



Integrity Management - Instructions

RISK ASSESSMENT - PROCUREMENT

Issued by: **Global Advice Networks**

Eff. Date: **00/00/00**

Rev.: **A**

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PURPOSE

The present instruction provides guidance to the various questions posed in the Procurement Tool. The scoring is carried out in the accompanying excel spreadsheet.

APPLICATION

Risk assessment of procurement.

INSTRUCTION

The series of questions outlined in the Procurement Tool are indicators of “red flags” from the point of view of a company in a public procurement process. The questions are divided into three phases: 1) The tender notice phase including Terms of Reference (TOR), 2) the pre-qualification phase – or if this is not applied – any qualification clauses in the TOR, and 3) the bidding and contract award phase. Each question is characterised as either an indicator of fairness or transparency, although a clear cut difference can be difficult to establish in practise.

The procurement tool does not cover contract negotiations and execution; please consult the relevant due diligence tools for more information on this.

The questions together with guidance are shown on the following pages. The same information, including the actual scoring and plot, is found in the spreadsheet, Risk Assessment Procurement Spreadsheet.

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Tender Phase	Questions	Fair?	Transparent?	
Tender Notice/TOR	<p>Is the tender process non-transparent? <i>Judging from amongst others previous tenders, a company can gain insight into the level of transparency in the process. The availability of lists of previous contract awards and current suppliers and the openness (e.g. through websites) of the process can indicate a transparent and fair procedure. Furthermore, it is advisable to identify other companies that have experience from tendering in the specific country and to contact them.</i></p>			
	<p>Is the contract split into several smaller contracts? <i>Contracts may be split into several, sometimes seemingly identical, subcontracts. Although there may be legitimate reasons for this, contracts may be split in order to be below a certain threshold and thus qualify for a less rigorous tender procedure.</i></p>			
	<p>If an expected price range is given, is this price very high or low? <i>A very high or low expected price range compared to the specifications can be a result of poor research. However, a low price could also indicate that bribes could be solicited for the delivery of sub-standard goods or services. A very high price could indicate a non-competitive tender where bribes are extracted in order to disqualify the open providers based on alleged technical issues.</i></p>			
	<p>Are the technical specifications unnecessarily specific? <i>Overly specific specifications could indicate an attempt to "sole-source" the tender, which means that only one or a few preferred companies (selected either through corruption or other means) can qualify even though more providers would be technically viable.</i></p>			
	<p>Are the specifications very broad? <i>Broad specifications can mean a high tolerance for diversity, but can also be used in order to select preferred, sometimes sub-standard, bidders and/or open up for negotiation in later stages of the process.</i></p>			
	<p>Is the time from publication to deadline unreasonable and/or not in line with requirements? <i>For simple contracts, a mandatory deadline is usually two weeks. For more technically complicated or larger tenders, a longer notice is the norm. Very short deadlines, especially in relation to complicated tenders, can indicate that some bidders have received an illegal early notice.</i></p>			
	<p>Are there any general or specific regulations covering the tender that are not proportional with the goods or services requested? <i>Special rules usually apply for tenders that concern national security or that are very urgent. The unfounded invocation of special rules can be used to restrict the number of eligible bidders.</i></p>			
	<p>Is the specific procurement legislation in the country in question insufficient? <i>Not all countries have well-developed procurement legislation while others may be in the process of developing/changing it. A potential place to look for this can be the sectors on public procurement and contracting in the data tables of the Country Profiles.</i></p>			
	<p>Is enforcement of procurement legislation lax? <i>Although procurement legislation may be in place, the implementation may be flawed due to incompetence, under- or overstaffing, lack of resources, or vested interests in bad practices. Sector and country specific information has to be gathered. A point of departure can be the sectors on public procurement and contracting in the data tables of the Country Profiles.</i></p>			

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Tender Phase	Questions	Fair?	Transparent?
Pre-Qualification/ Qualification	Are the criteria for pre-qualification/qualification unclear or not publicly available? <i>The absence of clear, objective and non-discriminatory criteria for awarding bids opens up the opportunity for discretion on behalf of the public servants in charge of selection and can thus encourage the solicitation or offering of bribes.</i>		
	Do any special clauses apply for pre-qualification/qualification? <i>Causes such as the renewal of the qualification during the actual tender or delivery process may make the company subject to extortion in the absence of a good control environment.</i>		

Tender Phase	Questions	Fair?	Transparent?
Bidding and Contract Awarding	Is the procedure unclear and inappropriate for the size and type of goods or services? <i>Doubt about the process may lead to corruption in order to disregard otherwise unqualified bids. Very simple or overly complicated procedures may also reduce the transparency or fairness, or exclude competitive bids.</i>		
	Are there reasons to suspect that confidentiality is not respected? <i>Clear procedures on contacts between procurement staff and bidding companies must be in place to handle potential conflicts of interest. Furthermore, rules and regulations on confidentiality must exist in order to prevent the disclosure of bids to other companies.</i>		
	Is the procedure for bid submittal unclear? <i>Ideally, a bid is divided into a technical offer and a financial specification. However, as a minimum, the procedure for submitting bids should be written down, be followed in practise, and be publicly available. Bids need to be received in a uniform way that rules out any doubt about any form of preferential treatment or tampering with the bids.</i>		
	Are there any known forms of or risks of collusion amongst bidding companies or between bidding companies and the procurement authorities? <i>Known examples of collusion can indicate that these practices are commonplace, but public attention towards such cases may also mean that something is being done to reduce the opportunities of collusion. Consult the Country Profiles for specific information.</i>		
	Are the criteria for evaluating bids unclear? <i>The absence of clear, objective and non-discriminatory criteria for awarding bids opens up the opportunity for discretion on behalf of the public servants in charge of selection and can thus encourage the solicitation or offering of bribes.</i>		
	Are certain types of companies favoured or excluded by the evaluation criteria without any obvious justifiable reason? <i>Evaluation criteria might exclude or favour certain companies based on economy, experience and alike. If the criteria are unclear this will leave room for discretionary decisions favouring certain companies and might also encourage the solicitation or offering of bribes.</i>		
	Are there special but unclear requirements to be met by the bidder awarded the contract? <i>Special requirements to be met after contract award must always be stated in the TOR. Unclear requirements can generate post-contract negotiations which can seriously reduce the fairness of the process and provide for extortion and solicitation of bribes.</i>		

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Recourse Mechanisms			
Recourse	Is there a recourse mechanism in place to handle complaints on the bidding procedure and does it work? <i>Recourse may be possible formally, but it is important to assess whether this possibility is also feasible in practise and independent from undue influence, and whether the decisions of the recourse body are being followed. Furthermore, it is important to know if recourse is routinely used maliciously in order to stall the process or if bribes are extracted by this institution. Consult the Country Profiles for more information.</i>		
	Are there any public or private initiatives supporting transparency in public procurement? <i>Even though a country or sector suffers from low levels of transparency and a track record of fraud and corruption, initiatives such as Integrity Pacts may significantly improve the chances of a fair and transparent process. Use the Country Profiles and Information Networks as points of departure.</i>		

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