

The Tender Process

CiCS Programme and Project Unit

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This document briefly describes when and how a project should undertake the tendering process when making a significant purchase of either goods or services or both.

1. The Process

1. Get the project approved and defined. This will include budget approval, from the CiCS directors or via them from a University body.
2. Investigate the market and available solutions. Note that this is not a substitute for a proper procurement. If a procurement is necessary it should be started as early as possible, it will be worth asking for advice and guidance from [Procurement's ICT Category Manager](#). There are a number of routes for going to market, depending on levels of spend, existing contracts, sole supply situations etc. Procurement will explore with you the most appropriate route that will deliver best value whilst being legally compliant and taking the least amount of time possible.
3. Define the requirements. Define the evaluation criteria unless this is a mini-competition from an existing framework agreement in which case Procurement will advise how the evaluation will need to be conducted in line with the rules of the framework agreement.
4. Determine in the case of software whether Open Source Software is a viable option and if so how it can be fairly evaluated against proprietary offerings.
5. Determine whether there is the need to make any significant purchase.
6. Discuss the most appropriate tender process with colleagues in Procurement. For larger purchases competitive tenders must normally be taken. For purchases where the cost is likely to be over about ~£150,000 (excluding VAT) an appropriate EU Process must be used unless there is already a Framework Agreement in place. You must follow the University's Financial & Procurement Directives (see below).
7. Draw up the specification and any associated documents appropriate to the specification, these will form part of the 'Invitation to Tender'. [Guidance on drawing up a specification](#).
8. Procurement Office check it and 'top-and-tail' it, to create the Invitation to Tender.
9. When CiCS and the Procurement Office are in agreement that the document is final, Procurement will issue the documents electronically. The Procurement Office maintains the system for handling documents electronically, called 'In-tend'.
10. The exact sequence to get to a supplier to contract with differs depending on the process used but the following is a general outline.
 - a) Tenders received.
 - b) Official opening with Procurement at specified date and time.
 - c) There may be communication with companies to clarify their tender submissions. If the tender returns raise questions we didn't ask at tender then these could be sent to all respondents - all companies must be treated equally. Procurement will manage all contact with suppliers for you.
 - d) Complete evaluation of tenders and complete a score-sheet as provided by Procurement. Get budget approval again if the costs are outside the agreed level.
 - e) Take up references, but only if this is valid for the purpose of evaluating the tender in any way.
 - f) If necessary, short list suppliers. Procurement will need to give feedback to all tenderers so even those not shortlisted will need to go through an evaluation process to enable proper feedback to be given.
 - g) Evaluate in depth short listed suppliers.
 - h) Select supplier, or review project if none are suitable. Once supplier has been selected (scored highest in evaluation), Procurement will check the tender return for any unwanted small print.
 - i) Agree contract, with help of Procurement Office. Place purchase order referencing the tender as both a reminder to the supplier and for audit purposes too.
 - j) Implement the solution.

2. Why Use Tendering?

- This is a mechanism for ensuring good value for money and fair competition, which is a legal requirement. Failure to run a fair or legally compliant tender can result in court proceedings, delays to projects, cancellation of contracts and damages awarded against us.
- The selection process is transparent and auditable
- The process can and must be ethical
- The tendering process can clarify the objectives and requirements of the project.

- Tendering is deemed necessary by the University for total expenditure over £50,000, and by the EU for tenders over ~£150,000 (This figure varies with the Euro exchange rate)

For the Project it is also the way to:

- Get the information you need to make a decision on which solution to buy, or which solutions to reject.
- Get full technical information from suppliers, not sales talk and patter.
- Get answers to your questions.
- Get a more realistic price for the solution than salespeople will quote.

3. Reasons When Tendering May Not Be Necessary

- Tendering can take up considerable effort and time. If there is a Framework Agreement in place, Procurement can advise whether a tender (mini-competition) needs to be run, or a direct call-off can be made.
- It is possible that you will be in a situation where only one supplier can meet your needs – could be for compatibility reasons or one supplier offers a unique proposition. Procurement has a Single Source Authorisation Form which should be completed and submitted to Procurement for authorisation.

4. The Principles of Tendering

- The aim is to get 'best value', ie a good balance of quality and cost, not the 'perfect solution'. The aim is not necessarily to get the cheapest solution as the cheapest may not meet our requirements as well.
- Be open to novel solutions - don't make criteria too narrow nor list too many desirables as requirements. There is the opportunity here to encourage innovation from suppliers.
- Total costing should be taken into account, not just the initial outlay for the product – how much will future license extensions cost, how many extra resources will we need to employ etc.
- The aim is to benefit from competition, but not necessarily to squeeze the suppliers to the limit - with most purchases it is important that there is an ongoing relationship. If you get a good price only by heavy squeezing, then future costs are going to be higher once you are locked in.
- All decisions should be recorded, all dealings transparent and auditable.
- Assess long-term costs & consequences - is it worth it? Will the simpler software which provides 80% of what is wanted really be worse than the product which can provide 100% in theory but may be too complex to use?
- The amount of work involved should match the value of the tender. Take advice - there are good ways of saving effort for yourself and the suppliers.
- Keep things moving - the technology, and often the requirements, are always evolving so the longer the process takes the more problems there may be in selecting an acceptable solution.

Minimising Risk

- Ensure you have support for the tendering and the selection from management and users. In particular ensure technical issues are understood and accepted.
- Buying from a market leader will reduce risk, preferably from a supplier whose market share is increasing. However beware against discriminating against small and medium enterprise companies, who are often the ones who can introduce innovative solutions.
- Where appropriate do piloting of preferred system/s. It is worth spending time and resources to avoid risking much larger amounts by committing to a bad solution.
- Be prepared to pull out, even at a very late stage. It is not a failure of project management when a project has to be stopped or the direction changed - indeed it is one of project management's most important functions. No contracts are formed until the supplier has accepted our purchase order or other signed agreement for supply.

Ethical Dealing

- 'Do as you would be done by': trust and respect.
- Avoid fraud, theft, corruption.
- Decline and report non-trivial offers. However it is accepted that working meals, transport, accommodation are part of business life and help beneficial contact. As a way of measuring, ask yourself if a gift such as a meal would or could influence you in any way your decision making in selecting a supplier.
- Respect confidentiality. Minimise contact at sensitive times in the process.
- Deal fairly. No 'Dutch auctions', misleading suppliers or exerting undue pressure.

Aim

The aim of a tender is to obtain the most economically advantageous solution taking into account areas including but not exclusively:

- Price
- Delivery
- Quality
- Whole-life costing
- Terms & Conditions
- Legal issues
- Environmental matters
- Ethical issues

5. Who is Interested?

- EU (and potentially the courts) for large contracts.
- National Audit Office (NAO).
- HEFCE, funding councils and trusts.
- Internal Audit.
- The University Finance Department and Director of Procurement.
- (Potential) Suppliers.

This sounds intimidating, but in fact providing the process is done openly and with Procurement Office support for the actual tendering process there should be no problem. The Procurement Office provide us with advice and legal protection; take advantage of this.

6. Defining the Requirements and the Evaluation Process

- Requirements should be based on the Process, ie what the users are actually trying to achieve, not on a particular technical solution. That way novel solutions may be found.
- The Evaluation process must be considered as the specification is drawn up. That way you can ask the questions to which you will later need the answers.
- Evaluation procedures must be published at the time of tender to help the suppliers understand what is really important for us. At Non-EU tender level (see Section 2) all we have to do is advise that for instance Price will be 40% of the marks, Technical Capability 30%, Service Provision 20% etc etc. For EU level tenders, we will need to go further to state what 5 marks will be awarded for, 4 marks will be awarded for etc etc. This can be quite a long process in formulating, Procurement will help in this, and in any evaluation these scoring procedures must be followed rigorously, otherwise we are likely to face legal challenges from unsuccessful suppliers.
- Only make a requirement a 'must have' if it really is absolutely necessary.
- You may well have to manage unrealistic user expectations. Even if the software can do it, it may not be practicable to support that sort of use.

What Level of Detail?

There are two schools of thought on the level of detail to use in your requirements.

Either: Draw up a detailed list of requirements, with their importance.

These factors can be scored later during evaluation, for instance by adding up 'importance * quality' scores for each factor, and a scientific decision made.

Or: Keep the requirements broad, focussed on the fundamental goals.

As an introduction to the specification, tell the suppliers what you have or do now and what you would like to achieve in the future. Let the suppliers say how they propose to get you there. This will help inform suppliers of any compatibility issues, and also inform them of what your motives are. A list of components will not necessarily let a supplier know what you are wanting to achieve and suppliers may know of alternative, possibly better ways of getting to where you want to be.

The experience of the department points towards using the latter strategy because:

- Tightly defined criteria can stop us seeing the wood for the trees.
- Tightly defined criteria exclude novel solutions and innovation.
- The objectivity of the 'scientific scoring' model seems to be often spurious - it has happened that the 'scientific' scale has been re-prioritised, or the results simply ignored, in order to get the sensible result.
- Broad evaluation criteria can give us freedom to make professional judgements. Of course this shouldn't be used as an excuse to avoid doing a thorough job.

7. The University Financial Regulations

The University of Sheffield Financial Regulations apply to all spending - regardless of source of funds.

These regulations are being reviewed constantly and can be viewed [here](#).

Thresholds

These are the values in mid 2014, but are always subject to change, so see the Procurement pages for the latest advice.

- Below £5,000: Simple value for money procedures.
- £5,000 - £50,000: Three written quotes. The information should be held for 7 years. The closer you get to £50,000 and the more complicated the deal the more important it is to consult with the Procurement Office who are there to help. It may be that even below £50,000, suppliers will offer better deals knowing they have formal competition, so tendering may work in our favour.
- £50,000 - ~£150,000* : Formal tendering, normally involving at least three suppliers. You must involve the Procurement Office. Allow at least one month for the complete process.
- ~£150,000* plus: EU tendering. Allow a minimum of 3 months for this process, plus the time it takes to construct a specification, time for evaluation of tenders etc. The Procurement Office will advise.

*This value varies due to the Euro exchange rate

All these figures are exclusive of VAT.

Framework Agreements

Most IT Hardware and commonly used Software Packages could be available under Framework Agreements that we are authorised to use. A Framework is where a tender has previously run, usually at a national HE level, and a number of suppliers have qualified to be part of the Framework. Each framework has different rules for how it is used, but normally when requirements are known, only the suppliers on the framework need to be approached. This saves the time and hassle of advertising the tender to all suppliers and having to evaluate numerous tenders etc. The Procurement Office can advise on what Frameworks are available, and how they can be used.

You can base the decision on whether EU tendering is necessary on estimates from potential suppliers. However if you go to formal tendering and you want to take up a system that costs over the limit then EU tendering must then be undertaken.

It may be legitimate to break up a purchase into parts that come into a lower category than would the system as a whole. However this is valid only if they can be regarded as genuinely separate sub-systems - it should not be used as an artificial device to avoid proper financial controls. Anti-aggregation is something which auditors do look for.

8. EU Tendering

Types of EU Tender

- Open Tender: A minimum of 3 suppliers are invited to take part, however as the tender is advertised in OJEU (see below) depending on the market place you may receive lots of tenders, all of which must be evaluated. Allow 30 days for responses.
- Restricted Tender: Details are advertised in OJEU, but only a document called a PQQ (Pre Qualification Questionnaire) is sent to potential suppliers. This is to determine suppliers who have the capability and capacity to supply. On evaluation a shortlist of suppliers (usually between 5 and 8) is then invited to take part in the tender. Allow 30 days for responses to the PQQ and then 30 days for responses to the tender stage.
This looks as if it takes longer than Open Tender but may well be quicker and is certainly easier. The detailed Invitation to Tender can be prepared while the PQQ stage is still live.
- Competitive Dialogue: Like Restricted Tender but used where it is not possible to specify in detail what is required. The problem is set out and there is a dialogue with the suppliers about their proposed

solutions. This type of tender could last a long time if no suitable solution is forthcoming although it allows suppliers to be innovative in their offerings.

The Tender Process

The main difference between EU and non-EU tenders is that EU tenders must be advertised in OJEU (the Official Journal of the European Union), and the result be published there too. The Procurement Office handle all of the additional paperwork, but bear in mind the additional delays involved.

Standstill Period

Following all types of EU tender there is a mandatory 10 day standstill period which must be observed. The 10 days start when the last of the tenderers have been informed that they have been unsuccessful, what their scores are and how they compare to the winning tenderer. Failure to observe this standstill period (including commencing or discussing a contract with the winning tenderer) can result in court action, cancellation of the tender and damages awarded against us. The purpose of the 10 day standstill is to allow suppliers who have been unsuccessful to challenge the scoring and inform us that they will investigate legal proceedings against us. The 10 day standstill period can be extended at our discretion to allow us to sort out any misunderstandings unsuccessful suppliers may have raised. We will effectively end the 10 day standstill period when we are confident to do so – however note that suppliers still have a further 20 days in which to mount a legal challenge.

9. The Invitation to Tender (ITT) Document

Format

The Procurement Office use standard templates based on the type of tender to be run, into which a completed specification is inserted. These templates are reviewed up to a couple of times a year to take into account changes in legislation etc.

Example Invitations to Tender can be requested from Procurement, however it should be noted that each procurement is in some way unique, but much of the structure will be common across many procurements.

Your specification might include:

- Introduction outlining the requirements.
- Background information explaining our current systems and environment.
- Implementation Schedule.
- Requirement specification consisting of mandatory and desirable requirements.
- Questionnaire, with instructions for completing, to constrain the responses into comparable formats.
- Request for information (if relevant to subsequently selecting a supplier) on:
 - * System architecture and network requirements
 - * Future developments
 - * Company Profile
 - * Costs, in specified format to aid comparison

Notes - If you need to test a system to evaluate it, include a clause asking the suppliers to agree to provide such a test system.

- If interviews are likely to be required, this should be specified at the outset of the tender.

Tips

- The specification should be clear, and no more complicated than necessary. Remember that if a supplier doesn't understand they will ask for clarification which could cause an element of delay into the process.
- No specific brands should be defined - use 'or equivalent'.

Wrapping it Up

The Procurement Office will 'top and tail' your specification with the necessary legal bits for you after you are finished. You must then check the final document carefully before it is issued to ensure that it meets your expectations.

10. Issuing the 'Invitation To Tender'

- The Procurement Office will do the formal issuing of the Invitation to Tender documents for tenders.
- The Invitation to Tender document will be offered to at least 3 potential tenderers of your choice in electronic format. The Procurement Office use an electronic system to manage the process, called In-tend.
- There will be a deadline for receipt of tenders. Suppliers should be aware that any tender received after this date will be ignored. It may be possible to extend a tender deadline, but only in very specific circumstances.
- If you wish to include an 'in-house' bid, for instance if an Open Source solution is in the running, discuss how to handle this well in advance with CiCS management and the Procurement Office.

11. Evaluation

- Make sure you involve everyone who might have useful input or who needs to agree the outcome.
- Your 'user representatives' should really represent the full user community.
- A proper CiCS technical evaluation is essential for any software or hardware product.
- In their tenders suppliers may answer the question they wanted you to ask and not the one you actually asked. You will need to read between the lines. This may be grounds for a deduction of marks in the evaluation or necessitate the need to ask for further clarification, via the Procurement Office.
- Getting technical information can be difficult; salesmen sometimes seem not to have a technical background and are sometimes unable to answer all of your questions. If necessary arrange a technical meeting with the suppliers and tell them to bring someone who can answer your questions.
- You can get clarification of information from an individual supplier. However if you are asking for new information you must ask all the tenderers, so they are treated equally.
- At least one knowledgeable person must examine the terms and conditions carefully – the Procurement Office will do this for you.
- Procurement Office will help in analysing the Company Profile and financial stability if required.
- The evaluation must be seen to be fair. Document the evaluation results in appropriate detail - this will also be invaluable if you need to revisit them. You could be audited, anything untoward could result in legal action against us.
- It is the Project Group that is responsible for making the decision. The Project Manager's job is to make sure the process is handled properly.

Reference Sites

You may contact reference sites as part of your evaluation - a questionnaire, a telephone call or a site visit. Some points to bear in mind:

- How similar are the reference site's business processes to ours?
- How similar is the technical set up to ours, eg Unix or NT servers?
- What parts of the system is the reference site using? What version are they using?
- What did the reference site use beforehand? Their expectations may have been very low.
- Talk to the appropriate people - users for their view, technical for their view etc.
- If references are to be scored as part of the tender evaluation, it must be stated as such in the Invitation to Tender.

System Demonstrations

Getting the suppliers to demonstrate their systems can be useful. But be aware that a bad demonstration by a salesman doesn't necessarily mean a bad product, and vice versa.

Watch out for weasel words:

- 'I'll need to switch to a different version to show you that.'
- 'That will be in the next version.' Ask to see the evidence.
- 'You can configure it to do that.' How? By a user, a technical specialist or bespoke development - a real danger area.
- 'It's totally upgrade proof.'
- 'This is an optional feature.'
- 'I'll show you what X customer has done.' With how much effort?
- 'Yes - it does that.' If this isn't accompanied by a demonstration it isn't worth much.

System Pilot

- Doing a system pilot can give an insight into the support available from the supplier and the likely problems we will encounter in any 'real' installation.
- The user testing provides an indication of reliability, usability, likely problems, and a general feel for the product.
- The formal testing allows you to see how the system works in specific situations and functionality, and allows you to directly compare the systems under test.

Gap Analysis

Do an analysis of how (or whether) you can fill the gaps in your requirements which each supplier's bid leaves unfilled. This will help in comparing dissimilar proposals and in doing a proper comparative costing.

Costing

You should do a full lifetime costing of the solutions.

Remember VAT. Remember expenses if you are using consultancy.

12. The Decision

- It is possible that no supplier will be able to meet all of your requirements at a reasonable price. It should be remembered that the aim is to get a good balance of quality and cost, not the 'perfect solution'. 'Good enough' may be good enough. However if all of the tenders are really unacceptable it is not too late to review the whole project, and possibly abandon it. No commitment or contract is in place until your purchase order has been accepted by the supplier.
- Your decision can be challenged if it is clearly unfair, particularly with EU tenders. However if you follow the basic rules and work with the Procurement Office there should never be a problem.
- Don't be pressured into signing a contract, eg to meet the supplier's end-of-year.
- You should give rejected tenderers a debriefing if requested, via the Procurement Office ie explain why their tender failed. This should be restricted to giving only the necessary information, gained from their tender return and not from previously gained information, not be perceived and must be factually based not on opinions, and there must be no negotiation. The request and the reply should be in writing.