



Planning a Perfect Procurement... Setting Up For Success

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The 2021 Procurement Seminar Series

- New Developments in Procurement
- Identifying the Need
- Business Case, Procurement Plan and Strategy
- Probity in Procurement
- Legal Issues and Risks in Procurement
- Tender Assessment
- Innovative Procurement
- ECI and Unsolicited Proposals
- Managing the Procurement
- Top Ten Issues in Procurement

To find out more about the seminars in the Procurement Seminar Series and to register to attend, please look out for the invite or go to www.hwle.com.au

Overview

1. What is procurement
2. What can we buy / procure
3. How does the need arise
4. What are we actually buying
5. How can we buy it
6. How should we buy it (the Procurement Strategy)
7. What agreement should we use (the Contract Strategy)

What is Procurement?

- The act of finding, acquiring, buying goods, services or works from an external source, often via a tendering or competitive bidding process.
- The process is used to ensure the buyer receives goods, services or works at the best possible price, when aspects such as quality, quantity, time, and location are compared.¹
- Corporations and public bodies often define processes intended to promote fair and open competition for their business while minimising risk, such as exposure to fraud and collusion.

¹Weele, Arjan j. van (2010). Purchasing and Supply Chain Management: Analysis, Strategy, Planning and Practice (5th ed.). Andover: Cengage Learning. ISBN 978-1-4080-1896-5

What Are We Procuring?

- Routine Goods or Services
- Specialist / Bespoke / Unique Goods and Services
- Basic / Complex Equipment... Installation
- Routine Works / Maintenance
- Specialist / Complex / Valuable Works / Maintenance
- A Tenant / Licensee (Lease / Event)
- An opportunity (advertising space / revenue contract)
- Disposal

Why Are We Procuring?

- New Need
- An Old Need (back to market)
- Unsolicited Approach
- New acquisition / New System / New Way of Doing Business
- Disposing

Benefits of Procurement?

- Aggregation leads to savings – but be careful – e.g. competition (Division 1 of Part IV of the CCA (sections 45AA - 45AU))
- Competitive environment produces ‘Value for Money’
- Accountability / Defendability
- Potential to tap into innovation
- Trust and confidence of market and providers

Disadvantages of Procurement?

- Time
- Cost
- Can stifle innovation
- Hamstrung by process / compliance
- Potential litigation
- The market controls what you get

The Process

- Expression of Interest (EOI)
- Request for Information (RFI)
- Invitation to Tender (ITT)
- Request for Tender (RFT)
- Request for Proposal (RFP)
- Request for Quotation (RFQ)
- Others ?

The Method

- Open Public
- Selective Tender
- Sole Source / Direct Negotiation
- Market Led Proposal / Unsolicited Proposal
- 2 Stage Process – EOI to RFT
- Prequalification Scheme
- Panel Process

The Process

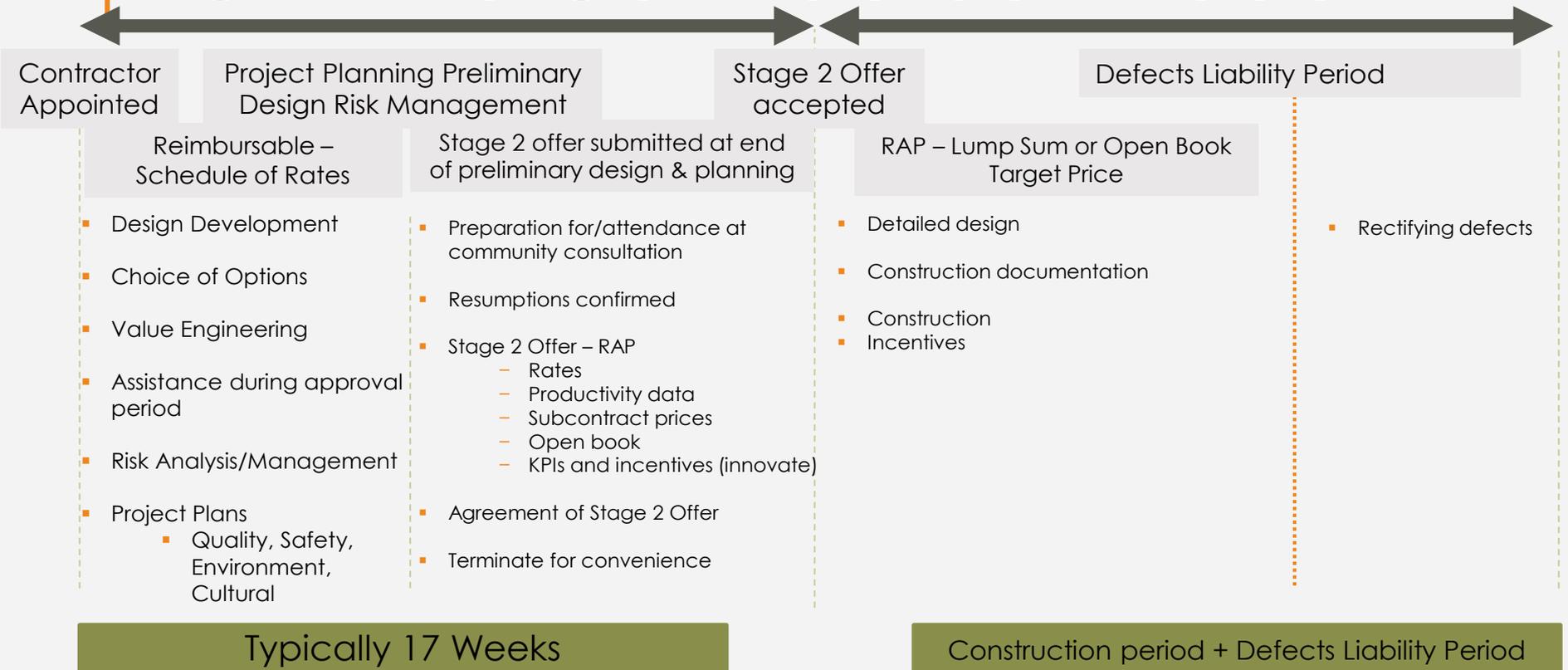
A Traditional Process

- Single Stage Traditional Procurement
- Two Stage Traditional Procurement

An Innovative Process

- Direct Negotiation (ICAC)
- Market Led Proposal / Unsolicited Proposal
- BAFO / LAFO
- Early Tenderer Involvement / Early Contractor Involvement

ECI – The Contractual Model



Relationship Management Process

The Strategy

- What – What are we procuring
- Why – Why are we procuring it
- Who – Who will be likely suppliers / who are our internal stakeholder and approvers
- When – when do we need it by (work backwards)
- How – How are we going to engage the market

The Procurement Strategy and Contract Model

Document and Procurement Strategy

- How are we going to engage the market
- How have we engaged the market before
- Why are we doing it this way – why aren't we doing it a different way
- The process
- Approvals
- What's the alternative
- Stay flexible... Discretion (Privilege Clauses) vs Good Faith and Admin Law

The Procurement Strategy and Contract Model

Document the Contract Strategy

- What Contract Philosophy are we using – Traditional Adversarial v Relationship v Alliance
- What are they doing for us
- How long are they doing it
- Pricing Model – Reimbursable Cost / Cost Plus / GMP / Fixed Price Lump Sum / Rates and Margins / Hybrid (e.g. Fixed Management Fee plus rates)
- Design THEN Build / Design AND Build / Design Build Maintain
- Contract Model / Contract Form (Standard / Bespoke / Amendments)

Timeline/ Overview

- Internal Contract Approval
- Business Case
- Issue Invitation To Tender
- Pre-Tender Stage (Briefing and Site Visits)
- Lodgement of Tenders
- Evaluation of Tenders
- Tender Clarifications
- Tender Presentations
- Negotiations
- Letter of Acceptance
- Consolidated Contract

A2. Contract Management and the Procurement Lifecycle

There are five key stages of the procurement life cycle, ranging from the initial identification of need and subsequent planning phase, right through to the long term management of the contract.

Contract Management in the context of the Procurement Lifecycle

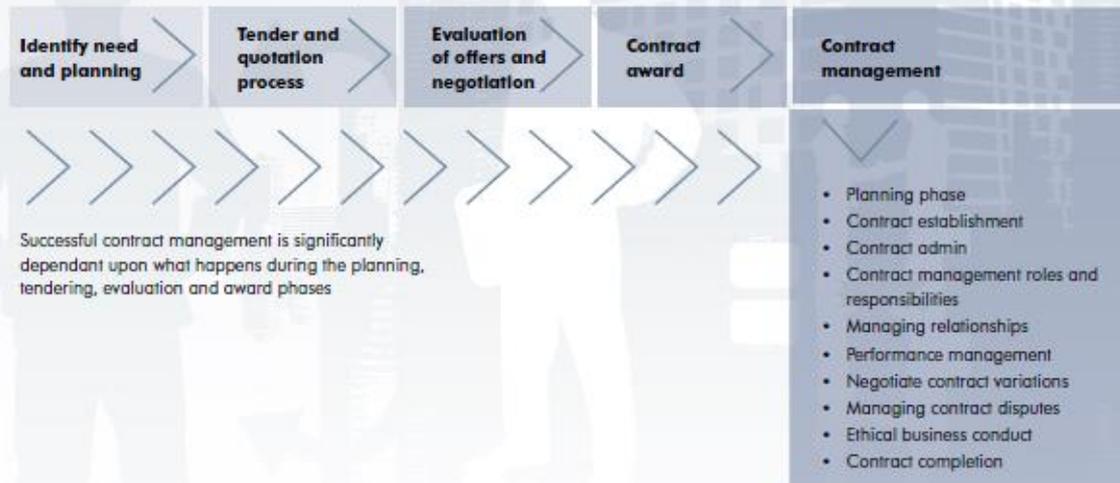


Figure 2: Contract Management in the Context of the Procurement Lifecycle

The contract management phase of the procurement life cycle often receives the least attention and effort until problems arise. However, if we take a typical three-year IT services project and look at the elapsed time by phase, a clear picture is painted of the importance of the contract management phase and the need for both parties to devote appropriate effort and resources.

2-3 months	1 month	1-2 months	1 month	36 months
Planning	Requesting Offers	Evaluation and Negotiation	Award	Contract Management

Figure 3: Profile of time against Procurement Lifecycle Phase for a typical three year IT services project

The Assessment Process

- Be clear on it now / You can't change it later
- What high level weightings are we going to use
- What criteria are we going to use
- What sub weightings will we use
- How will we assess price – Initial up front cost, LCC / whole of life costs / other factors e.g. sustainable procurement (Environment etc.)

Assemble the Document

- Part A – Conditions of Tender
- Part B – Returnable Schedules
- Part C – General Conditions of Contract
- Part D – Special Conditions of Contract (if any)
- Part E – Scope of Work / Specifications
- Part F – Annexures / Attachments

Review the Document

A – Conditions of Tender

- Criteria in Conditions of Tender and Returnable Schedules
- Anything special about this procurement that needs disclosing
- What are we going to disclose (e.g. weightings / budget)
- Are we having a briefing / where / mandatory
- Mandatory criteria?
- Late Tenders

Review the Document

B – Returnable Schedules

- What do we ask for?
- Match with Criteria
- Onerous?

C / D – General / Special Conditions of Contract

- Are we using the right contract?
- Are there any special conditions (safety / insurance / job specific / entity specific)

Review the Document

E – Scope of Work / Specification

- Detailed
- The objective bystander test “would he/she know what you are procuring”
- Consistency
- Objective Consistency

F – Annexures / Attachments

- Is there a difference
- Contract document?

Review the Document

General Comments

- Be consistent
- Incorporate by reference
- Electronic / Physical
- Printed / CD / USB / Linked / Signed



Any Questions?

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