.

However, since many government bodies neither maintain nor wish to acquire the internal ICT resources, the solution is often to contract all or part of the work out through a procurement process. The steps in this document are oriented toward this more complex type of procurement. The principles, however, apply to any type of procurement.

² *The Size of Government Procurement Markets*, OECD, April 19, 2002

Procurement practices vary from country to country, ranging from totally open and transparent systems to systems cloaked in secrecy and lacking in real competition. Unfortunately, governments in many countries still often procure on a low bid basis, ignoring experience and past performance.

Within the most open systems, world-class providers are bidding to supply innovative solutions to help governments meet the challenges they face. In less open systems, bidders are often limited to those that have privileged access to information, or to the process itself. Taxpayers, citizens, government officials, and the local markets stand to either lose or gain, depending on the openness of the procurement process.

Characteristics of an effective government procurement system include:

- *Efficiency*: achieves good value for money in public expenditure
- *Flexibility*: adapts to changes in a country's public administration needs
- *Compatibility*: meets international obligations (e.g. WTO and EU rules³)
- *Openness*: unrestricted, universal access to the procurement market
- *Transparency*: the selection of bidders, tendering process, and awarding of contracts is open to public examination and review
- *Integrity*: addresses the problems of fraud and corruption through effective mechanisms for prevention and detection

³ Governments should be aware of relevant agreements and laws (such as the WTO Agreement on Government Procurement and the EU Supplies Directive) and national laws governing procurement. The common feature of most agreements is that members of the agreement cannot discriminate against foreign suppliers in the procurement process.

Section 2

POLICY ASPECTS OF ICT PROCUREMENT

Decision-makers should be aware that their actions have a large impact on the domestic market because the government is often the largest purchaser of goods and services. Also, the manner in which the government conducts its procurement operations sets an example for how companies should conduct their procurement operations.

Fostering competitive markets

As the government is the largest purchaser of goods and services in most economies, officials should assess the impact of their procurement policies on competition. Governments should avoid making procurement contracts so short or small that they don't attract much interest. Similarly, governments should avoid making contracts so long or large that only the largest suppliers can participate. Also, governments can foster competition by splitting activities into multiple parts. Finally, to the extent possible, the bidding process should be simplified and shortened so that a greater number of bidders can participate.

Supporting market-based technical standards

The sheer volume of government procurement can exert influence on the adoption and use of technical standards throughout the economy, affecting all supply chain participants. If government decision-makers are not aware of the existing technical standards relevant to their specific requirements, they should include this in the RFI⁴ to learn about the existence relevant standards. Assessing the relevance of existing standards is an important part of the overall procurement process. Government support of such standards within their procurement processes may speed their adoption, bringing benefits to both government and business alike.

⁴ RFI' stands for 'request for information'.

Adopting anti-corruption measures

There are several steps governments can take to minimize corruption in the procurement process. The OECD has produced extensive resources to help governments prevent and detect corruption⁵.

Anti-corruption measures include:

- Enacting conflict of interest provisions so that officials who can profit from the awards must remove themselves from the work;
- Maintaining publicly accessible records of the procurement process; and
- Establishing audit and procurement review committees.

⁵ *Anti-Corruption instruments and the OECD Guidelines for Multinational Enterprises*, OECD, September 2003

Section 3

INDUSTRY BID DECISION PROCESS

Government decision-makers running a procurement process will generally wish to maximize competition, attract qualified bidders and benefit from positive relationships with its contractors. Understanding how businesses view the process will help governments to attract more and better-qualified bidders, to everyone's benefit.

When deciding whether or not to bid on a given opportunity, businesses typically ask the following four questions:

- Is the procurement real?
- Can the business do it - does it have the necessary capabilities to do the work?
- Can the business win the procurement?
- Does it make good business sense?

In order to bid on a given procurement, the answer to those four questions must be 'yes'. Early in the process, a business may not have answers to some or even all of the questions. But as the business acquires more information, the answer to each question either becomes "yes" or the effort is abandoned so that the company can pursue more lucrative opportunities elsewhere.

Is the procurement real?

Any opportunity that a company judges not to be 'real', i.e. a genuine opportunity, warrants little further consideration. There are many considerations in assessing whether or not an opportunity is real:

- Realistic schedule
- Likelihood of award
- Scope
- Good communications

- Mission-critical
- Buyer support
- End-user support
- Funding

These basic questions address whether the system is really needed by the procuring body and whether it will be sufficiently resourced within the particular government environment. A critical factor is whether key decision makers support the acquisition, and whether their support can be maintained throughout the life-cycle of the acquisition.

Most important of all is whether sufficient funding is truly available and will remain available throughout the life of the project. In this regard, potential bidders evaluate the funding sources and also base their judgement on past experiences.

Can the business do it?

This is actually a two-part question that examines the bidder's ability to assemble a winning team and also the business' ability to complete the work. The essential factors are skills, time, other resources, and the ability to make the right resources available at the right times.

Bidders compare each acquisition to other opportunities and commitments. They must make objective assessments of the resource requirements and carefully evaluate commitments from partners, when applicable. Comprehensive risk analyses are very important, especially if significant development requirements or other technical or business uncertainties exist. An assessment regarding the stability of the procuring body, its requirements definition and approach are made and re-visited periodically.

Can the business win the procurement?

This is the most subjective and problematic of the four questions. It is also the most dynamic, since the answer can change abruptly and irrevocably at any time during the procurement process. In most instances, bidders do not know the answer in advance of the award. Therefore, bidders seek to evaluate and maximize their probability of winning, in spite of the many unknowns.

Partnerships and competitive analysis are major factors in assessing the probability of winning. Even though some very large and competent companies bid, sometimes no single one can successfully win and perform alone. It is important on large contracts, particularly with the government, to create partnering relationships for a bid. Forming the right set of relationships can often produce a significant competitive advantage.

Does it make good business sense?

Bidders use the term 'business case' to describe an overall assessment of the potential contract from a financial perspective. They compare the investment required in Bid and Proposal (B&P) funds and other resources to the potential life cycle profits under various scenarios. B&P costs can often run as much as 10% of the total contract value in complex procurements. Bidders weigh each potential bid against others that compete for resources, and against corporate expectations.

In summary, prospective bidders deploy their marketing forces and management resources to assess the relative merits of a potential bid. They consider first whether or not it is "real"; then they assess their probability of winning the bid and their ability to perform under the circumstances of the contract. Given heavy demands on limited B&P funds and other resources, bidders have no choice but to be selective in deciding which bids to pursue. Recognizing how bidders make their decisions can greatly benefit an organization that wants to maximize competition, attract qualified bidders and benefit from positive relationships with its contractors.

Section 4

THE PROCUREMENT PROCESS

The procurement process consists of a number of steps:

- Needs definition / requirements
- Request for information (RFI)
- Request for comments (RFC)
- Request for proposal (RFP)
- Proposal
- Live test and demonstration
- Best and final offer
- Award
- Protest procedures.

Depending on the size and complexity of the procurement, a given acquisition may contain some or all of these stages. Industry input at the outset and on the proposed RFP is usually valuable and worth obtaining. Work done by an acquiring agency early on will go a long way to keeping bidders in the process during the latter stages. Bidders are particularly susceptible to dropping out if there are delays in the procurement or changes to the RFP late in the process.

Needs definition / requirements

The acquisition process begins with the recognition of a need by a government for a capability or a service. This need must then be translated into a set of requirements so that eventually a RFP may be issued. The scope of this effort is generally invisible to business.

Request for information (RFI)

During the RFI phase of the procurement, the government body actively pursues business input in the form of recommendations and presentations. The input is generally solicited in an RFI that describes the government's needs and perceived requirements. This gives businesses the chance to

understand the requirements and needs of the end user. During this stage, communication is open, and both industry and government explore needs and relevant technologies. If they have not already done so, businesses begin to assess potential partners.

At this stage, it may also be relevant for the government to identify the relevant market-driven standards. Governments do not have to know what standards are relevant to a specific situation to begin with, but should at least include this idea in the RFI in order to learn about the existence of any relevant standards.

Request for comments (RFC)

An RFC on a draft Request for Proposals (RFP) is often the next document issued by the government. It is based on the input gathered during the RFI stage and is a refinement of needs and available technologies. Ideally, the RFC should be a complete document outlining not only the government's needs in functional terms, but also the proposed terms and conditions for the contract and an outline schedule for the whole process.

While it takes a lot of work for the government to produce a complete document at this stage, it will save considerable time and effort later on by stating the government's needs and expectations in clear terms. Lack of information at this stage and the inability to provide feedback can cause misunderstandings and delay later on. Also, a complete document signals to industry that the government is serious and that the acquisition is for real.

Request for proposal (RFP)

As the proposed release date for the RFP draws near, industry will firm up bidding partners and begin to staff their proposal efforts. To keep ultimate costs down, the government should stick to its proposed time frames. Delays or extensions at this point cost money, and those costs may ultimately be passed on to the government.

Proposal

The proposal contains the bidder's proposed technical solution in functional terms, its management approach, and the cost. Proposals usually include very sensitive and often confidential commercial information. It is essential that proposals are treated carefully to ensure this sensitive information is not released to competitors.

As the government reviews the proposals, it may request clarifications or additional information from bidders. Due to the sensitivity of interactions with bidders at this stage, this should be done formally in writing and with good documentation.

Live test and demonstration (LTD)

Although rare, on very large or complex procurements the government may require that a live test and demonstration (LTD) or operational capability demonstration (OCD) be done to demonstrate the proposed technologies. Governments should provide bidders selected for an LTD with as much time as possible to prepare. Bidders need to obtain appropriate space, bring in necessary hardware and equipment, and assemble the right software and staff for the LTD. LTDs and OCDs are very expensive efforts for the bidders, and can also be for governments. They should be required only when absolutely essential.

Best and final offer (BFO)

On very large and more complex procurements the government may require a BFO once the proposal has been submitted and the LTD, if required, has been performed. The BFO will incorporate any changes indicated by the LTD and any clarifications that may have been requested from the government body during its review of the technical and management proposals.

Award

The award process consists of informing the selected bidder of their success, and, as importantly, informing the losing bidders of the reasons they were not selected. Being open and sensitive during this process is important as it can help avoid later problems and protests, and preserve business relationships for future procurement needs.

Losing bidders want to understand in as much detail as possible how their proposals were deficient. Providing this information allows them to improve their processes for their next effort and also assures them that the process was transparent and fair. If bidders feel information is being withheld, it raises their suspicions about the entire process and may even lead to a formal protest simply as a means of acquiring more information.

Protest

A formal protest procedure to a higher authority and ultimately to an independent authority is essential to providing a fair and transparent procurement process. Protesting is a significant choice that bidders do not take lightly. The process is expensive for both the bidder and the government, ties up essential resources, and has the potential to damage the government image of the bidder.

THE PROCUREMENT PROCESS ELEMENTS

Definition of needs
Request for information
Request for comments
Request for proposal
Proposal
Live test & demonstration
Best and final offer
Award
Protest

Section 5

LESSONS LEARNED

Following is a list of lessons learned compiled from large government procurements in a variety of countries over a period of time. Not all will apply to each procurement, but overall they represent a great deal of knowledge and experience. They are arranged in no particular order of priority.

Obtain top management support

Government ICT procurements are difficult endeavours. In most countries, the process must conform to a host of laws, regulations and policies. Many decisions are required from senior government executives if a procurement is to succeed, especially in bigger and longer procurement projects. Top management support should be obtained early, and frequent updates to the executive sponsor are necessary to ensure timely and realistic decisions.

While top management support is essential, having knowledgeable and skilled procurement officials is equally important. ICT procurement is highly specialized, and procurement officials need to understand the technology and business practices of the industry. This expertise should be acquired through formal education and on-the-job experience. It is also important that these officials maintain their competency and knowledge of new technology by attending trade shows and making company visits.

Involve end-users meaningfully and continually

The procurement will be a success only if the system is accepted by end-users and the system performance objectives are achieved. Involving end-users in the development of a new system is an important step in making sure they accept the finished product. However, it can be a challenge to identify a representative sample of the end-user community and get their commitment to stay involved throughout the process. It is worth the time and effort to identify and encourage representative and committed end-users. Otherwise, the system may not perform as expected or not be accepted and used by the end-users.

End-users need to be involved from the beginning of a project right through to the end. Roles for end-user representatives in the procurement process are as follows:

- Help define system requirements
- Assist in prioritizing requirements
- Assist in defining 'mandatory' and 'desired' features
- Ensure requirements are clear in the RFP
- Help mediate conflicting requirements within the user community
- Help to determine whether to incorporate changes in mission, policy or technology into the process
- Participate in risk assessment and mitigation decisions
- Agree to any changes to either requirements or policy during the process
- Provide the end-user perspective in interactions with bidders
- Help prepare the user community for changes the system will require
- Provide input for follow-up reports or assessments after the system is implemented

To perform all these functions, end-user representatives need to serve as members of the acquisition team, playing a significant role in the evaluation and selection process.

Market to vendors pre-RFP

It may seem counter-intuitive to recommend that the buyers market to the sellers. However, the vendors should be brought into the acquisition process as soon as a need is established by the government and while requirements are being developed. By getting industry involved before issuing the RFP, technological and business advice can be obtained without jeopardizing the procurement. Also, new technologies, relevant technical standards and capabilities not previously known or understood can be considered as possible improvements or alternatives.

While contractors are competing against each other for the government's business, the government, in turn, is 'competing' for the attention of qualified bidders. Since contractors' resources and proposal funds are limited, enticing qualified bidders to consider the procurement project is essential to its

success. The pre-RFP period provides a unique opportunity for both industry and government to look at possible alternatives and solutions in an open and un-contentious environment.

Develop a plan to use the RFC effectively

The objective of the RFC is to gather information to prepare an RFP that best meets the requirements and needs of the end-user. Simultaneously, the RFC prepares the vendor community for the up-coming procurement. Therefore, development of a plan to use the RFC as a vehicle effectively is very important.

Some of the goals of the plan should be to:

- Improve the overall requirements definition
- Include a complete RFC for review
- Minimize questions and changes after the RFP is issued
- Minimize ambiguities in the RFP
- Minimize delays
- Obtain recommendations for improvement of the RFP
- Attract qualified bidders

Changes and improvements in the solicitation made at this early stage of the procurement process contribute to a much smoother acquisition later on, reducing both time and cost. Changes later in the process may require bidders to adjust partnering arrangements, re-engineer solution designs, and even reverse previously positive bid decisions.

Seriously consider vendor RFC comments

Governments should carefully evaluate input given by bidders during the RFC process. Many vendors have considerable experience with large development projects, and they can provide helpful advice based on this experience. It is particularly important to consider input on risk and timeframes. Too often, development and implementation timeframes are driven by political considerations rather than by good project management techniques. If much input suggests the implementation time frame is unreasonable the government body should re-consider its requirements, as this is one of the most common reasons for failed projects following the award.

Require proven experience

It is to the government's advantage to attract only qualified bidders. This is especially important on large contracts with high risk. Therefore, developing and requiring certain levels of experience or proven capabilities on the part of the bidder are a valid means of qualifying prospective contractors.

This may take several forms:

- Past experience on contracts or projects of similar scope and magnitude
- Proven capability in a particular technology
- Proven software development capability
- Documented software engineering maturity
- Ability to effectively manage inherent risk in the project
- Adequate qualified staff with appropriate experience
- Proven project management experience

While some may see these factors as limiting competition, they are important criteria in the selection of a qualified team to ensure success. By having clearly stated and valid qualification requirements up front, vendors can make better bid decisions about the acquisition.

Use functional (performance) specifications

Procurement specifications are often 'prescriptive', meaning that RFPs ask for specific products or the performance of a service in a specific manner. The government is usually best served by providing 'functional', 'outcome' or 'performance' specifications that describe the requirement or the need in relatively technology neutral terms and ask for a solution from industry. Functional specifications should not specify the actual methods, products, design, method of development or technologies to be used, but rather the functional performance sought. This lets industry propose innovative and appropriate solutions that best meet the needs of the user.

Distribute risk equitably

Contractors devote a great deal of time and effort to risk assessment in order to identify the risks of a particular procurement and make a realistic business case for the bid decision. Contractors must either price or mitigate all elements of risk. Unreasonable risk allocation limits the competitive field and increases the cost of the procurement.

Every risk that the government pushes off onto the contractor will increase the price offered by a responsible bidder. Hence, the government must analyze each element of risk to determine whether it can be absorbed by this or is more cost-effectively passed to the contractor. Even in instances where the government cannot manage a particular element of risk, it may be more cost-effective to assume it than to pass it to the contractor who may assign a high cost to its mitigation.

Terms and conditions should be appropriate to ICT contracting. Liability should be capped and intellectual property ownership arrangements should allow further industry commercialization wherever possible. Such terms can effectively increase bid participation, reduce both parties' negotiation costs and stimulate industry development.

Where possible, governments should use terms and conditions that have been pre-arranged between industry and government. This should be mandatory where contracting is not complex or is low risk. A proliferation of contracts among different agencies will lead to additional negotiation and management costs.

Eliminate ambiguity in the RFP

Ambiguity in the RFP is the procurement team's enemy. It allows different interpretations by different bidders, resulting in wildly varying bids. Ambiguity can make performance evaluations and tests difficult or impossible. It also causes delays when clarifying changes need to be made.

Ambiguity in the RFP can arise because different sections of the RFP are often written by different groups of people. Reviewing and integrating the sections is vital. It is a separate activity that must be planned for before the RFP is issued. The planning starts by recognizing the need for and the complexity of the task. Other ways to reduce ambiguity in the RFP include preparing guidelines and standards for RFP section writers, and having regular interim reviews. Independent reviews of drafts can also be helpful.

The RFP must also be consistent with the overall procurement strategy and mission of the government body. It should spell out the anticipated relationship between the contractor and the government, the apportionment of risk, change methodology, performance measures and penalties.

Publish detailed evaluation criteria and methodology

The importance of detailed evaluation criteria cannot be over-emphasized. It is through this mechanism that the government can ensure it selects the best value bidder rather than the bidder simply proposing the lowest costs, and support its selection within the government procurement environment. The ability to select a vendor other than the low bidder provides governments with a powerful tool to break the low bid cycle of failed developments, re-negotiation, and ultimately higher costs. This can only be done with valid, detailed evaluation criteria made public in the RFP.

Publishing full and complete evaluation criteria as early as possible (at the draft RFP stage) also lets bidders know what is really important to the buyer. Stating the relative importance of different factors will help make sure the most important requirements are addressed in bidders' proposals.

Publishing detailed evaluation criteria, following them meticulously and debriefing bidders thoroughly after the award are the most effective means of avoiding protests. When bidders understand why they lost (and why the successful bidder won), and believe the decision was made fairly and in accordance with the evaluation criteria, the main reasons for protest are eliminated.

It is important for the government body to publish evaluation criteria with two objectives in mind: to select the winning bidder and to debrief those that lost.

Ensure evaluation criteria allow and require the selection of the best bid

The evaluation criteria and the requirements in the RFP drive the solutions proposed by bidders. The government should evaluate proposals in accordance with the criteria and methodologies stated in its RFP. Any deviation from these procedures without good explanation and reason will invite questions and even protests.

Evaluation methodologies and criteria should permit the selection of the proposal and bidder that best meets the government's requirements for the programme. Any criteria that force a selection other than this should be removed. Only the necessary requirements should be specifically stated in the RFP. Extraneous requirements or standards that provide no real added value should be deleted.

Tell bidders everything

The more bidders know about a customer's requirements, selection criteria and the environment in which the system will operate, the better they can design a solution to meet those requirements. Governments penalize themselves when they withhold information that might materially affect design decisions made by a bidder.

To design the optimal solution, bidders need to know not only the government's best estimates of performance requirements, but also how those requirements relate to each other. If this information is not supplied by the government, bidders will develop their own estimate. This may lead to wildly varying proposals from different bidders based on different sets of assumptions.

There are many ways to facilitate information exchange, even after RFP release. The government must simply ensure that all bidders receive the same information. The more information released to the entire bidding community, the better the quality and quantity of the proposals should be.

Continue communication with vendors after RFP release

Whereas conducting individual communication with vendors is not advisable once the RFP is released, it is nevertheless important to keep the community informed about the progress of the evaluation and of the department's continued programme needs. Vendors continually evaluate the best use of their limited bid and proposal funds. If, through lack of communication, bidders feel the procurement is not progressing or is out of control, they may decide to terminate their participation.

Use live test and demonstrations only to reduce unacceptable risk and uncertainty

Live Test and Demonstrations (LTDs) are expensive, time consuming, and difficult for both government and vendors. However, they can be essential in some procurements, especially very large and complex ones. In cases where an LTD is required, the methodologies and capabilities should be examined in an environment simulating the solution as closely as possible. LTDs should always be rated or scored and not simply be considered as pass/fail.

The capacity of a solution to perform at a given level may need to be tested, especially if the solution uses new products. It may also be necessary to have bidders demonstrate the corporate resources available to respond to unexpected events. Therefore, an LTD is a way to legitimately evaluate and screen bidders' capabilities to perform.

LTDs are not always necessary. For example, when a procurement requires simple, commercial off-the-shelf products, an LTD would bring no added value to the evaluation and should be avoided.

Integrate debriefings into the overall process

The acquisition process should produce two outcomes: a successful bidder and a debriefing for unsuccessful bidders. The debriefing itself has two objectives: to tell the unsuccessful bidder why it lost and to avoid a protest. The procurement team should plan for debriefing as an integral part of the overall process.

Too often, the procurement team prepares for the debriefing session late in the evaluation process, or even when it is already completed. However, the same level of diligence and consideration should go into the rejection of a bid as to the selection of one. The criteria and evaluation methodology are applied equally, and the results should be weighed equally. The most effective precaution against a protest is to fully inform the unsuccessful bidder why it lost in detail, using the evaluation criteria.

Determine a small competitive range when possible

All bidders would prefer to be eliminated from the competition as soon as the evaluation committee decides its proposal will not be selected. It is better for the bidder to re-direct resources as soon as possible rather than continue to hold proposal teams together unnecessarily. The government also benefits from reducing the bidder pool in procurements with four or more bidders because it can also reduce its costs. It can then concentrate on the most qualified bidders and shorten the evaluation period.

The government body should plan from the beginning to determine a competitive range whenever two conditions are met: a sufficient number of bids is received and rankings among the bids are sufficiently different. Bidders should be informed of the intent, and evaluation criteria should support comprehensive debriefings without the need to complete the entire procurement cycle first. Senior managers should be informed and ready to support decisions made.

Hold oral presentations and discussions

Holding oral presentations and discussions brings two clear benefits to the government:

- Better understanding of the proposal
- Opportunity to meet key leaders face-to-face

It is often difficult to understand the full capability or advantages of a proposal just by reading the submitted document. A face to face briefing allows thorough discussion and the chance to raise questions about specific issues. These presentations and discussions should be followed by written exchanges to document the sessions. Oral presentations also allow the government to assess the capabilities of key executives and to get a feel for how well they could interact with them.

Schedule the cost proposal after technical and management proposals

Bidders complete their cost estimates and supporting rationale after completing all other portions of the work. This is necessary to incorporate late-changing technical specifications or solutions. At the same time, the procurement team needs to review and evaluate the technical and management proposals before considering the cost proposal. Therefore, it makes sense to schedule submission of the cost proposal at least two weeks after the others. This gives bidders time to examine their calculations and assumptions more fully so that the cost proposal is more accurate and often less expensive.

Allow reasonable time for proposal preparation, and stick to it

The government body should seek input from the bidders in the Draft RFP on what is a reasonable amount of time to complete the proposal. Taking this information into account, the government should then determine the proposal due date and stick to it. Giving extensions to one or more vendors actually penalizes those vendors who take the schedule seriously and plan accordingly. Of course, if major amendments are required to the RFP after publication, extensions may need to be granted in order for the changes to be accommodated by everyone. Proper planning by the government in the early stages of the procurement process can minimize this.

Allow sufficient time for best and final offers (BFOs)

When a BFO is used in the procurement process, enough time must be given to prepare it; ideally, four to six weeks. As the requirements are often changed in conjunction with BFOs, bidders cannot do much preparation in advance. BFOs require bidders to change technical specifications or management approaches, coordinate with their partners and occasionally obtain new partners, as well as prepare the BFO itself. Finally, bidders must normally obtain internal corporate approval for the final pricing.

Consider technical standards to improve effectiveness

The requirements of a procurement can often be considered unique and proprietary by government and business. However, many functions and processes may be somewhat standardized across a market. As a result, market-driven standards may exist that address the desired state of the market. Governments should be aware of the existing Internet and other technical standards that are relevant to their specific requirements, and adopt them where appropriate. Government support of such standards can bring benefits within the procurement process itself and also speed the adoption of standards in the market as a whole.

Train and educate employees about ICT technology

Although procurement of all goods and services has common objectives, ICT procurement requires specialized knowledge to understand the technical aspects. Ongoing training and education of government officials is imperative so that they can interact with bidders on equal terms. Often, cross-functional knowledge – i.e. that of individuals with both technical and financial backgrounds – is a key to making the right decision. When it is not possible for all relevant government officials to have cross-functional knowledge, a team approach to ICT procurement will also help.

Consider using online procurement systems

Online procurement systems can be used in a variety of ways to benefit both governments and business. For example, online systems help publicize procurement opportunities, leading to more bids and more competition. Also, online systems provide instant and easy access to government procurement information, driving down the costs for suppliers and procuring agencies and increasing efficiency overall. In particular, small and medium enterprises (SMEs) stand to benefit from online systems because they can participate from distant locations.

Assign Intellectual Property Rights (IPRs)

Suppliers of ICT may often develop a customized product, service, or process that can be made proprietary using intellectual property rights (IPRs). It is important to establish contractually ahead of time whether the government or the supplier will own the relevant IPRs, and also reflect the allocation of IPR ownership in the contract price.

Decisions should not be made simply by a presumption for or against assignment of IPRs. Instead, decision-makers need to consider the costs and benefits of acquiring IPRs versus those of leaving it with the private sector contractor. Another option for governments is to only acquire the right to use IPR during the life of the current contract.

Integrate information security and follow best practices and relevant standards

Information security is a shared responsibility that must be integrated throughout the procurement process. While a full discussion of the information security issues involved in ICT procurement is beyond the scope of this paper, we recommend that readers consult the following guidelines and resources:

Information Security Assurance for Executives (ICC)

http://www.iccwbo.org/home/e_business/word_documents/SECURITY-final.pdf

Securing Your Business: Information security issues and resources for small and entrepreneurial companies

http://www.iccwbo.org/home/e_business/securing_your_business.pdf

OECD Guidelines for the Security of Information Systems and Networks: Towards a Culture of Security

http://www.oecd.org/document/42/0,2340,en_2649_37409_15582250_1_1_1_37409,00.html

ICC Information Security Online Resource

http://www.iccwbo.org/home/menu_electronic_business.asp

LESSONS LEARNED

- Obtain top management support
 - Involve end users
 - Market to vendors
 - Use input from RFC
- Consider vendor comments
 - Evaluate experience
- Issue functional specifications
 - Balance risk
 - Eliminate ambiguity
 - Publish evaluation criteria
- Ensure ability to select best bid
 - Disseminate all information
- Continue communication after RFP
- Allow sufficient time for proposal preparation
 - Require LTD only if necessary
- Schedule cost proposal after management
 - Narrow to competitive bids early
 - Hold oral presentations
 - Allow time for BFO
 - Debrief losing bidders
- Train / educate employees about ICT issues
 - Assign IPRs
- Integrate information security and follow best practices and relevant standards
- Consider using online procurement systems

Section 6

CONCLUSION

Government procurements are often large and complex. Adding to the complexity is a plethora of laws and regulations that govern such procurements. These conditions can create procurements that are lengthy and expensive for both government and bidders. By understanding the process better as described in this document and by incorporating many of its suggestions, the end result will be successful procurements that will benefit all parties.

ABOUT ICC

ICC is the world business organization, the only representative body that speaks with authority on behalf of enterprises from all sectors in every part of the world. ICC promotes an open international trade and investment system and the market economy. Business leaders and experts drawn from the ICC membership establish the business stance on broad issues of trade and investment, e-business, ICT and telecoms policy, as well as on vital technical and sectoral subjects. ICC was founded in 1919 and today it groups thousands of member companies and associations from over 130 countries.

