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REDUCING CORRUPTION RISKS WITH DATA

PUBLIC PROCUREMENT TRANSPARENCY & INTEGRITY

Checklist on Procurement Planning

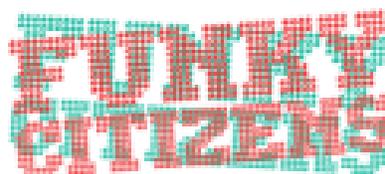
for local level public bodies



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Checklist on procurement planning for local level public bodies

Public institutions regularly procure goods, works, and services as part of their duties and the implementation of their policies. In OECD countries, almost 30% of government spending is done by procurement.

Good procurement is procurement that is done well, ensuring the best value for money and the efficient spending of public funds. As a result, such procurement will contribute to and shaping institutional culture, supporting policy goals, and increasing trust in public institutions. In order to achieve good procurement, those working in the area need to have an understanding of how procurement can positively affect society through helping achieve certain development goals.

This guide aims to highlight the most important elements to be considered at different stages of the procurement cycle: from starting with an understanding of the institutional framework that governs procurement, to varying aspects that need to be considered when evaluating a tender. It seeks to give a comprehensive understanding of the system as a whole, most specifically to those who implement public procurement policies or are involved in procurement, either directly or indirectly.

In explaining the most important elements of procurement, this guide aims to help educate those working with procurement in order to support the reform of procurement regimes on the local level and managing individual procurement processes.

Furthermore, although those with significant experience in procurement should be familiar with most of what is written here, it is still a useful guide to all who are relatively new to the field, as well as those who wish to ensure that they are adhering to best international practices, with the goal of ensuring transparency and accountability of the process, as well as effective public procurement that supports policy goals.

1. Institutional framework

As a first step it is worth devoting attention to the institutional framework for procurement, as institutional conditions determine to a great extent the quality of a procurement process, especially if they are more complex than ordering printing paper. Often, what seems from the outside as corruption, is simple mismanagement arising from capacity issues, lack of knowledge, or simply poorly designed workflow processes.

Legal framework

Assess whether the legal framework (such as procurement rules, codes of ethics, and conflict of interest regulations) of your institution applies to all the procurement processes that you undertake, whether it is in line with national and EU legislation, and whether it responds to institutional corruption risk assessments.

Administrative framework

Assess whether your institution has the case management and documentation systems in place that are necessary to track the whole procurement process. Check also if data that needs to be linked during the process can be connected throughout your databases and regardless of formats.

Safeguard of transparency

Assess if your institution is fit for transparency, meaning that it can easily release information stored in your internal documentation systems, and share it with the public, while ensuring the protection of personal data and any other information that should be protected (such as genuine business secrets). Procurement processes should be as traceable for the public as they are for those who administer them: Citizens should be able to connect the proposal of a purchase with the reasoning of a decision, assessment of needs and impact, the published procurement notice with the award justification and so on. All data should be published both on your, the buyers', webpage, and in central repositories of procurements and contracts if they exist.

Capacity / capability assessment

Assess if your staff is capable of managing procurements, and evaluate in which areas they need training and development, or whether there are areas where the recruitment of personnel is needed.

Decide if you can manage a procurement solely within your institution or if you need to involve external experts. In the latter case, make sure that the expert's contribution to the process becomes institutional knowledge.

Make sure that all departments that work on a procurement have the same information available, and that their tasks and roles are clearly defined.

Connections to institutional strategies (support local SMEs)

Recall your policy goals and institutional strategies, and define how procurement can support the achievement of these goals. For example, if you aim to strengthen local SMEs, consider launching smaller procurement projects that can be accessed by them. To achieve this, you will also need to safeguard competition and prevent bid rigging and cartels. Exploit the opportunities that procurement can mean beyond best value for money.

2. Assessment Phase

Good procurement takes time. Make sure that by assessing procurement needs in advance, you have time for preparation and are familiar with respective markets. It is common that purchasing bodies pretend to know what they need without a thorough needs assessment; many even think they know who would deliver it in the best possible way. Actually, you never know until you analyse the market, other procurers, and evaluate a wide range of bids.

Assessment of previous years' procurement, spending analysis

When planning procurement, a large share of goods, services, and works that need to be purchased can be identified in advance. Analyse what has been procured in recent years, and calculate the needs for the upcoming year by adjusting to new circumstances and policy changes. Understand your spending structure and assess if there are opportunities to rationalise spending through coordination among departments, by considering seasonal price changes, or taking into account economic projections.

Assessment of procurement practices of similar institutions

Not only citizens, but local governments can benefit from transparency and the use of data standards. Collect data from similar institutions and compare spending patterns to assess your own performance and procuring practices. Apply common data standards such as Open Contracting Data Standard (OCDS) to help such analysis across institutions and sectors.

Looking ahead

Explore your institution's assets and be prepared to conduct foreseeable procurement. This could include regular renovations, needs generated by projected increases in staff, foreseeable requirements for new equipment, and so on.

Listen to citizens

Good policy work includes the views of citizens and relevant stakeholders. Conduct surveys, organise citizens' assemblies, and launch participatory budgeting to know what locals are interested in, and how they would shape their environment.

3. Preparatory phase

Once a public body has been defined what is to be purchased, tactical details can be prepared. Depending on how far in advance the needs assessment was conducted and on how complex the procurement is, this preparatory period can range from less than a week to a couple of months.

Project team

Make sure that everybody who has relevant competence or who is affected by the project is on board and takes part in those parts of the procedure that are relevant. Staff should be involved throughout departments and offices.

Market analysis / suppliers, potential co-purchasing entities

Before launching a procurement process, an updated analysis of the given market and the stakeholders operating on this market, including experts is needed. Check available goods, services, examine prices of works, and the companies that are present on the market. Coordinate with other purchasing bodies that have indicated similar purchases in their procurement plans, in order to gain knowledge and insights, and also to discuss where joining forces would allow you to benefit from scale.

Stakeholder / expert involvement

When preparing the procurement, stakeholders which are relevant to that specific project need to be involved. Ensure a high level of transparency, disclosing who is involved. This will help you ensure that all stakeholders come to you, as well as serving to ensure accountability and to increase trust in the process. Stakeholders may lobby for their own interests, and put their own business before the public interest. Even where this is the case, they can also provide important market insights and technical information that is relevant for the procurement. Make sure that conflict of interest policies are in place, and double-check that those who participated in planning a procurement are not among the bidders.

Citizen involvement

Beyond involving citizens in overall policies, involve them in specific procurements where relevant and allow them to define details (such as a sports facility, a park, the renovation of a public square). Be prepared to grant the public a sense of “ownership” over public investment.

Impact assessment

Ask yourself: Are there any groups that are negatively impacted by the project? Will it have any secondary impact that should be addressed or mitigated? What are the social, environmental, and market consequences? Examine all possible effects of the project, and evaluate if they conflict with project goals or the interest of stakeholders or have other unwanted consequences.

Life-cycle assessment

Make sure to calculate costs for the whole life-span of the project and the effects that it has after the initial project phase. Is it sustainable?

Thinking ahead, two future challenges you need to anticipate are the need to have milestones for the implementation and to be able, later on, to assess if a project was successful. To do this, you need to identify Key Performance Indicators (KPIs) so as to ensure that progress can be tracked, and so that contractors and/or your own department can be held accountable.

Risk assessment

Map potential risks and invest in mitigating them. Risks can occur in any part of a project, be it financial, internal and external corruption-related, or risks that might damage your institution's reputation. A risk could also be caused by too short a deadline, where delivery won't happen on time or fulfilment happens either with lower quality or at a higher price.

Involvement of external monitors

For complex or risky projects, it is particularly useful for external experts to be involved, and/or for an independent monitor to oversee the whole project and to assess progress against KPIs. Transparency International's Integrity Pact is a service that aims to provide independent oversight in procurement processes, and it is recommended to contact them to learn more about this.

Emergency procurement / quick procurements

There are situations when there is no time for proper planning because goods, works, or services need to be purchased immediately. As in the case of the Covid-19 pandemic or disaster relief. If an institution is well prepared and staff are familiar with the respective market then, even in such exceptional cases, many risks can be avoided. Read the RECORD project's guide to Emergency Procurement to learn more about the key elements of purchasing swiftly in a transparent and accountable way.

4. Tendering

Tendering is the area which includes the biggest risks in the procurement process, as it is difficult and often very expensive to initiate any changes once an award has been made based on poorly conducted tender.

Selection of procedure

There are various procurement options that you can select. These depend on the one hand on the type of the procurement, which can vary according to, for example, whether it is about fulfilling

a recurring need, or is a new need where not all important specifics can be set in advance (for example, a competitive negotiated procedure for the construction of a special research facility).

Then there is the size of the procurement in financial terms, which will determine whether it is above or below national and/or EU thresholds, each of which cases comes with specific conditions.

There is also a wide range of options to select procedures that ensure the highest level of competition and secure the involvement of the most capable suppliers. It is recommended to use open procedures whenever possible. Consideration can also be given to using e-auctions for common goods that are easy to specify and the price matters most.

Safeguards of inclusion

Make sure that all elements of the procurement are designed so as to ensure that the project does not discriminate against participants or beneficiaries in any way. You can also build in requirements that bidders apply equal treatment, social responsibility, and anti-harassment policies if contracted. Take into account gender-related and social considerations, ensure diversity and accessibility.

Specification of quantity

It should not be a problem to assess the right quantity if planning and preparation were done properly. In case of uncertainty, include additional options and flexibility in the procurement call.

Specification of object

If sufficient specification of the procurement can be provided, bids that would not meet requirements can be avoided, while a high level of competition is still ensured. Too narrow of a specification can lead to unfair competition and the exclusion of offers that would otherwise meet the needs of your organisation.

Eligibility criteria

Make sure to encourage bid submissions only from those genuinely able to provide the purchased service or to deliver the purchased goods in the desired manner. Do not exclude potential bidders by unnecessarily strict eligibility criteria. Take into consideration previous work, references, financial health, track record, capacities and expertise when defining eligibility.

Contract duration

Set the duration of the contract in a way that will ensure profitability for the bidder while it allows the buyer to re-evaluate its needs from time to time. Define how often and for how long a

contract can be renewed. Only plan longer-term contracts if market changes and internal needs can be calculated well, and if there are flexible conditions for you the buyer for amendment or conclusion.

Evaluation criteria

Set clear and objective evaluation criteria. Ensure not to evaluate based on price only, but assess the overall best value, including quality, maintenance, sustainability, environmental and social considerations, and warranty.

Licences, copyright, source code, algorithms

Set requirements on copyright, licences and code to be used in advance to avoid dependence on suppliers or operations that the buyer cannot control. It is highly recommended that, if your institution will not hold copyright in the final product, that you require that publication be under a creative commons or other open licence. Ensure that your contract stipulates that you have access to and the right to use in the future any code generated with public funds. Ensure that if databases are being run by external providers, they have, within the terms of the contract, the obligation to give you access to both the programme and full content. Include in your contract the right to request searches of the data contained in any externally managed database, particularly when that search is to be done as the result of public access to information request.

Subcontractors

Set rules for the involvement of subcontractors, ensuring that they are in line with all the best practices, and policy, ethical, transparency, and accountability provisions set out here. You should also establish the criteria for when your contractor must conduct tender processes for subcontractors and for purchases.

Publication of prior information notice

Prior information notices can be released if you the buyer know well in advance what you aim to procure in a given year. This allows potential bidders to plan in advance, to make sure that they have the capacities in place, and that they are prepared to bid once the procurement is launched. If prior information notices have been released, procuring entities can set shorter deadlines without running the risk of excluding potential bidders.

5. The Award

It is important to ensure full transparency of the award process and the integrity of the decision making committee. You should also be prepared for non-winners challenging results.

Decision making

Ensure to select the right committee members to decide on bids. Include both individuals who have an expertise in the given area, and individuals who will take responsibility for the decision within your organisation. Make committee members complete and sign a conflict of interest declaration, and be proactive in checking these conflicts of interest; make these documents public on your website. The selection committee should produce a reasoned justification of its decisions and these should be made public, proactively, on your website and/or a centralised website

Examine tenders thoroughly

Beside checking the supporting documentation of bidders and eligibility, you may assess company health and other aspects that could exclude a contractor or make them a risky partner. Check subcontractors and proposed experts to be involved in the project. Assess whether proposed services and solutions are feasible and can be delivered in a timely manner at the offered price.

Due diligence

Exclude offers with an unrealistic price. Investigate possible bid rigging or any unlawful coordination among tenderers. Check the track record of bidders and their affiliates.

Unsuccessful procedures

Be ready to declare a procedure unsuccessful if none of the bidders meet the expected criteria. It is better to do this, and run the process again, than to push ahead with inadequate suppliers.

Publication of bids and results

Publish all bids to ensure full transparency. Publish a detailed, well-documented, justification as soon as possible and prepare for conflict resolution if needed.

6. Contracting

Some parts of your contract will be defined in advance when preparing the tender process, while other elements can only be included after the award when you have full information about the winning bidder.

Model contracts

Check similar contracts by other contracting authorities, update sample contracts, and publish model contracts in advance.

Penalty payments

Make sure penalty payments are included in the contract as well as safeguards for delivery and compensation for non-delivery.

Coherent project phases, financial instalments

Define coherent project phases based on KPIs and set financial instalments accordingly. Set milestones and well-defined deliverables.

Responsible individuals

Define responsibilities and name responsible project personnel to ensure accountability.

Copyright, licence, ownership, maintenance

Set copyright issues, applicable licences, ownership of rights and code both regarding inputs to the project and the final deliverables. If not prepared well, these can result in significant extra costs, and dependence on suppliers especially in sectors such as IT.

Testing and warranty

Ensure time for testing the deliverables and warranty for errors, malfunctions, etc.

Liabilities of contractor, risk sharing

Clearly define liabilities, responsibilities, and the sharing of foreseeable risks which cannot be considered as force majeure (for example, flooding in a regularly flooded area).

Conditions of ending contracts

Set conditions for ending a contract with a special focus on dispute, non-delivery, and changes of the content.

Assessment of assets, its conditions

Define the value, condition and property of assets that are imported into the project and are subject to change or can suffer damage or alteration (For example, what happens to old cobblestones when repaving a street).

Conflict resolution legal dispute

Set applicable legislation, bodies for mediation, conflict resolution, and legal dispute especially if a project has international elements.

7. Implementation / delivery

The main task of the purchasing body in the implementation phase is monitoring and ensuring that goods, works and services are delivered according to the contract.

Monitoring by buyer

Beside monitoring whether goods, works and services are delivered according to the contract, buyers should perform continuous monitoring of delivery in order to detect issues as soon as possible. Buyers should especially

- monitor the legal compliance of the contractor (for example, respecting the labour rights of construction workers);
- control quality at pre-defined milestones and whenever else necessary;
- check up the compliance with of your organisational values, ethical standards and other conditionality included in the contract;
- control for the inclusion of citizens and stakeholders if relevant;
- perform random audits based on a set of pre-defined criteria.

Civic monitoring

Establish channels for civic monitoring where relevant and appeal for constant feedback. Request regular monitoring reports from external monitors if the contract has required these.

Testing and control of deliverable

After delivery dedicate sufficient time to test deliverables and request immediate corrections. You may involve a group of beneficiaries in the testing.

8. Evaluation

Evaluation permits you to assess whether a procurement was done according to contract and whether it fulfilled the goals that were set when launching the project. It is, nevertheless, one of the poorest-implemented parts of procurement, which is regrettable as it can result in many lessons learned, which in turn can improve your procurement processes in the future.

Check against goals, KPIs

Assess whether all KPIs were met and document whether, where, how and why delivery diverged from plans.

Document outcomes

Document final outcomes in order to assess amortization or realise warrants or establish a baseline in case of future changes, alterations, or updates.

Conduct surveys, interviews

If relevant, conduct surveys and interviews with stakeholders, beneficiaries and project staff to evaluate work and to document experiences in order to include it in the knowledge of your organisation.

Plan for long-term evaluation

It is important to set dates for revision of project outcomes against the original policy goals for a period of time after completion of the project. You will be looking for indicators on long term performance, sustainability, and benefits for the community. For example, if you built a sports facility, and the construction went well, all according to plan you might want to do an evaluation four years after opening to learn lessons, which could range from how much the local population is using it to whether there should have been more bathrooms or a bigger canteen.

Transparency: Make the process publicly accessible with open and linked data

Make the whole documentation of the project available, ensure project documentation of different stages and information collected at different departments are linked.

Feedback to legislator, partners, and the public

Provide feedback to legislators, policy makers, funders and project partners to ensure that experiences are built into future policy changes, strategies, improvement of products and services and institutional development.