
Construction procurement —

Part 1:

Processes, methods and procedures

Marchés de construction —

Partie 1: Processus, méthodes et procédures

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Foreword

ISO (the International Organization for Standardization) is a worldwide federation of national standards bodies (ISO member bodies). The work of preparing International Standards is normally carried out through ISO technical committees. Each member body interested in a subject for which a technical committee has been established has the right to be represented on that committee. International organizations, governmental and non-governmental, in liaison with ISO, also take part in the work. ISO collaborates closely with the International Electrotechnical Commission (IEC) on all matters of electrotechnical standardization.

The procedures used to develop this document and those intended for its further maintenance are described in the ISO/IEC Directives, Part 1. In particular, the different approval criteria needed for the different types of ISO documents should be noted. This document was drafted in accordance with the editorial rules of the ISO/IEC Directives, Part 2 (see www.iso.org/directives).

Attention is drawn to the possibility that some of the elements of this document may be the subject of patent rights. ISO shall not be held responsible for identifying any or all such patent rights. Details of any patent rights identified during the development of the document will be in the Introduction and/or on the ISO list of patent declarations received (see www.iso.org/patents).

Any trade name used in this document is information given for the convenience of users and does not constitute an endorsement.

For an explanation of the voluntary nature of standards, the meaning of ISO specific terms and expressions related to conformity assessment, as well as information about ISO's adherence to the World Trade Organization (WTO) principles in the Technical Barriers to Trade (TBT), see www.iso.org/iso/foreword.html.

This document was prepared by Technical Committee ISO/TC 59, *Buildings and civil engineering works*, Subcommittee SC 18, *Construction procurement*.

This second edition cancels and replaces the first edition (ISO 10845-1:2010), which has been technically revised.

The main changes compared to the previous edition are as follows:

- definitions and parts of the text have been revised, updated and aligned with other parts of the ISO 10845 series to ensure consistency in concepts and terms;
- the considerations in the development of a procurement policy and provisions for framework agreements have been expanded;
- provisions for a confined market selection procedure and design competitions have been added;
- the informative annexes relating to best value procurement and adjudication procedures to challenge decisions have been withdrawn;
- informative annexes have been substantially revised and two informative annexes addressing differences between categories of procurement and sustainable procurement in construction works contracts have been added.

A list of all parts in the ISO 10845 series can be found on the ISO website.

Any feedback or questions on this document should be directed to the user's national standards body. A complete listing of these bodies can be found at www.iso.org/members.html.

Introduction

Procurement is the process which creates, manages and fulfils contracts. There are accordingly three phases to the procurement process associated with the delivery and maintenance of construction works, namely:

- a planning phase during which decisions are made as to what, where and when goods and services are required, how the market is to be approached and what is the number, type, nature and timing of the required contracts;
- an acquisition phase during which contracts are entered into following the execution of a selection procedure; and
- a contract management (or contract administration) phase during which compliance with requirements, changes in requirements and risk events which manifest during the execution of contracts are managed.

Procurement activities commence once the need for procurement is identified and end when the transaction is completed. There are six principal activities associated with the procurement process, namely:

- a) establish what is to be procured;
- b) decide on procurement strategies in terms of packaging, contracting and targeting strategy and selection method;
- c) solicit tender offers;
- d) evaluate tender offers;
- e) award contract;
- f) administer contracts and confirm compliance with requirements.

Methods, procedures and operational policies are required to implement these principal activities. There is a finite range of methods and procedures associated with the various procurement sub-processes which can be standardized around a set of system objectives.

This document provides a framework around which public, private and international organizations can develop their procurement systems to achieve fair competition, to reduce the possibilities for abuse and to improve predictability in procurement outcomes. It achieves this through the establishment of standard rules for a wide range of procedures and methods and the limits of discretionary powers in the absence of specific requirements for the management and control of the system. Accordingly, any procurement system developed in terms of this document can be managed and controlled by a range of flexible oversight structures or designated persons. Compliance with the aforementioned system requirements can be readily established by merely auditing processes, procedures and methods for compliance with this document and an organization's procurement policy.

Guidance on the application of certain clauses of this document is provided in [Annex A](#). Differences between categories of procurement are indicated in [Annex B](#). Generic procurement processes are described in [Annex D](#). Guidance is provided on sustainable procurement in construction works contracts ([Annex C](#)), the establishment of a procurement system and the management of procurement processes ([Annex E](#)), standard selection methods ([Annex F](#)) and targeted procurement procedures ([Annex G](#)). Suggested auction data is provided in [Annex H](#).

Standardization, apart from removing technical barriers to trade, enables

- those engaged in procurement activities to perform their duties, within the confines of their organization's procurement policy, in a uniform and generic manner;
- procurement documents to be readily compiled in a uniform and generic manner; and

— curricula to be developed to capacitate those engaged in a range of procurement activities.

Furthermore, it allows governments to readily develop an internal procurement-skills base, which is not lost when members of staff move between different departments or levels of government or organizations.

This document is part of a series of International Standards entitled “construction procurement” which covers various aspects of procurement encountered within the construction industry. Each part of the series relates to a different aspect of procurement. The objective of ISO 10845 (all parts) is to provide a generic and standard set of processes, procedures and methods for a procurement system that is fair, equitable, transparent, competitive and cost-effective and which can be used to promote objectives additional to those associated with the immediate objective of the procurement itself.

ISO 10845 (all parts) is especially relevant for developing countries that lack experience and instruments in this field and can be used to improve international trade.

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Construction procurement —

Part 1: Processes, methods and procedures

1 Scope

This document describes processes, methods and procedures for the establishment within an organization of a procurement system for goods, services, and construction works or disposals, or any combination thereof that is fair, equitable, transparent, competitive and cost-effective. This document

- a) describes generic procurement processes around which an employer can develop its procurement system,
- b) establishes basic requirements for the conduct of an employer's employees, agents, board members and office bearers when engaging in procurement,
- c) establishes the framework for the development of an employer's procurement policy, including any secondary procurement policy, and
- d) establishes generic methods and procedures for procurements, including those pertaining to disposals.

This document provides a generic and standard set of processes, procedures and methods for a procurement system which can be applied by both the public and private sector organizations in the development of their procurement system. The principles contained in this document can also be applied down the supply chain.

This document enables organizations to develop in the first instance a generic procurement system and then to identify the methods and procedures best suited to particular categories of procurement.

2 Normative references

There are no normative references in this document.

3 Terms and definitions

For the purposes of this document, the following terms and definitions apply.

ISO and IEC maintain terminological databases for use in standardization at the following addresses:

- ISO Online browsing platform: available at <https://www.iso.org/obp>
- IEC Electropedia: available at <http://www.electropedia.org/>

3.1

acceptance

act of agreeing to a *contractor's* (3.9) offer or tender, thereby creating a binding *contract* (3.7)

[SOURCE: ISO 6707-2:2017, 3.5.16]

3.2
agent

person or *organization* (3.21) that is not an employee of the *employer* (3.15) and that acts on the employer's behalf

3.3
bill of quantities

document for tendering, usually prepared in a standard form, comprising both a descriptive list of quantities of works and descriptions of the materials, workmanship and other matters required for construction works

[SOURCE: ISO 6707-2:2017, 3.5.11, modified — The preferred term "bill of materials, US" and the admitted term "quantity survey, US" have been removed.]

3.4
bond

sum of money or securities submitted to the *employer* (3.15) or placed in the hands of a third party to guarantee completion and recovery of the sums which the *contractor* (3.9) is recognized as owing under the terms of *contract* (3.7)

[SOURCE: ISO 6707-2:2017, 3.5.40, modified — "client" has been replaced with "employer".]

3.5
conditions of contract

terms that collectively describe the rights and obligations of contracting parties and the agreed procedures for the administration of their *contract* (3.7)

3.6
conflict of interest

situation in which someone in a position of trust has competing professional or personal interests which make it difficult for the person to fulfil the duties impartially, an individual or *organization* (3.21) is in a position to exploit a professional or official capacity in some way for personal or for corporate benefit, or incompatibility or contradictory interests exist between an employee and the organization which employs that employee

3.7
contract

legally enforceable agreement to supply goods, carry out construction works and/or provide services

[SOURCE: ISO 6707-2:2017, 3.1.1]

3.8
contract data

document that identifies the applicable conditions of a *contract* (3.7) and states the associated contract-specific data

3.9
contractor

person or *organization* (3.21) that contracts to supply goods, carry out construction works and/or provide services

Note 1 to entry: The use of the generic term "contractor" eliminates the need to introduce the terms "service provider" and "supplier" as it has been defined to cover these terms.

Note 2 to entry: The definitions for "employer" and "contractor" are such that relevant subclauses of this document can be applied at any point in the supply chain. For example, in a contract, a "contractor" can be an "employer" and a "contractor" can be a "subcontractor".

3.10**corrupt practice**

offering, giving, receiving or soliciting of anything of value to influence the action of the *employer* (3.15) or his staff or *agents* (3.2) in the *procurement* (3.24) process or the administration of the *contract* (3.7)

3.11**cost plus contract**

cost reimbursement contract (3.12) under which the *contractor* (3.9) is paid for their actual expenditure plus a percentage or other sum as previously agreed

[SOURCE: ISO 6707-2:2017, 3.4.11]

3.12**cost reimbursement contract**

contract (3.7) based on costs expended

[SOURCE: ISO 6707-2:2017, 3.4.10]

3.13**electronic auction**

repetitive process involving an electronic device for the presentation of new prices, revised downwards or new values concerning certain elements of tenders (or both), and which occurs after an initial full evaluation of the tenders, enabling them to be ranked using an automatic evaluation method

3.14**eligibility criteria**

criteria framed around the ability of a *respondent* (3.28) or *tenderer* (3.39) to provide the required goods, services and construction works or disposals, or any combination thereof, which need to be satisfied in order for a submission to be evaluated

3.15**employer**

person or *organization* (3.21) intending to or entering into a *contract* (3.7) with the *contractor* (3.9) to supply goods, carry out construction works and/or provide services

Note 1 to entry: The definitions for “employer” and “contractor” are such that relevant subclauses of this document can be applied at any point in the supply chain. For example, in a contract, a “contractor” can be an “employer” and a “contractor” can be a “subcontractor”.

3.16**expression of interest**

request for *respondents* (3.28) to register their interest in undertaking a specific *contract* (3.7) or to participate in a *project* (3.26) or programme and to submit their credentials so they can, in terms of the *employer's* (3.15) *selection methods* (3.31), be invited to submit a *tender offer* (3.38) should they qualify or be selected to do so

3.17**framework agreement**

agreement between an *employer* (3.15) and a *contractor* (3.9), the purpose of which is to establish the terms governing *orders* (3.20) to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged

3.18**fraudulent practice**

misrepresentation of the facts in order to influence the tender process, the award of a *contract* (3.7) arising from a *tender offer* (3.38) to the detriment of the *employer* (3.15), including collusive practices intended to establish prices at artificial levels, or the administration of the contract including compensation procedures

3.19

joint venture

two or more *contractors* (3.9) grouped together to carry out work and share the risks, where each is jointly and severally liable for the actions and work of the other

[SOURCE: ISO 6707-2:2017, 3.8.3, modified — “organizations” has been replaced with “contractors”.]

3.20

order

instruction to supply goods, carry out construction works and/or provide services under a *framework agreement* (3.17)

3.21

organization

company, firm, enterprise, association or other legal entity, whether incorporated or not, or public body

3.22

price adjustment

amount to be added or to be deducted from the *contract* (3.7) price in accordance with the terms of the contract by way of allowances for increases or decreases in the costs of labour, plant, materials and/or equipment occurring during the performance of the contract

3.23

principal

owner, partner, director or office bearer

3.24

procurement

process which creates, manages and fulfils *contracts* (3.7) relating to the provision of goods, services and construction works or disposals, or any combination thereof

[SOURCE: ISO 6707-2:2017, 3.5.18]

3.25

procurement document

documentation used to initiate or conclude (or both) a *contract* (3.7)

3.26

project

contract (3.7) or a series of related contracts or *orders* (3.20)

3.27

quality

totality of features and characteristics of a product or service that bears on the ability of the product or service to satisfy stated or implied needs

3.28

respondent

person or *organization* (3.21) that submits an *expression of interest* (3.16) in response to an invitation to do so

3.29

scope of work

document that specifies and describes the goods, services, or construction works which are to be provided, and any other requirements and constraints relating to the manner in which the *contract* (3.7) work is to be performed

Note 1 to entry: The term “scope of work” is a generic term that may be used to describe that which is commonly referred to in forms of contract and publications as

- a) supply contract: scope, goods information or specifications,

- b) service contract: scope, services information, specifications, scope of services, terms of reference or technical specification, and
- c) construction contracts: works information, production information, specifications, project specifications, specifications, performance requirements, specification of work or scope.

Note 2 to entry: The term “scope of work” is also sufficiently broad to include design and procurement requirements in design and construct, develop and construct and management contract contracting strategies relating to construction contracts (see ISO 10845-2).

3.30

secondary procurement policy

procurement (3.24) policy that promotes objectives additional to those associated with the immediate objective of the procurement itself

3.31

selection method

method by which *tender offers* (3.38) are solicited from the market

3.32

submission data

document that establishes the *respondent's* (3.28) obligations in responding to a call for an *expression of interest* (3.16) and the *employer's* (3.15) undertakings in administering the process of calling for and receiving expressions of interest

3.33

suitable

capable of fulfilling or having fulfilled the intended function, or fit for its intended purpose

3.34

sustainability

state of the global system, including environmental, social and economic aspects in which the needs of the present are met without compromising the ability of future generations to meet their own needs

Note 1 to entry: The environmental, social and economic aspects interact and are interdependent and are often referred to as the three dimensions of sustainability.

[SOURCE: ISO 6707-3:2017, 3.1.2, modified — Note 2 to entry has been removed.]

3.35

target cost contract

cost reimbursement contract (3.12) under which a preliminary target cost is estimated and, on completion of the work, the difference between the target cost and the actual cost is apportioned between the *employer* (3.15) and *contractor* (3.9) on an agreed basis

[SOURCE: ISO 6707-2:2017, 3.4.12, modified — The preferred term “estimated cost contract, US” and the admitted term “percentage contract, US” have been removed; “client” has been replaced with “employer”.]

3.36

targeted procurement procedure

process used to create a demand for the services or goods (or both) of, or to secure the participation of, targeted enterprises and targeted labour in *contracts* (3.7) in response to the objectives of a *secondary procurement policy* (3.30)

3.37

tender data

document that establishes the *tenderer's* (3.39) obligations in submitting a tender and the *employer's* (3.15) undertakings in administering the tender process and evaluating *tender offers* (3.38)

3.38

tender offer

written offer to supply goods, carry out construction works and/or provide services under given conditions, usually at a stated price, and which is capable of *acceptance* (3.1) and conversion into a binding *contract* (3.7)

3.39

tenderer

person or *organization* (3.21) that submits a *tender offer* (3.38)

Note 1 to entry: The terms tender and tenderer have been used in preference to “bid” and “bidder”. The terms “bid” and “bidder” are used in this document in the context of auctions.

3.40

value for money

optimal use of resources to achieve intended outcomes

Note 1 to entry: optimal use of resources results in the most desirable possible outcomes given expressed or implied restrictions or constraints.

4 Establishing a procurement system

4.1 General

4.1.1 Developing and documenting the system

An employer shall develop and document its procurement system

- a) in a manner which is fair, equitable, transparent, competitive and cost-effective and which may, subject to the policies of an employer and any prevailing legislation, include the promotion of other objectives, in accordance with the requirements of [Table 1](#), and
- b) around a process which commences once the need for procurement is identified, ends when the transaction is completed and includes the attainment of procedural milestones which enable the system to be controlled and managed (see [Annex D](#)).

The employer's executive shall designate persons to undertake the actions associated with the attainment of procedural milestones (see [Annex E](#)).

NOTE [Annex D](#) provides generic procurement processes which incorporate activities linked to procedural milestones. A procurement system can be developed around these generic processes.

4.1.2 Responding to decisions taken

The employer shall provide, upon request, written reasons to respondents and tenderers for any decisions that are taken during a call for an expression of interest and an invitation to tender, but may withhold information which

- a) would not be in the public interest to be divulged,
- b) is considered to prejudice the legitimate commercial interests of tenderers and respondents, or
- c) might prejudice fair competition between tenderers.

Organizations should consider, when developing their procurement systems, how challenges resulting from the outcomes of the tender process should be dealt with.

4.2 Conduct of employees, agents and contractors

4.2.1 Code of conduct

Taking all legal obligations into consideration, the employer shall establish a code of conduct for procurement to regulate the actions of its employees, agents, public office bearers or board members. Such a code shall at least require that these persons

- a) discharge their duties and obligations on time and with integrity,
- b) behave equitably, honestly and transparently,
- c) avoid conflicts of interest and, where a conflict of interest is known, declare and address that conflict,
- d) not maliciously or recklessly injure, or attempt to injure, the reputation of another party, and
- e) not engage in anti-competitive practices.

NOTE ISO 10845-3 deals with the manner in which conflicts of interest are to be dealt with during the process of offer and acceptance. [Annex A](#) provides guidance on how to deal with conflicts of interest in a number of situations.

Table 1 — Basic procurement system requirements

Attribute	Basic system requirement
Fair	The process of offer and acceptance is conducted impartially without bias and provides participating parties simultaneous and timely access to the same information. Terms and conditions for performing the work do not unfairly prejudice the interests of the parties.
Equitable	The process of offer and acceptance is fair and just. The only grounds for not awarding a contract to a tenderer who complies with all requirements are restrictions from doing business with the employer, lack of capability or capacity, legal impediments and conflicts of interest.
Transparent	The procurement process and criteria upon which decisions are to be made are publicized. Decisions (award and intermediate) are made publicly available, together with reasons for those decisions. It is possible to verify that criteria were applied. The requirements of procurement documents are presented in a clear, unambiguous, comprehensive and understandable manner.
Competitive	The system provides for appropriate levels of competition to ensure fair and cost-effective outcomes.
Cost-effective	The processes, procedures and methods are standardized with sufficient flexibility enabling best-value outcomes in respect of quality, timing and cost and least resources to effectively manage and control procurement processes. Decision making focusses on the attainment of value for money through the evaluation of relevant costs and benefits together with the assessment of risks.
Promotion of other objectives	The system may incorporate measures to promote objectives associated with a secondary procurement policy (see 4.4) subject to qualified tenderers not being excluded and deliverables or evaluation criteria being measurable, quantifiable and monitored for compliance.

4.2.2 Disciplinary action

Employers should discipline their employees, agents, public office bearers or board members who contravene the requirements of their code of conduct for procurement.

Employers may place contractors or their principals (or both) who have engaged in corrupt and fraudulent practices under restrictions from participating in the employer's procurement for periods

of time. Contractors and persons placed under restrictions shall be advised of the restriction and the reason for it.

NOTE 1 The standard conditions of tender contained in ISO 10845-3 require both the employer and each tenderer to discharge their duties and obligations on time and with integrity, behave equitably, honestly and transparently, comply with all legal obligations, not engage in anti-competitive practices and avoid conflicts of interest.

NOTE 2 A conflict of interest can exist even if there are no improper acts as a result of it. This can arise due to a conflict of roles which can provide an incentive for improper acts in some circumstances. A conflict of interest can create an appearance of impropriety that can undermine confidence in the ability of that person to act properly in his position.

NOTE 3 Conflicts of interest in respect of those engaged in the procurement process include direct, indirect or family interests in the tender or outcome of the procurement process, and any personal bias, inclination, obligation, allegiance or loyalty which would in any way affect any decisions taken.

4.3 Procurement policy

The employer's executive shall, taking into account all laws governing procurement processes and laws governing contracts locally and internationally, develop and document a procurement policy which should, as necessary, establish

- a) the arrangements for managing procurement processes (see [Annex E](#)) including
 - 1) delegations and/or the assignment of responsibilities for taking actions at procurement gates, approval gates for selection methods, framework agreement gates and at gates relating to the interface with a financial management system, as relevant;
 - 2) the composition and terms of reference of governance structures which approve procurement documents, finalise evaluation reports and accept recommendation to award a contract and procedures relating thereto including the awarding of tenders and the issuing of orders,
- b) the standard selection methods listed in [Table 2](#) and described in [6.3](#) which may be applied to categories of procurement and under what circumstances,
- c) whether or not framework agreements may be utilized, and if so, what is the maximum term of framework agreements that may be permitted (see [6.4.1](#)),
- d) the employer's secondary procurement policy, if any, in accordance with the requirements of [4.4](#),
- e) requirements for recording and reporting,
- f) ethical standards for those involved in the procurement and delivery of construction works including issues of bribery and corruption (see ISO 37001),
- g) how conflicts of interest are to be dealt with,
- h) the legal requirements, if any, which will be sufficient grounds for the employer to decline to enter into a contract, in terms of [6.7](#),
- i) the employer's procedures for placing contractors and persons under procurement restrictions,
- j) advertising arrangements for the calling for tender submissions and expressions of interest,
- k) which standard forms of contract and industry standards may be incorporated by reference in procurement documents and how procurement documents shall be formatted and compiled (see ISO 10845-2),
- l) which standard conditions of tender (e.g. ISO 10845-3) and standard conditions for the calling for expressions of interest (e.g. ISO 10845-4) shall be adopted,
- m) levels of retention and bonds in the various categories of procurement, if any,

- n) insurance arrangements, if any,
- o) quality standards,
- p) health and safety policy,
- q) the cost of procurement documents, if any (see 6.6.2),
- r) the procedures for unsolicited proposals (see 6.9),

Table 2 — Standard selection methods

Selection method		Description
1	Negotiation	A tender offer is solicited from a single tenderer.
2	Competitive selection	Any selection method in which the contract is normally awarded to the contractor who submits the lowest financial offer or obtains the highest number of tender-evaluation points.
	A Nominated	Tenderers that satisfy prescribed criteria are entered into an electronic database. Tenderers are invited to submit tender offers based on search criteria and, if relevant, their position in the database. Tenderers are repositioned in the database upon appointment or upon submission of a tender offer.
	B Open	Tenderers may submit tender offers in response to an advertisement by the employer to do so.
	C Qualified	A call for expressions of interest is advertised and thereafter only those tenderers who have expressed interest, satisfy objective criteria and who are selected to submit tender offers, are invited to do so.
	D Quotation	Tender offers are solicited from not less than three tenderers in any manner the employer chooses, subject to the procedures being fair, equitable, transparent, competitive and cost-effective.
	E Proposal procedure using the two-envelope system	Tenderers submit technical and financial proposals in two envelopes. The financial proposal is only opened if the technical proposal is found to attain the minimum threshold score.
	F Proposal procedure using the two-stage system	Non-financial proposals are called for. Tender offers are then invited from those tenderers that submit acceptable proposals based on revised procurement documents. Alternatively, a contract is negotiated with the tenderer scoring the highest number of evaluation points.
	G Confined market	Tenders are invited from a limited number of tenderers who are able to provide goods, services or construction works which are not freely available in the market, or which are provided solely for the employer in accordance with unique requirements.
H Shopping	Written or verbal offers are solicited in respect of readily available goods obtained from three sources. The goods are purchased from the source providing the lowest financial offer once it is confirmed in writing.	
3	Competitive negotiation	A selection method which reduces the number of tenderers competing for the contract through a series of negotiations until the remaining tenderers are invited to submit their final offers.
	A Restricted competitive negotiations	A call for expressions of interest is advertised and thereafter only those tenderers who have expressed interest, satisfy objective criteria and who are selected to submit tender offers, are invited to do so. The employer evaluates the offers and determines who may enter into competitive negotiations.
	B Open competitive negotiations	Tenderers may submit tender offers in response to an advertisement by the employer to do so. The employer evaluates the offers and determines who may enter into competitive negotiations.

Table 2 (continued)

	Selection method	Description
4	Electronic auction	Tender submissions are initially evaluated using stated methods and criteria. All tenderers who submit responsive tenders are invited simultaneously, by electronic means, to submit new evaluation parameters and have their evaluation scored, without having their identity made known to other tenderers. Tenderers may amend their offers up until the time when the auction is closed.

NOTE 1 [Annex E](#) provides guidance on establishing, managing and controlling procurement processes. [Annex F](#) provides guidance on the selection of standard selection methods.

NOTE 2 Employers are responsible for the correct application of the processes, methods and procedures contained in this document and for ensuring consistency with prevailing legislation.

- s) departures from procedures (see [6.10](#)),
- t) the language in which procurement documents are prepared and the language for communications,
- u) the preferred means of communication (see [4.6](#)),
- v) the manner in which disputes are to be resolved,
- w) whether or not agents and contractors that are commissioned to prepare a procurement document or part thereof for a particular procurement shall be excluded from submitting a tender for that procurement even if it is determined that the outputs of their commission and the procurement document is objective and unbiased with regard to their role and recommendations, and
- x) whether or not use may be made of contracts awarded by other organizations for economies of scale and improved purchasing power.

4.4 Secondary procurement policy

4.4.1 General requirements

4.4.1.1 Minimum requirements

The employer's executive shall develop and document the employer's secondary procurement policy, if any, which, as a minimum, shall

- a) establish the specific objectives that are to be pursued, such as those pertaining to the promotion of small and medium enterprises (SMEs), poverty alleviation, job creation, local economic development, business equity, HIV/AIDS prevention, skills transfer, skills development, construction industry development, quality standards, environmental standards, sustainability, minimizing the environmental impacts of the goods and construction works over their whole life etc.,
- b) identify targeted procurement procedures that may be used, as well as any limitations placed on their use or application, and
- c) establish recording and reporting requirements associated with a) and b) above.

NOTE 1 ISO 20400 provides guidance on the integration of sustainability within procurement. [Annex C](#) provides guidance on sustainable procurement in construction works contracts.

NOTE 2 [Annex G](#) provides information on the range of targeted procurement procedures that might be applicable.

4.4.1.2 Contract-specific goals

Contract-specific goals (deliverables or key performance indicators (KPIs)) relating to a secondary procurement policy should be capable of being measured, verified and audited and should be achievable within the contract period, unless

- a) specific arrangements are put in place to monitor and enforce compliance after the contract has been completed,
- b) they are measured before the award of a contract and maintained for the duration of the contract, or
- c) they are assessed in terms of objective criteria or an evidence-based system of evaluation before the award of the contract.

NOTE 1 Environmental impacts (see ISO 19208) can be reduced by selecting

- products that are reusable, recyclable or contain recycled content, and
- design, manufacturing, production, distribution and service processes that reduce the use of resources (energy, water); reduce greenhouse gas emissions; minimize the release of toxic substances; and minimize waste disposal to landfills.

NOTE 2 The targeted procurement procedures set out in [Annex G](#) provide a framework within which

- access to markets can be provided for targeted enterprises and targeted labour,
- incentives can be provided for contractors to satisfy the objectives of an employer's secondary procurement policy in the performance of the contract, and
- the participation of targeted enterprises and targeted labour can be secured or promoted in contracts.

NOTE 3 When formulating specific goals, consideration can be given to measures to prevent fraudulent practices, the application of sanctions as an instrument to promote compliance and the implementation of supply-side interventions (see [Annex G](#)).

NOTE 4 SANS 1921-6 enables requirements for the prevention of HIV/AIDS to be incorporated in the scope of work of a contract.

4.4.1.3 Break-out procurement

The breaking down of projects into smaller contracts (unbundling) (see [Annex G](#)) should only be undertaken when

- a) there is administrative capacity to administer the increased number of contracts that result from the unbundling of the project; and
- b) the unbundling does not result in an inappropriate division of responsibilities, increased contractual risk, duplication of establishment charges and under-utilization of resources.

4.4.2 Requirements relating to the granting of evaluation points

4.4.2.1 General

Tenderers and respondents shall be advised of all evaluation points offered by the employer for contract-specific goals in relation to a particular procurement, the conditions relating thereto and the manner in which such goals will be evaluated.

The weighting between contract-specific goals and other evaluation criteria at the shortlisting stage or in the evaluation of tenders shall be fair and equitable (see [Annex G](#)).

4.4.2.2 Evaluating contract-specific goals

Tender-evaluation points for contract-specific goals should be granted using one of the following methods:

- a) award a fixed number of points for attaining a specific goal;
- b) award a variable number of points in proportion to the degree to which a tenderer responds to a particular goal (i.e. in proportion to the quantum of the goal offered);
- c) award points on a comparative basis in terms of which
 - 1) the best offer received scores the maximum number of allotted points,
 - 2) the worst offer scores no points, and
 - 3) the remaining offers are scored between the limits of 1) and 2).

As a general rule, the number of specific goals for which tender-evaluation points are awarded should be kept to a minimum, in order to ensure efficiency in administration and monitoring for compliance, promote greater clarity of requirements in procurement documents, and maintain focus on the primary policy objectives.

NOTE The granting of too wide a range of contract-specific goals can lead to a situation whereby most tenderers become eligible for the awarding of evaluation points. This can undermine the thrust and intent of the use of tender-evaluation points to promote contract-specific goals.

4.4.2.3 Formulating contract-specific goals

Goals relating to contributions to sustainability should be formulated in accordance with the provisions of ISO 19208.

Goals relating to the participation of targeted enterprises and targeted labour should be based on the attainment of contract-participation goals as measured in accordance with the requirements of ISO 10845-5, ISO 10845-6, ISO 10845-7 or ISO 10845-8.

Tender-evaluation points awarded in respect of the structure of the contracting entity should be subject to the tenderer undertaking to maintain such a structure within nominated requirements for the duration of the contract and to limit the quantum of work subcontracted to firms not contributing to such goals.

Goals relating to development issues that are unrelated to a specific contract, such as the granting of bursaries, staff training, the provision of housing, education and transport to members of staff and their dependents, donations to community organizations, etc., should be based on amounts paid and certified by auditors, and expressed as a percentage of audited turnover or wage bills.

NOTE 1 Evaluation points relating to the targeting of enterprises on the basis of geographic locations can be based on the conducting of business from premises located in defined geographic locations, as evidenced from indicators such as payment of rentals or bonds for premises and payment for service charges, levies, rates and taxes to a local or regional authority.

NOTE 2 Evaluation points relating to the targeting of labour on the basis of geographic locations can be based on residency as recognized by members of the community residing within that area.

4.4.3 Requirements relating to accelerated rotations in electronic databases

The formulation for accelerating work opportunities for targeted enterprises in rotating electronic databases (see 4.5) should be such that

- a) non-targeted enterprises obtain a reasonable opportunity to tender for work, and

- b) the rate of rotation for targeted enterprises decreases as the number of such enterprises grows, so that a point is reached whereby the accelerated rotation serves no further purpose (see [Annex G](#)).

4.5 Rotating electronic databases

4.5.1 Operating principles

A rotating electronic database linked to the nominated procedure shall be designed and implemented around the following principles:

- a) calls for expressions of interest for admission to the database in specified fields of services and goods are made at least once a year in suitable media and in a manner that enables a wide spectrum of qualified respondents to respond to the call;
- b) only those respondents who comply with all the employer's requirements for the award of a contract and possess the capability to provide the goods or perform the service or work in a specified field of service or supply are admitted to the database;
- c) all admissions to the database are listed sequentially after an initial ranking in terms of a random number generator;
- d) new admissions are entered at the bottom of the database in the sequence that they are received;
- e) a transaction (negotiated contract or invitation to tender) is made with the highest ranking entry that satisfies the search criteria relating to a field of service or supply;
- f) after a transaction, all those involved in the transaction, i.e. those who declined an appointment, those invited to submit tenders and those that were awarded a contract, are moved to the bottom of the database;
- g) those admitted to the database are admitted for a period of not more than three years on condition that they advise the administrator of the database of any changes in contact particulars and parameters which might result in them no longer satisfying the admission criteria upon becoming aware of any such changes.

Provision may be made for the accelerated rotation of targeted enterprises (see [Annex G](#)), subject to the requirements of [4.4.3](#).

Respondents should be entered into the database whenever they choose to submit an application which complies with the entry requirements. The employer shall advise respondents in writing of the administrative action taken regarding their submission, i.e. whether or not they have been entered, and if not, on what grounds.

NOTE 1 This procedure creates a "black box" approach in that it removes subjectivity and cannot be manipulated as it is impossible to predict who is next in line. This greatly improves transparency.

NOTE 2 Rotating electronic databases are well suited to routine and recurring professional service appointments.

4.5.2 Software requirements

4.5.2.1 Minimum requirements

The nominated procedure shall only be utilized when a policy, operational procedures and appropriate software associated with the operation of an electronic database are in place.

The software associated with an electronic database shall, as a minimum, be capable of

- a) registering entries in an electronic database in fields of services or types of goods or, if relevant, their geographical location,

- b) ranking entries in the database in terms of date of entry to the system and, where applicable, their preferred status in terms of a secondary procurement policy (see 4.4.3 and Annex G),
- c) selecting a single entry for a low-value contract or a limited number of entries (not less than five) to submit tender offers, based on their rankings in the database and specific criteria such as locality, services or goods offered, and specific capabilities,
- d) electronically notifying identified or shortlisted entries of any business opportunities by short message service (SMS) or email (or both),
- e) repositioning entries (whether successful or not) in the database at new positions dependent on their preferred enterprise status, if relevant (see Annex G),
- f) minimizing fraudulent manipulation of the database by persons in the employ of the employer to secure nominations for registered enterprises, and
- g) reporting on all procurement transactions.

All records of admissions, deletions and transactions in the database should be stored electronically for a period of five years.

NOTE The system can be set up in such a manner that those admitted to the database are able to amend their particulars online and report any changes which will affect their prequalification or admission status.

4.5.2.2 Publicly accessible information

The following information should, as a minimum, be accessible to the public via a website:

- a) the names, geographic location, targeted enterprise status, if applicable, and fields of service or supply of all entries (and offices) admitted to the database in a searchable format, based on fields of service or supply;
- b) the relative position of the entries from the top of the database, described in the following bands:
 - 1) band 1: position between 0 % and 25 % from the top,
 - 2) band 2: position between 25 % and 50 % from the top,
 - 3) band 3: position between 50 % and 75 % from the top,
 - 4) band 4: position between 75 % and 100 % from the top.

The following information relating to transactions and award of contracts:

- contract title;
- contract number;
- project reference number;
- required field;
- geographical area within which project falls, if relevant;
- name of entry invited to negotiate contract or names of entries invited to submit tenders;
- name of contractor awarded contract, contract price including VAT (value-added tax) and, where applicable, scores for financial offer, quality and preference.

4.5.3 Conduct of those admitted to the database

Respondents who are admitted to the electronic database shall abide by the employer's code of conduct and shall

- a) maintain the accuracy of the data stored in the database and notify the administrator, in writing, of
 - 1) any changes in composition which will affect its target group status, if any, and
 - 2) any change in the particulars which will disqualify the contractor from being in the database or in any field of service or supply, and
- b) discharge all contractual obligations on time and in accordance with the provisions of the contract.

Any attempt to exploit or influence the operation of the electronic database by misrepresentation of information used in the admittance to or operation of the electronic database shall be deemed to constitute misconduct. Repeated declining to submit a tender or enter into a contract following a nomination may also be regarded as misconduct.

Those who are found to be guilty of misconduct may, in terms of an employer's disciplinary procedures, be removed from the electronic database for a period of time.

4.6 Means of communication

All communication and information exchange should be sent by post, by fax or by electronic means, provided that such means is generally available and interoperable with the information and communication technology products in general use, or by a combination of these means, according to the preference of the employer.

The means of communication chosen shall be generally available and thus not unreasonably restrict a respondent's or tenderer's access to a selection method.

4.7 Devices relating to the electronic receipt of submissions

Devices for the electronic receipt of submissions shall, as a minimum, guarantee, through technical means and appropriate procedures, that

- a) electronic signatures, where relevant, relating to tender submissions or requests to participate comply with the requirements of prevailing legislation,
- b) the exact time and date of the receipt of tender submissions or requests to participate can be determined precisely,
- c) it can be reasonably ensured that, before the time limits which are laid down, no one may have access to data transmitted under these requirements, and, if access is breached, the infringement is detectable,
- d) only authorized persons may set or change the dates for opening data received, and
- e) during the different stages of the contract award procedure, access to all data submitted, or to part thereof, is possible only by authorized persons after the prescribed date.

5 Preparing for procurement

5.1 Preparation for a procurement other than a disposal

5.1.1 Initial considerations

Each time an employer undertakes a procurement, it should commence by establishing the following (see [Annex D](#)):

- a) the broad scope of work (see ISO 10845-2) associated with the procurement, including aspects such as
 - 1) sustainability (social, economic and environmental aspects – see ISO 15392 and [Annex C](#)),
 - 2) health and safety,
 - 3) considerations involving the service life construction works (see ISO 15686 (all parts));
- b) the need and justification for the procurement;
- c) if it is possible to avoid unnecessary consumption through demand management initiatives or by considering alternatives, reuse, repurposing, recycling, refurbishment or reconditioning or the acquiring of second-hand or used items;
- d) the estimated market-related costs, whole-life costs and benefits of the procurement;
- e) the resources and expertise available for the management, administration and supervision of the procurement;
- f) the risks associated with the procurement;
- g) the public authorities, if any, which should be consulted in connection with the procurement;
- h) the secondary procurement policies and targeted procurement strategies (see [Annex G](#)), if any, which apply to the contract or project;
- i) the appropriate contracting strategy;
- j) the appropriate selection method(s) (see [Table 2](#));
- k) the funding source(s) for the contract or project.

5.1.2 Readiness to solicit tender offers

Tender offers should not be solicited unless and until

- a) the necessary resources to administer the contract or project have been obtained or put in place,
- b) all the necessary organizational approvals for the project or contract have been obtained,
- c) organizational approval has been obtained for the selected contracting strategy, for the selection method, and, where a secondary procurement policy is to be pursued, for the targeting strategy,
- d) all necessary feasibility studies, impact assessments, preliminary investigations and life-cycle costs commensurate with the selected contract strategy have been completed and their outcomes captured in the procurement documents,
- e) all the necessary and appropriate procurement documents have been prepared and approved,
- f) the need for the procurement, the financial and technical viability of the proposed procurement, and the employer's firm intention of proceeding with the procurement is confirmed,

- g) the funding for, or the arrangements for, the financing of the contract or project are in place;
- h) a procurement plan which indicates the timeline for advertising and closing of tenders, and the obtaining of the necessary approvals (see [Annexes C](#) and [E](#)) leading up to the award of the contract or the issuing of an order has been developed.

5.1.3 Records

The employer shall keep written records of all decisions and determinations made, as well as the reasons and details relating thereto.

5.2 Preparation for a disposal

5.2.1 Initial considerations

Each time an employer intends to undertake a disposal, it should commence by establishing

- a) the need and justification for the disposal,
- b) the estimated market-related costs and benefits of the disposal,
- c) the resources and expertise available for the management, administration and supervision of the disposal,
- d) the risks associated with the disposal, including those relating to sustainability and health and safety,
- e) the secondary procurement policies, if any, which will apply to the disposal, and
- f) the appropriate disposal procedure (see [6.3.5](#)).

5.2.2 Readiness to proceed

A disposal should not be proceeded with unless and until

- a) all the necessary approvals for the disposal have been obtained from the employer's executive,
- b) all relevant legislation has been complied with,
- c) an appropriate disposal procedure has been decided upon,
- d) the total revenue which might be realized through the proposed disposal has been estimated,
- e) all necessary and appropriate procurement documentation has been prepared in accordance with the requirements of [6.2](#), insofar as the requirements can be applied,
- f) the need and justification for the proposed disposal have been confirmed, and
- g) the employer's firm intention of proceeding with the disposal has been established.

5.2.3 Records

The employer shall make and keep records of all decisions made.

6 Procurement methods and procedures

6.1 General

Tenderers may submit tenders as a joint venture, provided that before the contract is awarded to the joint venture, all the partners enter into a joint-venture agreement which jointly and severally binds the partners to perform the contract. However, where the qualified procedure is used, short-listed

respondents who elect to enter joint ventures after the shortlisting stage shall, if required in terms of the tender data, obtain the employer's permission to do so.

Any negotiations or discussions with respondents or tenderers shall be conducted in an open, competitive, transparent and fair manner and shall not be used as an opportunity to trade-off one tenderer's financial offer against another tenderer's financial offer in order to obtain lower prices or to provide any tenderer with a second or unfair advantage.

An employer shall be justified in rejecting all tender submissions only if such submissions are non-responsive and are unsuitable, either because they do not fully comply with the requirements or involve costs substantially higher than the budget.

Agents and contractors that are commissioned to prepare a procurement document or part thereof for a particular procurement may, unless otherwise precluded from doing so in terms of the employer's procurement policy, only submit a tender for that procurement if it is determined that the outputs of their commission and the procurement document is objective and unbiased with regard to their role and recommendations.

6.2 Procurement documentation

6.2.1 General requirements

Procurement documents shall, as relevant,

- a) be prepared in accordance with the employer's procurement policy,
- b) be prepared in the language stated in the employer's procurement policy,
- c) present requirements in a clear, unambiguous, comprehensive and understandable manner,
- d) where a nominated or qualified procedure is used, require respondents to register their interest in undertaking a specific contract or to participate in a project or programme and to submit their credentials for the employer to admit them to an electronic database or invite them to submit tenders, should they qualify or be selected to do so,
- e) require tenderers to submit particulars sufficient for the employer to evaluate their tenders and to establish their credentials, and to assess their capabilities and capacities to perform the contract,
- f) set out, in a clear and unambiguous manner, the criteria by which tenders are to be evaluated,
- g) define the risks, liabilities and obligations of the parties to the contract and the procedures for the administration of the contract, and
- h) define the nature, quality and quantity of goods, services or construction works to be provided in the performance of the contract.

NOTE ISO 10845-2 establishes

- a uniform format for the compilation of calls for expressions of interest, tender documents and contract documents; and
- the general principles for compiling procurement documents.

6.2.2 Basic terms and conditions

The terms and conditions of the contract should not contain unreasonable provisions which could unfairly prejudice the interests of any party.

Procurement documents should contain provisions for

- a) price adjustments to reflect changes in economic conditions, where appropriate, and

- b) if permitted in terms of the laws of the country, interest, based on the cost to the contractor of borrowing money on the commercial market, on money due to the contractor, where payment is not settled within the time period stated in the contract, to deter late payment.

6.2.3 Submission data

Submission data associated with a call for an expression of interest shall

- a) bind the employer and respondent to behave in a particular manner,
- b) establish what a respondent shall do to submit a compliant submission,
- c) make known to a respondent the criteria by which he will be evaluated, and
- d) establish the manner in which the employer will conduct the process of the calling for expressions of interest.

The submission data shall comply with the procurement system requirements of [4.1](#).

NOTE ISO 10845-4 provides standard conditions for the calling for expressions of interest which enable, and submission data which comply with, the requirements of this document to be readily satisfied.

6.2.4 Tender data

Tender data associated with a tender shall

- a) bind the employer and tenderer to behave in a particular manner,
- b) establish what a tenderer shall do to submit a compliant tender,
- c) make known to tenderers the criteria by which the tenderer will be evaluated, and
- d) establish the manner in which the employer will conduct the process of offer and acceptance and provide the necessary feedback to tenderers on the outcomes of the process.

The tender data shall comply with the procurement system requirements of [4.1](#).

NOTE ISO 10845-3 provides standard conditions of tender which enable tender data which comply with the requirements of this document to be readily satisfied.

6.2.5 Eligibility criteria

Any eligibility criteria introduced into the tender data or submission data should not introduce criteria additional to those provided for in [6.7](#) and shall generally be based on the demonstration of the following, as necessary:

- a) professional and technical qualifications;
- b) professional and technical competence;
- c) financial resources;
- d) equipment and other physical facilities;
- e) expertise and personnel;
- f) managerial capacity, reliability and experience;
- g) previous experience in relation to the scope of work;
- h) where relevant, health and safety history.

6.2.6 Evaluation criteria

The evaluation criteria used to evaluate submissions following a call for expressions of interest or the inviting of tenders shall, where relevant, be based on one of the following:

- a) financial offer only;
- b) financial offer and preference;
- c) quality only;
- d) financial offer and quality;
- e) financial offer, quality and preference; or
- f) quality and preference.

The evaluation criteria, including the precise manner in which the evaluation is to be performed, as well as the weightings attached to any points-scoring system, shall be stated in the tender data or submission data, as relevant.

The manner in which financial offers are reduced to a common basis shall also be stated in procurement documents.

6.2.7 Scope of work

The scope of work (see ISO 10845-2) should be

- a) described in terms of performance of functional characteristics rather than the design of descriptive characteristics, and
- b) based on national or international standards, where such exist.

Contract requirements in the form of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling or conformity certification should not create trade barriers. Reference to any particular trademark, name, patent, design, type, specific origin or producer should not be made unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work. Such reference should be accompanied by the words "or equivalent".

Technical specifications should afford equal access for tenderers and not have the effect of creating unreasonable obstacles to competition.

The scope of work should be sufficiently precise to allow tenderers to price the tender and to allow employers to award the contract.

NOTE ISO 10845-2:2020, Annex D provides comprehensive checklists as to what should be addressed in a scope of work associated with supply, service, professional service and construction contracts.

6.2.8 Cost reimbursement and cost plus contracts

Cost reimbursement and cost plus contracts should be structured such that

- a) expenditure can be readily audited,
- b) reimbursable costs are at open market or competitively tendered prices,
- c) the end costs of the contract can be continuously tracked and reported at regular intervals, and
- d) within a short time after the completion of the contract, the final contract amount is known and can be settled.

NOTE Target-cost contracts provide an incentive for contractors to contain costs.

6.2.9 Delivery periods

Requirements for delivery periods that are incorporated into procurement documents shall be consistent with the employer's reasonable needs and shall take into account factors such as the complexity of the intended procurement, realistic time frames for completing the work and industry shutdown periods or holidays.

6.2.10 Preferencing

Goals shall be in accordance with the employer's procurement policy and the relevant provisions of [4.4.2](#).

Procurement documents should specify goals in an unambiguous manner and include the means by which such goals may be measured, quantified, verified and audited. In this regard, procurement documents should require the submission of sufficient information to enable claims for preferences to be evaluated at the tender stage and to document undertakings in the subsequent contract so that they can be monitored for compliance.

Procurement documents should provide sanctions to enable compliance to be encouraged or enforced.

NOTE ISO 10845-5, ISO 10845-6, ISO 10845-7 and ISO 10845-8 provide guidance on how requirements for preferences relating to key performance indicators associated with the participation of target groups can be incorporated in procurement documents, and contain examples of preferencing schedules (which establish all the requirements and undertakings required to claim a preference). Such schedules can be incorporated into the scope of work to establish contractual requirements.

6.2.11 Quality

6.2.11.1 General

Quality may be addressed through procurement documents, in addition to the full and unambiguous specification of requirements in the scope of work (see ISO 10845-2:2020, Annex D), using one or more of the following:

- a) inviting tenderers who responded to a call for an expression of interest and who satisfy objective criteria to submit tender offers i.e. apply the qualified selection method as described in [6.3.2.4](#),
- b) introducing quality considerations into the eligibility criteria as described in [6.2.5](#) e.g. requirements for ISO 9001 (quality management systems), ISO 14001 (environmental management systems) ISO 45001 (occupational health and safety (OH&S) management system) certification, prior experience in completing contracts of a similar nature, requiring tenderers to submit plans for monitoring and applying quality management principles in the performance of their contracts and demonstration of financial standing and capability,
- c) establishing a category of preference for quality in the evaluation of tenders if permitted in terms of legislation as described in [6.10](#), e.g. ISO 9000 (quality management systems), ISO 14001 (environmental management systems) ISO 45001 (occupational health and safety (OH&S) management system) certification,
- d) evaluating selected quality criteria as an integral part of the tender offer (see [6.2.11.2](#)), and
- e) taking cognizance of whole-life costing in the financial evaluation of tender offers e.g. reduce tender offers to a common basis by dividing price by service life (see ISO 10845-3).

Quality measures should not promote captive markets and should result in quality that is appropriate to comply with user requirements as opposed to the best quality available.

6.2.11.2 Evaluation of quality in tender submissions

6.2.11.2.1 General

Quality may only be introduced into the evaluation of tender submissions where it is required to achieve policy objectives in terms of an employer's procurement policy or it is justifiable in terms of procurement outcomes (see Figure 1).

Quality criteria used in the evaluation of tender offers shall form an integral part of the tender offer and hence the outcome of the procurement. Such criteria shall

- a) relate directly to the goods, services or construction works that are being procured and to matters that cannot directly be expressed in monetary terms,
- b) be justifiable in terms of projected procurement outcomes,
- c) enable the most economically advantageous offer to be established, and
- d) be objective and quantifiable to enable tenders to be compared and assessed objectively.

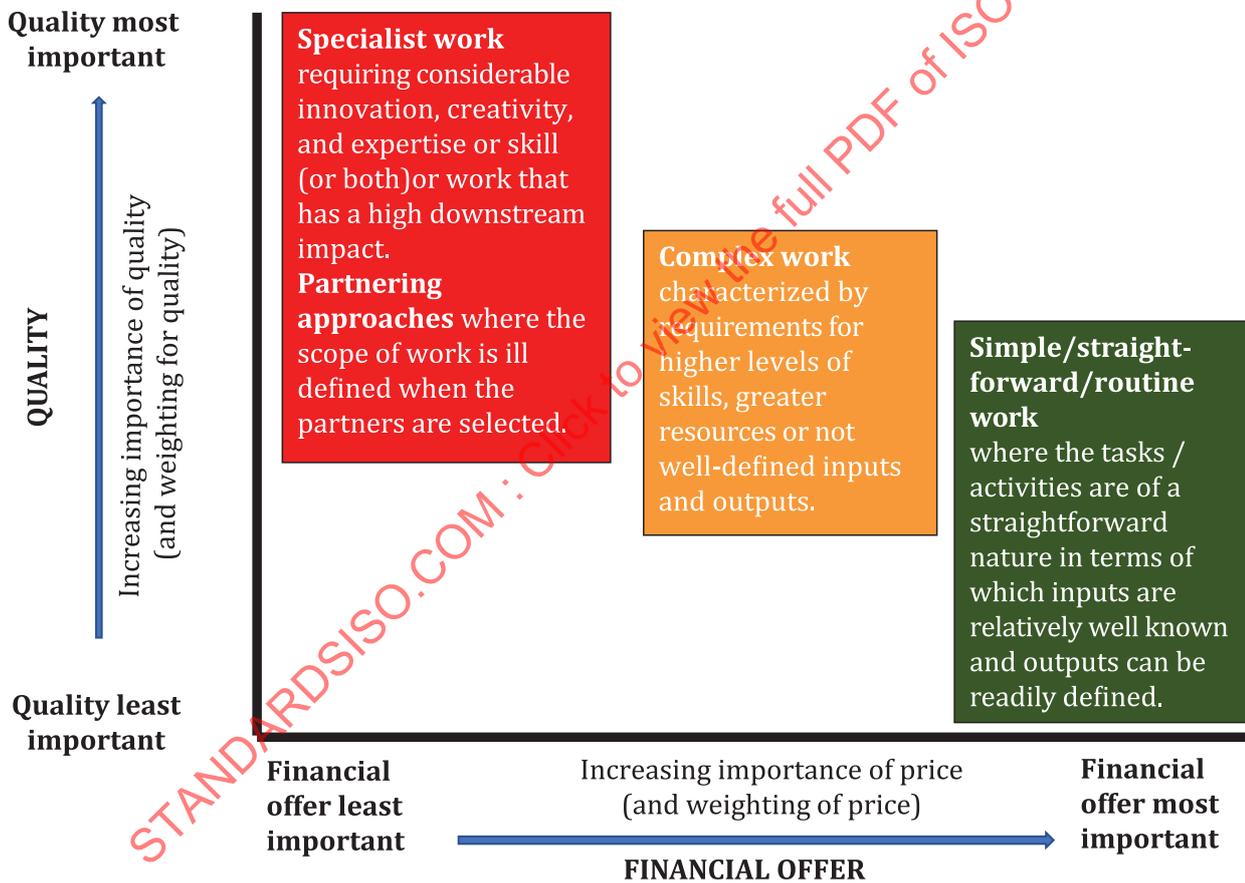


Figure 1 — Quality considerations and approaches to the evaluation of quality in tender submissions

6.2.11.2.2 Formulation of quality criteria

Quality criteria may be framed around criteria such as

- a) technical merit,
- b) response to (ability to relate to) the proposed scope of work/project design,

- c) aesthetics,
- d) functional characteristics,
- e) ease of use or maintainability,
- f) adaptability for changes in use,
- g) safety and environmental characteristics,
- h) risk or quality-control plans, practices or procedures which ensure compliance with specified employer's requirements,
- i) reliability,
- j) durability,
- k) organization, logistics and support resources relevant to the scope of work,
- l) qualifications and demonstrated experience of key staff (assigned personnel) in relation to the scope of work,
- m) demonstrated experience of tendering entity with respect to specific aspects of the project or comparable projects,
- n) teamwork or partnering arrangements with employer or subcontractors,
- o) management of the contract or procedures for planning, programming and management,
- p) programme for completing contract, including milestones for achieving objectives,
- q) project team organization,
- r) degree of flexibility in carrying out the contract,
- s) method of carrying out the contract,
- t) approach to health and safety or the protection of the environment,
- u) how health and safety issues will be identified, assessed and managed during the design and construction stages,
- v) demonstration of innovation in proposals,
- w) running costs,
- x) after-sales service and technical assistance,
- y) delivery date or delivery period or period of completion, and
- z) specific goals relating to secondary procurement policies.

Quality criteria should not include matters relating to the basic capability or capacity of the tendering entity to perform the contract as such matters are better addressed through eligibility criteria.

6.2.11.2.3 Scoring of quality

To ensure consistency in scoring, members of the evaluation panel shall be provided with prompts for judgements or qualitative indicators relating to all quality criteria and any subcriteria that are linked to a specific score (see [Annex A](#)). Such prompts should be communicated to respondents or tenderers in procurement documents. The rating of submissions shall be based on the information submitted or, where relevant, from interviews, and not on mere speculation or suspicion or the personal knowledge of a panel member.

The scoring of interviews should not form a substantive portion of the overall scoring for quality. Tenderers who score less than a threshold score shall be eliminated from further consideration.

NOTE 1 Too high a weighting can lead to the unintended consequence of unnecessarily paying a cost premium for the project.

NOTE 2 Preferences for quality can be provided to reward tenderers for achieving quality standards or good performance on previous contracts performed for the organization or to encourage accreditation of certification in best practices.

6.3 Solicitation of tender offers

6.3.1 General

6.3.1.1 Basic procedures

Tender offers shall be solicited in accordance with the employer's documented procurement policy using one of the following selection methods

- a) competitive selection procedure (see [6.3.2](#)),
- b) negotiated procedure with a sole contractor (see [6.3.3](#)),
- c) competitive negotiation procedure (see [6.3.4](#)),
- d) electronic auction procedure (see [6.3.6](#)), or
- e) disposal procedures (see [6.3.5](#)).

NOTE Where framework agreements are in place (see [6.4](#)) covering the required scope of work and such agreements are considered to be able to deliver the required quality, timely and cost effectively, there will be no need to utilise a selection procedure as an order can be issued. Suitable selection methods are nevertheless required to put in place a framework agreement.

6.3.1.2 Reduction of time frames

The minimum time frames associated with any selection method may only be reduced where they cannot be adhered to due to the presence of, or the imminent risk of, an extreme or emergency situation arising from one or more of the following:

- a) human injury or death;
- b) human suffering or deprivation of human rights;
- c) serious damage to property or financial loss;
- d) livestock or animal injury, suffering or death;
- e) serious environmental damage or degradation; or
- f) interruption of essential services.

Where the time frames are reduced, the reason for doing so shall be recorded for audit purposes.

6.3.2 Competitive selection procedures

6.3.2.1 General

A competitive selection procedure shall result in the identification of a single preferred tenderer in terms of the requirements of, and the evaluation criteria stated in, the tender data.

Negotiations on items such as the scope of work, the methodology, staffing and the terms of the contract may take place with the preferred tenderer. Such negotiations shall not change the competitive position of tenderers and shall not, as a general rule, substantially alter the original scope of work or the terms of the contract to the extent that the quality of the final product, the risk allocation to the parties to the contract, its cost, and the relevance of the initial evaluation are significantly changed.

The scope of work of the preferred tenderer may be scaled down to accommodate budgetary constraints.

In the event that a tenderer becomes ineligible for the award of a tender, the negotiations result in the competitive position of a tenderer changing, or the negotiations fail to reach mutual agreement, the next highest scoring or highest ranked tenderer shall be declared to be the preferred tenderer, and the procedure shall be repeated until such time that a contract is concluded.

6.3.2.2 Nominated procedure

Procurement documents should be prepared in accordance with the requirements of [6.2](#).

A rotating electronic database which has been established and is operated in accordance with the requirements of [4.5](#) shall be used to identify not less than five qualified tenderers from whom tender offers shall be invited.

Alternatively, all qualified tenderers on a database shall be invited to submit tender offers.

The contract shall be concluded using the negotiated procedure described in [6.3.3](#) where a sole tenderer is nominated.

The nominated tenderers shall be invited to submit tenders by a prescribed date either by post, hand, telefax or by electronic means. All tenders received shall be evaluated in accordance with the provisions of [6.6](#) and the contract shall be awarded in accordance with the provisions of [6.7](#), following negotiations of the final terms of the contract, if any, with the highest ranked or highest scoring tenderer.

6.3.2.3 Open procedure

Procurement documents should be prepared in accordance with the requirements of [6.2](#).

The procurement shall be advertised in accordance with the provisions of [6.6](#) and tenders shall be closed not less than 10 working days from the date of the advertisement, and not less than 7 working days from the date that the procurement documents are made available.

All tenders received shall be evaluated in accordance with the provisions of [6.5](#) and the contract shall be awarded in accordance with the provisions of [6.6](#) following negotiations, if any, with the highest ranked or highest scoring tenderer.

6.3.2.4 Qualified procedure

Procurement documents should be prepared in accordance with the requirements of [6.2](#).

Calls for expressions of interest shall be advertised in accordance with the provisions of [6.6](#) and receipt of expressions of interest shall be closed not less than 10 working days from the date of the advertisement.

Submissions in response to a call for an expression of interest shall be evaluated in the manner stated in the submission data. Such evaluations shall not result in the exclusion of respondents who comply with the requirements of [6.7](#) and may include the evaluation of quality and preferences, if any, provided that respondents scoring the highest scores are shortlisted.

A shortlist of not less than three respondents should be prepared, based on objective criteria stated in the documentation associated with a call for expressions of interest.

All shortlisted respondents shall be invited to submit tenders by a prescribed date or to participate in one of the proposal procedures contained in [6.3.2.6](#) or [6.3.2.7](#).

All tender offers received shall be evaluated in accordance with the provisions of [6.5](#) and the contract shall be awarded in accordance with the provisions of [6.6](#) following negotiations, if any, with the highest ranked or highest scoring tenderer.

The period between the calling for expressions of interest and the inviting of tender offers or proposals should not exceed 18 months. Where tender offers or proposals cannot be invited within this period, fresh calls for expressions of interest should be made.

NOTE Prequalification is usually necessary for large or complex construction works, or in any other circumstances in which the high costs of preparing detailed tenders could discourage competition, such as custom-designed equipment, industrial plant, specialized services and contracts to be let under a design and construct contract or management contract. This also ensures that invitations to tender are extended only to those who have adequate capabilities and resources. Prequalification can be based upon the capability and resources of prospective tenderers to perform the particular contract satisfactorily, taking into account their capabilities with respect to personnel, equipment and construction or manufacturing facilities, and compliance with administrative requirements for the award of a contract established in [6.7](#).

6.3.2.5 Quotation procedure

Procurement documents should be prepared in accordance with the provisions of [6.2](#).

Tender offers shall be solicited from not less than three tenderers in a fair, equitable, transparent, competitive and cost-effective manner, giving tenderers a minimum of 3 working days to respond to the invitation.

All tenders received shall be evaluated in accordance with the provisions of [6.5](#) and the contract shall be awarded in accordance with the provisions of [6.6](#).

NOTE 1 Tenders in the quotation procedure are typically advertised using one or more of the following methods:

- posting a notice on a website;
- posting a notice on a demarcated notice board in a public area;
- placing an advertisement in a suitable local newspaper or publication.

Alternatively, all qualified tenderers in an appropriate category in a database are invited to submit quotations.

NOTE 2 The nominated procedure is typically used where the list of names in a database becomes lengthy and the invitation to submit quotations from all qualified tenderers in a category in a database becomes unmanageable.

6.3.2.6 Proposal procedure using the two-envelope system

Procurement documents should be prepared in accordance with the provisions of [6.2](#) to call for non-financial and financial proposals.

Requests for proposals shall be advertised in accordance with the provisions of [6.6](#) and receipt of proposals shall be closed not less than 20 working days from the date of the advertisement.

Non-financial proposals shall be evaluated and thereafter the financial proposals of only those tenderers who have submitted acceptable non-financial proposals shall be evaluated.

The remaining tender offers shall be evaluated in accordance with the provisions of [6.5](#) and the contract shall be awarded in accordance with the provisions of [6.6](#) following negotiations, if any, with the highest ranked or highest scoring tenderer.

NOTE The standard conditions of tender contained in ISO 10845-3 describe the manner in which tenderers submit tender offers in two envelopes and the manner in which employers process the envelopes.

6.3.2.7 Proposal procedure using the two-stage tendering system

Procurement documents should be prepared in accordance with the provisions of 6.2 to call for non-financial proposals.

Requests for proposals shall be advertised in accordance with the provisions of 6.6 and receipt of proposals shall be closed not less than 20 working days from the date of the advertisement.

Non-financial proposals shall be evaluated, and unacceptable proposals shall be rejected. Thereafter,

- a) the procurement documents shall be modified and only those tenderers with acceptable proposals shall be invited to submit tender offers based on the revised procurement documents and have their tender offers evaluated in accordance with the provisions of 6.5, or
- b) the scope of work, terms and conditions and prices shall be negotiated in the best interests of the employer with the tenderer scoring the highest number of evaluation points.

The contract shall be awarded in accordance with the provisions of 6.6 following any negotiations, if any.

6.3.2.8 Confined market procedure

Procurement documents should be prepared in accordance with the requirements of 6.2.

A list of those tenderers who are able to provide goods, services or construction works which are not freely available in the market, or which are provided solely for the organization in accordance with unique requirements should be prepared.

Tender offers shall be invited from only those tenderers who have been placed on this list.

All tenders received shall be evaluated in accordance with the provisions of 6.5 and the contract shall be awarded in accordance with the provisions of 6.6 following negotiations, if any, with the highest ranked or highest scoring tenderer.

6.3.2.9 Shopping procedure

Three written or verbal offers for goods shall be solicited.

A written offer from the lowest financial offer shall be obtained and purchases shall be made against this written offer.

NOTE This procedure is only applicable to readily available goods that have a very low purchase price.

6.3.3 Negotiated procedure

A single tenderer shall be issued with a procurement document, prepared in accordance with the provisions of 6.2, to serve as the basis for negotiation, allowing an adequate number of working days for an initial tender offer to be prepared.

The scope of work, terms and conditions and prices shall be negotiated in the best interests of the employer and the contract shall be awarded in accordance with the provisions of 6.6.

Minutes of such negotiations and the reasons for pursuing this procedure shall be kept for record and audit purposes.

6.3.4 Competitive negotiation procedures

Procurement documents shall be prepared in accordance with the provisions of 6.2. Calls for expressions of interest and the evaluation thereof, where applicable, shall be conducted in accordance with the requirements of 6.3.2.4.

Restricted and open competitive negotiation procedures shall be used to negotiate with a number of responsive and qualified tenderers in order to arrive at the most advantageous offer, in terms of one of the methods for the evaluation of tenders as described in [Table 3](#).

When using the competitive negotiation, the employer shall negotiate, with responsive and qualified tenderers, procedures through one or more rounds of competitive negotiations, based on their rankings or the number of tender-evaluation points, until the remaining tenderers are invited to submit final offers. During such negotiations, employers

- a) shall ensure equal treatment of all tenderers and not provide any requirements, criteria, guidelines, documents, clarification or other information relative to the negotiations in a discriminatory manner which might give some tenderers an advantage over others,
- b) may provide for this negotiated procedure to take place in successive stages in order to reduce the number of tenderers to be negotiated with, by applying the evaluation criteria disclosed in the procurement documents that are issued to tenderers,
- c) shall not reveal to the other participants solutions proposed or other confidential information communicated by a tenderer participating in the process without that tenderer's agreement,
- d) may request that tender offers be clarified, specified and fine-tuned, provided that such clarification, specification, fine-tuning or additional information does not
 - 1) involve changes to the basic features of the tender process or the tender data, or
 - 2) alter any fundamental aspects of the offers or impose substantial new requirements which restrict or distort competition or have a discriminatory effect on the tender process, and
- e) shall close the negotiation with tenderers when a solution or solutions which are capable of meeting its needs are identified, inform the tenderers accordingly and call for best and final offers.

Tenderers shall be informed of the competitive negotiation process and notified of the evaluation criteria and associated weightings in the tender data. The evaluation criteria associated with each successive round of negotiations shall not be varied. Tenderers shall be notified in advance of the weighting attached to each category or subcategory of evaluation criteria, whenever another round of offers is called for.

The scope of work, terms and conditions and prices that are negotiated shall be in the best interests of the employer. Minutes of such negotiations and the reasons for pursuing this procedure shall be kept for record and audit purposes.

NOTE The competitive negotiation procedure is well suited to situations where interactions with the tenderers are essential to refine aspects of the proposed approach to the contract, the contract data or scope of work, in order to arrive at a best-value outcome.

6.3.5 Disposal procedures

Disposals shall be undertaken using one of the following disposal procedures:

- a) the negotiated procedure (see [6.3.3](#));
- b) the open procedure (see [6.3.2.3](#));
- c) the qualified procedure (see [6.3.2.4](#)); or
- d) public auction (see [Annex H](#)).

Where the auction procedure is utilized, the assets or items which are to be auctioned shall be displayed in public for a reasonable time before the date of the auction. The date shall be advertised in accordance with the provisions of [6.6](#) at least 5 working days before the auction.

Auction data shall be prepared, as necessary, in order to inform prospective bidders of any requirements for deposits, eligibility criteria and the procedures for making payment and taking delivery of the purchased items (see [Annex H](#)).

6.3.6 Electronic auction procedure

6.3.6.1 General

The electronic auction procedure may be used where the scope of work can be precisely established in conjunction with the open, qualified or nominated procedure.

The electronic auction shall be based on

- a) financial offer only,
- b) financial offer and preference,
- c) financial offer and quality, or
- d) financial offer, quality and preference.

NOTE Electronic auction procedures are not necessarily appropriate where intellectual performance forms part of their subject matter, such as the design of construction works.

6.3.6.2 Procurement documentation

The procurement documentation shall include the following details:

- a) the features and the parameters or values which will be the subject of electronic auction, provided that such features are quantifiable and can be expressed in figures or percentages;
- b) any limits on the parameters or values which may be submitted, as they result from the scope of work;
- c) the information which will be made available to tenderers in the course of the electronic auction and, where appropriate, when it will be made available to them;
- d) the relevant information concerning the electronic auction process;
- e) the conditions under which the tenderers will be able to bid and, in particular, the minimum differences which will, where appropriate, be required when bidding;
- f) the relevant information concerning the electronic equipment used and the arrangements and technical specifications for connection.

6.3.6.3 Procedures

Before proceeding with an electronic auction, the employer shall make a full initial evaluation of the tenders in accordance with the methods nominated for the evaluation of tenders, using the weightings associated with such methods, which are stated in the tender data. All tenderers who have submitted responsive tenders shall be invited simultaneously by electronic means to submit new evaluation parameters. The invitation shall contain all the relevant information concerning individual connection to the electronic equipment being used and shall state the date and time of the start of the electronic auction. The electronic auction may take place in a number of successive phases.

The electronic auction shall not start sooner than 2 working days after the date on which invitations are sent out.

The invitation shall also state the mathematical formula to be used in the electronic auction to determine automatic rerankings on the basis of the new prices or new values submitted (or both). This formula shall incorporate the weighting of all the criteria fixed to determine the price and, where

relevant, quality linked to a numerical value. Where variants are authorized, a separate formula shall be provided for each variant.

Throughout each phase of an electronic auction, the employer shall instantaneously communicate to all tenderers at least sufficient information to enable them to ascertain their relative rankings at any point in time. They may also, at any time, announce the number of participants in that phase of the auction. In no case, however, may they disclose the identities of the tenderers during any phase of an electronic auction.

The electronic auction shall be closed

- a) on a date and time stated in the procurement documents, or
- b) when no more new prices or new values which comply with the requirements concerning minimum differences are received within a stated time period, or
- c) when the number of phases in the auction, fixed in the invitation to take part in the auction, have been completed.

After closing an electronic auction, the employer shall award the contract in accordance with the provisions of [6.6](#).

NOTE 1 Electronic auctions deal only with contracts for construction works, goods or services for which

- the scope of work can be determined with precision, e.g. recurring construction works, goods or service contracts, and
- it is possible to establish the respective ranking of the tenderers at any stage of the electronic auction.

NOTE 2 Electronic auctions enable employers to ask tenderers to submit new prices, revised downwards, and when the contract is awarded on the basis of quality and financial offer, also to improve elements of the tenders other than prices. In order to guarantee compliance with the principle of transparency, only the elements suitable for automatic evaluation by electronic means, without any intervention or appreciation by the employer (or both), are the object of electronic auctions, i.e. only the elements which are quantifiable so that they can be expressed in figures or percentages.

6.4 Framework agreements

6.4.1 General

Framework agreements may be entered into with one or more contractors by:

- a) inviting tender offers using a negotiated procedure, competitive negotiation procedure or suitable competitive selection procedure to enter into a suitable contract for the required work, using stringent eligibility and evaluation criteria to ensure that contracts are entered into with only those contractors who have the capability and capacity to provide the required goods, services or works; and
- b) entering into a limited number of contracts based on the projected demand and geographic location for such goods, services or works.

The term of a framework agreement shall not exceed the period stated in the employer's procurement policy.

Framework agreements that are entered into shall not commit the employer to any quantum of work beyond the first order, or bind the employer to make use of such agreements to meet its needs. The employer may approach the market for goods or services, or a combination thereof, whenever it considers that better value in terms of time, cost and the quality which may be obtained.

6.4.2 Issuing of orders

Orders:

- a) shall cover only goods or services, or any combination thereof, falling within the scope of work associated with the agreement which may not be amended for the term of the agreement;
- b) may not be issued after the expiry of the term of the framework agreement; and
- c) may be completed even if the completion of the order is after the expiry of the term.

The issuing of orders with a number of framework contractors covering the same scope of work may be made with and without requiring competition amongst framework contractors. Where competition is required amongst framework contractors, it shall be conducted in a non-discriminatory manner such that competition is not distorted.

Competition amongst framework contractors for orders shall take place where:

- a) there is no justifiable reason for issuing an order to a particular framework contractor, such as:
 - 1) the framework contractor provided the most economical transaction when the financial parameters included in the contract are applied, and has the capacity to deliver;
 - 2) the required goods, services or works cannot technically or economically be separated from another contract or order previously performed by a specific contractor;
 - 3) the service or works being instructed are largely identical to work previously executed by that contractor;
 - 4) the value of the order is less than the threshold for the quotation procedure;
 - 5) the schedule for delivery necessitates that each of the framework contractors be issued with orders on a continuous basis; or
 - 6) capacity to execute the order;
- b) the terms in the order are insufficiently precise or complete to cover the particular requirement, e.g. delivery time scales or time estimates to complete the order (productivity); or
- c) a better quality of service can be obtained through a competitive process.

6.5 Design competitions

A single- or two-stage design competition may be used as a means to identify one or more suitable contractors to provide design services. The conditions for a design competition shall clearly state the purpose of the competition and the intentions of the promoter, the nature of the problem that is to be solved and all the practical requirements to be met by the competitors.

A design competition should be initiated following a call for an expression of interest. All respondents who satisfy the admission requirements for a design competition and complete an application form should be admitted to the competition as participants. Those admitted to the competition should submit tenders in accordance with the proposal procedure using the two-stage tendering system, which may be modified to accommodate an additional stage before a contract is negotiated with the winner or those remaining in the competition are invited to submit priced proposals.

A jury who is independent of participants in the competition should be appointed to collectively decide on the outcome of the competition. Such a jury shall be autonomous in its decisions or opinions and endeavour to adopt decisions on each individual submission by consensus and record its decisions in writing. Not less than 50 % of the members serving on the jury should have relevant professional qualifications in the subject matter of the competition.

The design competition shall be conducted in such a manner that the identity of any particular participant during the process is not known to the jury until after competition winners are announced. The awarding of prizes and honoraria may be linked to such competitions.

A contract may be negotiated with the winner of the design competition. Where more than one contract is awarded to participants in a design competition, all competitors in the final stage of the competition shall be invited to submit tender offers. The score for quality in the evaluation of tender should be based solely on the ranking of the competition jury.

6.6 Advertisements

6.6.1 General

Advertisements shall be published in the language directed by the employer's executive, in a medium that enables a wide spectrum of suitably qualified and eligible tenderers to access the opportunities that are presented.

6.6.2 Minimum information to be conveyed in advertisements for tenders

The notice and invitation to submit tender offers shall, as a minimum, contain the following information, as appropriate

- a) the tender, project or contract reference number;
- b) the title of the proposed contract or project;
- c) a brief description of the goods, services or construction works which are required;
- d) a brief description of eligibility criteria, if any and if appropriate;
- e) the closing date, place and time for submission of tenders;
- f) the date and time of the site inspection or briefing session, if any, whether or not attendance is compulsory;
- g) the time and place for collecting procurement documents.

6.6.3 Minimum information to be conveyed in advertisements for expressions of interest

The notice and invitation to submit expressions of interest shall include the following information:

- a) the tender, project or contract reference number, if applicable;
- b) the title of the proposed contract or the project;
- c) a brief description of the goods, services or construction works which are required;
- d) a brief description of eligibility criteria, if any and if appropriate;
- e) the closing date, place and time for expressions of interest;
- f) the date and time of the briefing session, if any, and whether or not attendance is compulsory;
- g) the time and place for collecting the procurement documentation.

6.7 Tender process and procedures

6.7.1 General

The process of offer and acceptance shall, except where use is made of the negotiated or shopping procedure, or where the nominated procedure is used to negotiate a contract with a single nominee, be

conducted in accordance with appropriate submission data and tender data, as relevant, included in the procurement documents. Submissions shall not be evaluated against any criteria that are not disclosed in the procurement documents.

Submissions shall be safeguarded from the time of receipt until the conclusion of the processes associated with a call for an expression of interest or the solicitation of a tender offer.

The reasons for overlooking or rejecting a tender offer shall be recorded for audit purposes.

NOTE Submissions can preferably be received in secure tender boxes which are accessible 24 h a day, 7 days a week.

6.7.2 Tender deposits

Tenderers shall either be required to pay a non-refundable amount for procurement documents approximately equivalent to the cost of reproducing such documents or be issued with documents free of charge. Where non-refundable amounts for procurement documents are provided for, such documents shall be made available for inspection by tenderers.

6.7.3 Contacting of tenderers before the close of tenders

Those persons responsible for procuring on behalf of the employer shall, except in the negotiated or disposal procedures, not contact individual tenderers who are submitting or are likely to submit tender offers before the receipt of tenders. Should it be necessary in exceptional circumstances to do so, it shall be done in a manner which does not obligate the employer, risk distorting competition, lead to discrimination or give any unfair advantage to those who were contacted.

Persons responsible for soliciting tender offers shall respond to any request by a tenderer for clarification regarding the procurement documents within a reasonable time before the deadline for the submission, or extend the deadline in order to do so.

If, for any reason, those responsible for soliciting tender submissions before the deadline for tender submissions are determined to modify the procurement documents, they shall do so by issuing an addendum that shall be communicated to all prospective tenderers that have obtained procurement documents only if such an addendum can be communicated in advance of the closing date and tenderers can be given reasonable time to react to the contents of such an addendum. Should this not be possible, the addendum shall either not be issued, or the closing date for tender offers or expressions of interest shall be postponed to enable the addendum to be issued.

Minutes of any briefing meeting that might be convened shall be taken, recording all requests for clarification received and responses thereto, without identifying the sources of the requests. The minutes of such meetings shall be promptly distributed to those attending the meetings and, if necessary, to all tenderers who obtain procurement documents.

6.7.4 Receipt of tender submissions

Tender submissions, except those which the employer permits to be submitted by telefax or by electronic means, shall only be accepted for evaluation when they are

- a) submitted in sealed envelopes,
- b) annotated with the required particulars, and
- c) placed in the nominated tender box or delivered to the specified place for receipt of tender submissions.

Tender submissions received by telefax shall be placed in a sealed envelope and safeguarded until the tender is opened.

6.7.5 Return of unopened submissions

Tender submissions shall be returned unopened (unless it is necessary to open a tender submission to obtain a forwarding address) when

- a) the tender submission is received after the closing time for tenders,
- b) the tender submission is received by a method other than the method prescribed in the procurement documents, or
- c) only one tender submission is received and the employer decides to call for fresh tender submissions.

6.7.6 Opening of tender submissions

All tender submissions shall, unless there are justifiable reasons not to do so, be opened in public, or in the presence of those tenderers who made submissions or their representatives, immediately after the closing time for receipt of tender submissions. Where this is impossible, arrangements shall be made to ensure that no further submissions are received and that such submissions are not tampered with in any way before their opening. Such tender submissions shall be opened not more than one week after the closing time for tenders, in the presence of not less than two persons representing the employer and one other person who is independent of the employer, named in the procurement documents.

All tender submissions should each be given a mark of authenticity upon opening and, where appropriate, on every page of returnable documents as proof that the submission was received before the closing time.

After opening each tender submission, the person responsible for overseeing the opening of tender submissions shall record, for each tender offer, including all alternative tender offers, as relevant:

- a) the name of the tenderer;
- b) the total of prices, unless the competitive selection procedure is used or it is impractical to do so;
- c) contract data that have a bearing on the tendered price, unless the competitive selection procedure is used, e.g. time for completion, settlement discounts, price adjustment;
- d) preferences claimed.

The record shall be made available to all interested persons upon request.

Where a proposal procedure is followed, the procedures shall be modified so that the non-financial proposals are opened as soon as is practical and the financial proposals of responsive tenderers, if any, are opened only after the non-financial proposals have been evaluated. Financial proposals from tenderers who have not made a submission that is responsive to requirements shall be returned unopened.

Where contracts are not awarded in totality to a single tenderer, the recording of the total of prices is not required. Where defined portions of contracts can be awarded to multiple tenderers and such portions can be readily totalled in the tender submission, those totals should, where practicable, be recorded.

6.7.7 Evaluation of tender submissions

6.7.7.1 Disqualification of tenderers

A tenderer (and his tender submission) shall be disqualified where it is determined that there has been an effort by that tenderer to influence the processing of tender submissions or if it is established that such a tenderer engaged in corrupt or fraudulent practices.

6.7.7.2 Test for responsiveness

The evaluation of tender submissions shall commence with a determination as to whether or not each tender submission properly received is responsive. A responsive tender submission is one which

- a) complies with the requirements of the tender data,
- b) has been properly and fully completed and signed, and
- c) conforms to all the terms, conditions and specifications of the procurement documents without material deviation or qualification which, in the employer's opinion, would
 - 1) detrimentally affect the scope, quality or performance of construction works, services or supply identified in the scope of work,
 - 2) significantly change the employer's or the tenderer's risks and responsibilities under the contract, or
 - 3) affect the competitive position of other tenderers presenting responsive tenders, if it were to be rectified.

Non-responsive tender submissions shall not be subsequently made responsive by correction or withdrawal of the non-conforming deviation or reservation.

6.7.7.3 Test for capability and capacity to perform the contract

Tenderers shall, as necessary, and in relation to the proposed contract, be able to demonstrate that they possess the professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience and reputation, expertise and the personnel to perform the contract.

NOTE Aspects of capability and capacity to perform the contract can be demonstrated through the satisfying of eligibility criteria, the obtaining of a minimum score where quality is evaluated or during a call for expressions of interest in the qualified procedure.

6.7.7.4 Arithmetical errors and omissions

Where a bill of quantities or a price schedule is utilized:

- a) the price submitted (i.e. the offer), which is made known to interested parties at the opening of tenders, shall be used as the basis for establishing the competitive position of tenderers;
- b) the most competitive tender shall be checked for arithmetical errors, where relevant, and where such errors are found, the tenderer shall be notified of the errors and invited to either confirm the tender offer as tendered or accept the corrected total of prices;
- c) where the correction of the errors results in a change in the competitive position of tenderers, the process in b) shall be repeated.

NOTE Allowing the competitive position of tenderers to be determined on the basis of the correction of errors in all tenders received by the tender evaluator has the potential to undermine transparency in the procurement process.

6.7.7.5 Ranking and scoring of responsive tenderers

6.7.7.5.1 Evaluation panel

An evaluation panel shall be established in accordance with the organization's procurement policy to evaluate submissions and to develop evaluation reports (see ISO 10845-3 and ISO 10845-4). The evaluation panel which scores quality shall comprise not less than three persons who are who are conversant with the nature and subject matter of the procurement documents.

6.7.7.5.2 Procedures

Submissions shall not be evaluated against any criteria that are not disclosed in the procurement documents.

Each responsive tender offer shall be reduced to a comparative offer and shall be evaluated using the procedure contained in [Table 3](#) associated with the method nominated in the tender data. A record shall be kept of all the tender-evaluation points that are awarded to every tenderer making a tender submission.

Table 3 — Standard tender-evaluation methods

Method	Procedure
Method 1: Financial offer	<ol style="list-style-type: none"> 1) Rank tender offers from the most favourable to the least favourable comparative offer. 2) Recommend highest ranked tenderer for the award of the contract.
Method 2: Financial offer and quality	<ol style="list-style-type: none"> 1) Score quality, rejecting all tender offers that fail to score the minimum number of points for quality stated in the tender data, if any. 2) Score tender-evaluation points for financial offer. 3) Calculate total tender-evaluation points. 4) Rank tender offers from the highest number of tender-evaluation points to the lowest. 5) Recommend tenderer with the highest number of tender-evaluation points for the award of the contract.
Method 3: Financial offer and preferences	<ol style="list-style-type: none"> 1) Score tender-evaluation points for financial offer. 2) Confirm that tenderers are eligible for the preferences claimed and if so, score tender-evaluation points for preferencing. 3) Calculate total tender-evaluation points. 4) Rank tender offers from the highest number of tender-evaluation points to the lowest. 5) Recommend tenderer with the highest number of tender-evaluation points for the award of the contract.
Method 4: Financial offer, quality and preferences	<ol style="list-style-type: none"> 1) Score quality, rejecting all tender offers that fail to score the minimum number of points for quality stated in the tender data, if any. 2) Score tender-evaluation points for financial offer. 3) Confirm that tenderers are eligible for the preferences claimed and if so, score tender-evaluation points for preferencing. 4) Calculate total tender-evaluation points. 5) Rank tender offers from the highest number of tender-evaluation points to the lowest. 6) Recommend tenderer with the highest number of tender-evaluation points for the award of the contract.

The maximum score in respect of the financial offer, quality and preference, as relevant, shall be such that the procurement remains fair, equitable, competitive and cost-effective.

Quality shall be scored for each of the criteria stated in the tender data. Each member of the evaluation panel shall score each criterion, preferably independently. The scores shall thereafter be averaged or adjusted at a meeting of the panel and retained for auditing purposes.

Preferences shall be scored using a method provided for in 4.4.2.2 as stated in the tender data. Where preferences are evaluated using the method stated in 4.4.2.2 c), each member of the evaluation panel shall score each preference. The scores shall thereafter be averaged and retained for auditing purposes.

The reasonableness of comparative offers shall be judged. All tender offers with unrealistic financial offers shall be rejected and the remaining comparative offers scored in accordance with the formula stated in the tender data.

Financial offers, preferences and quality, as relevant, shall be scored to two decimal places. Where two or more tender offers score an equal number of tender-evaluation points, the tenderer who is recommended for the award of the contract shall be the tenderer with the highest number of

- a) preference points when method 3 or method 4 (see Table 3) is used, and
- b) quality points when method 2 (see Table 3) is used.

NOTE Unrealistic financial offers (i.e. where it is not economically possible to perform the contract at that price) distort the scoring of financial offers.

6.7.7.6 Abnormally low tenders

If, for a given contract, tenders appear to be abnormally low, the employer may reject those tenders, on the grounds that these present an unacceptable commercial risk or the tenderer has insufficient financial capability to perform the contract. However, before doing so, the employer shall request, in writing, details of the constituent elements of the tender which it considers relevant, including

- a) the economics of the construction method, the manufacturing process or the services provided,
- b) the technical solutions chosen or any exceptionally favourable conditions (or both) available to the tenderer for the execution of the work or the provision of the goods or services,
- c) the originality of the work, goods or services proposed by the tenderer,
- d) compliance with the provisions relating to employment protection and working conditions in force at the place where the work, service or supply is to be performed, and
- e) the possibility of the tenderer obtaining state aid.

The employer shall verify those constituent elements by consulting the tenderer, taking account of the evidence supplied.

6.7.7.7 Risk assessment

Compliance with the provisions of 6.7 shall be confirmed in respect of the highest ranked tenderer (method 1) or the tenderer scoring the highest number of tender-evaluation points (method 2, 3 or 4). In the event of non-compliance, compliance shall be established in respect of the next highest ranked tenderer or tenderer scoring the highest points after the points have been recalculated, based on the most favourable comparative offer remaining in contention for the award of the contract. The process shall be repeated until a tenderer who complies with such requirements is identified.

A risk analysis shall be performed on the tender submission of the highest ranked tenderer or tenderer who scores the highest number of tender-evaluation points and complies with the provisions of 6.7 to ascertain if any of the following, as relevant, present an unacceptable commercial risk to the employer:

- a) unduly high or unduly low tendered rates or amounts in the tender offer;
- b) contract data provided by the tenderer; or
- c) the content of tender returnables which are to be included in the contract.

The tenderer shall be approached to amend any part of his tender submission that might, in the opinion of the employer, present an unacceptable commercial risk, provided that such negotiations do not affect

the competitive position of the tenderer. Failure to make unacceptable commercial risks acceptable to the employer can be sufficient grounds for the employer to reject the tender.

In the event that it is determined that an unacceptable commercial risk to the employer is present and cannot be made acceptable, a risk analysis shall be conducted on the next highest ranked tenderer or tenderer scoring the highest points after the points have been recalculated, based on the most favourable comparative offer remaining in contention for the award of the contract. The process shall be repeated until a tenderer who satisfies the risk analysis is identified.

Clarifications shall be obtained from a tenderer on any matter that could give rise to ambiguity in a contract arising from the tender offer.

The reasons for overlooking or rejecting a tender offer shall be recorded for audit purposes.

NOTE In the nominated procedure, the admittance criteria can ensure that only tenderers who comply with the requirements of 6.7 are entered into the electronic database, in which case the establishment of compliance in accordance with the provisions of 6.3.2.2 is not necessary. In the qualified procedure and where eligibility criteria are based on the provisions of 6.7, it can be unnecessary to establish compliance.

6.7.7.8 Tender-evaluation report

A tender-evaluation report shall be prepared for all procurements undertaken, except where not required in terms of the employer's procurement policy, and shall, as a minimum, contain

- a) the contract number and description,
- b) an outline of the procurement strategy that was adopted, i.e. the targeting, contracting strategy and the selection method, as relevant,
- c) the tender-validity expiry date and the tender closing date,
- d) the date of advertisement and the place where advertised,
- e) the method of tender evaluation (method 1, 2, 3 or 4),
- f) the number of tenders received and the number of responsive tenders,
- g) the name of the recommended tenderer and key aspects of the recommended tenderer's offer,
- h) the cost estimate (budget) prepared ahead of the tender,
- i) the parameters used for scoring tenderers and the score assigned to each tenderer in respect of each component of the evaluation that is evaluated, and
- j) the reasons for rejecting or overlooking a tenderer.

6.8 Award of contracts

6.8.1 General

Following the completion of the evaluation process, the employer shall award the contract only if he is satisfied that the tenderer does not present the employer with an unacceptable risk and

- a) is not under restrictions, or has principals who are under restrictions, preventing participation in the organization's procurement,
- b) does have the legal capacity to enter into the contract,
- c) is not insolvent, in receivership, bankrupt or being wound up, has his affairs administered by a court or a judicial officer, has suspended his business activities, or is subject to legal proceedings,
- d) complies with the legal requirements, if any, stated in the employer's procurement policy, and

e) is able to perform the contract in the best interest of the employer owing to conflicts of interest.

Contracts shall be signed as soon as possible after the contract is awarded by the person authorized to do so in terms of the employer's procurement policy.

In situations where no contract is awarded, the employer shall review the procurement requirements and selection methods and begin the procurement process again, unless there are compelling reasons not to do so.

NOTE 1 It is usually sufficient to merely sign the acceptance portion of the form of offer and acceptance (see ISO 10845-2), where provided, to accept the tender offer.

NOTE 2 It can be necessary to compile the contract from the procurement documents issued to tenderers and the returnable documents to take account of

- addenda issued during the tender period,
- the content of returnable documents, and
- any revisions agreed between the employer and the successful tenderer.

NOTE 3 Guidance on establishing what constitutes an unacceptable commercial risk is provided in ISO 10845-3.

NOTE 4 Conflicts of interest can arise from prior or current obligations to other employers. They can also arise where a contractor provides goods, or construction works to a particular project and is then called upon to provide professional services relating to that project.

6.8.2 Records

The details of every contract awarded shall be recorded. This record shall include

- a) the contract reference number,
- b) a description of the work,
- c) the contract price,
- d) preferences claimed,
- e) tender-evaluation points awarded,
- f) the price of the tender offer used for comparative purposes where preferences were applied in the evaluation of tenders, and
- g) the name and address of the successful tenderer.

6.8.3 Notification of unsuccessful tenderers

After the successful tenderer has received the employer's notice of acceptance, all other tenderers shall be notified that their tender offers have not been accepted by post, telefax or another electronic method, or by publication of the name of the successful tenderer on a website or in an accessible publication, as appropriate.

The following details of every contract that is awarded shall be made known to interested parties upon request after the successful tenderer has received notification of acceptance:

- a) the contract reference number;
- b) a description of the procurement;
- c) the total contract price or price for a portion thereof, if relevant;
- d) tender-evaluation points awarded, if any; and

e) the name of the successful tenderer.

6.9 Contract administration

Every contractor awarded a contract shall complete that contract in accordance with its terms and requirements.

If, at any point during the term of a contract, a contract is terminated or cancelled by either the contractor or the employer, a record of the reasons for this cancellation or termination shall be made.

Upon completion of a contract, a record of the key performance indicators relating to time, cost and the attainment of goals associated with a secondary procurement policy pertaining to that contract shall be made.

A post-project evaluation should be undertaken to consider and assess the efficacy of the procurement and to identify potential areas for improvements on future procurements of a similar nature.

NOTE A procurement policy can establish approval procedures to approve increases in contract prices which exceed a specified margin.

6.10 Resolution of disputes arising from a contract

Disputes shall be resolved in accordance with the provisions of the contract. This shall not, however, preclude the parties from settling their differences using alternative means, such as expert determination, mediation and conciliation; failing this, the dispute shall be resolved in terms of the contract.

NOTE Standard forms of contract usually provide for the final settlement of disputes through litigation [system by which the advocates representing each side adduce arguments in a court of law to persuade the tribunal (judge, jury or assessors) that they have the better legal case] or arbitration (means of settling a dispute outside the courts by one or several persons, usually chosen by the parties concerned). Fair and equitable forms of contract usually make provision for alternative means of resolving disputes before resorting to litigation or arbitration to finally resolve disputes.

6.11 Unsolicited proposals

Unless otherwise provided in an employer's procurement policy, unsolicited proposals may be considered if

- a) the goods or services offered are a demonstrably or proven unique innovative concept that will be exceptionally beneficial to, or have exceptional cost advantages for the employer, and
- b) the tenderer who made the offer is the sole provider of the goods or service.

6.12 Departures from established methods and procedures

Departures may be made from the methods and procedures provided in [6.3](#) to [6.7](#) with the approval of the employer's executive, provided that the procurement complies with the basic procurement system requirements established in [Table 1](#).

Annex A (informative)

Commentary

A.1 Commentary on establishing a procurement system (Clause 4)

A.1.1 General

The framework for the development of a procurement system is indicated in [Figure A.1](#).

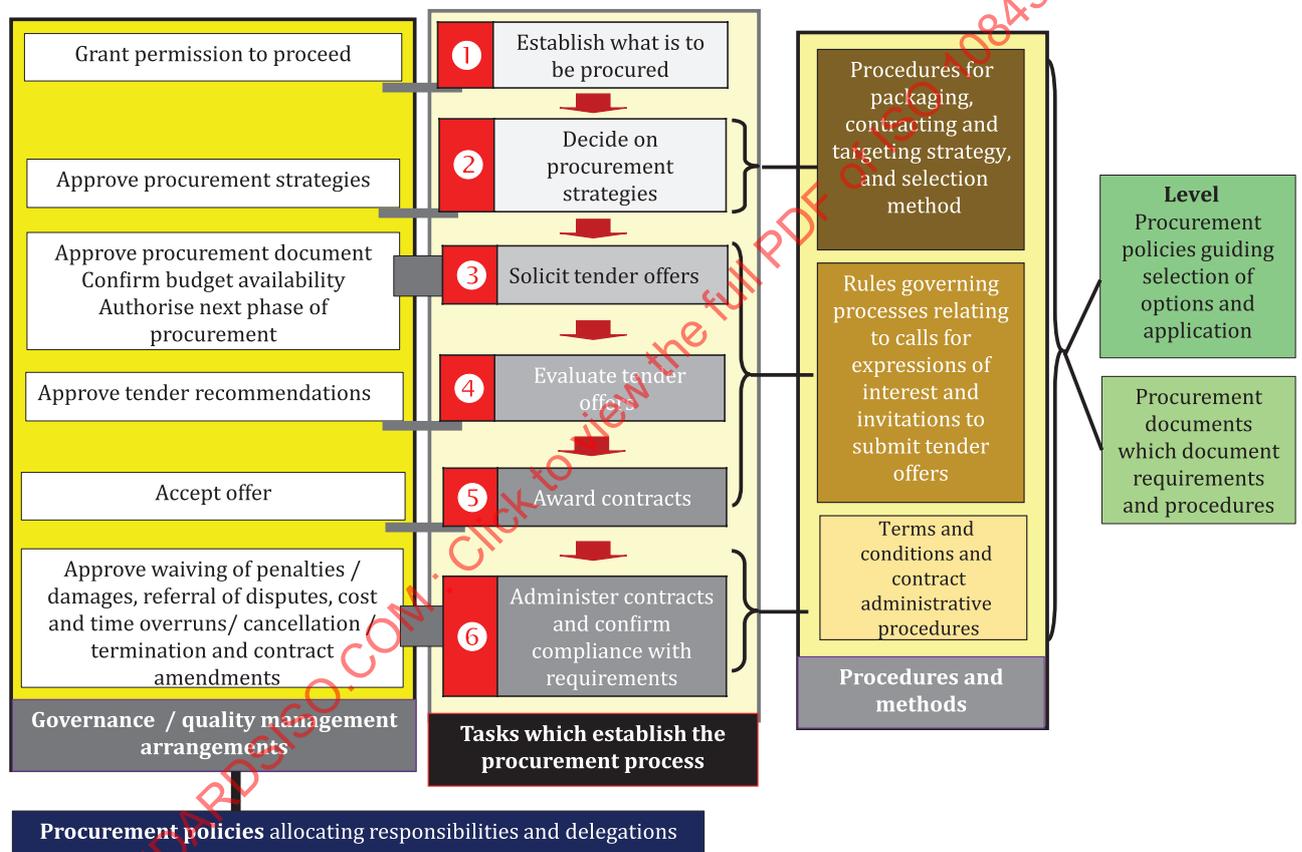


Figure A.1 — Tasks, processes and controls associated with a procurement system

There are typically six principal tasks associated with a generic procurement process as indicated in [Annex D](#). The significance differences between the procurement of general goods and services for consumption and the procurement of construction works is indicated in [Annex B](#). An organization as a “buyer” has many more risks to manage in construction procurement than is commonly the case for general goods and services. Risk taking is necessary in construction projects. Risk management is all about identifying the salient risks, assessing their likelihood and deciding on how best to manage the project in the light of this information. At the same time the focus of the system is different due to the nature of construction works projects. In the procurement of general goods and services the focus is on optimising resources within an activity to improve outcomes and the choice of goods and productivity of service for a particular transaction. The focus on construction procurement, on the other hand, is on optimising resources across the entire supply chain from inception to completion to improve outcomes,

integration of timing and outputs of the delivery team, management of risk throughout the whole supply chain and trade-offs between options to achieve project outcomes.

[Figure A.1](#) outlines the six basic tasks associated with procurement processes which establish actions and deliverables associated with milestones within the procurement process. The establishment of what is to be procured (task 1) initiates the procurement process. Procurement strategy (task 2) is all about the choices made in determining which of the required goods and services or combinations thereof are to be delivered through a particular contract, the contracting arrangements, how procurement is to be used to promote secondary procurement objectives, if any, and the selection methods used to solicit tender offers (see [Clause 5](#)). Conditions for the calling for expressions of interest to prequalify respondents to participate in a specific contract, project or programme and conditions of tender govern tasks 3 to 5. Conditions of contract (i.e. terms that collectively describe the rights and obligations of contracting parties and the agreed procedures for the administration of their contract) govern task 6.

[Figure A.1](#) also identifies the governance/quality management arrangements associated with these tasks. [Annex E](#) indicates how governance activities can be linked to the milestones in the procurement process. Careful consideration should be given to the assigning of responsibilities relating to control points (procedural milestones). A single person may be mandated to make some of the decisions. In some instances it might be more appropriate to establish a small committee of not less than three people to make the necessary decisions, e.g. to obtain approval for procurement strategies that are to be adopted, confirm shortlists and to confirm recommendations contained in the tender-evaluation report.

The provision of written reasons for administrative actions taken underpins the transparency of the procurement system.

A.1.2 Conduct of employees, agents and contractors

The code of conduct which is established in [4.2](#) is fundamental to the establishment of a procurement system that is fair, equitable, transparent, competitive and cost-effective. The provisions of the basic code of conduct might have to be expanded to address a range of governance issues within the employer's own organization.

The placing of contractors or their principals (or both) who have engaged in corrupt and fraudulent practices under restrictions from participating in the employer's procurement for periods of time, should be undertaken in accordance with the rules of natural justice or applicable legislation. Those accused of corrupt and fraudulent practice should know what they are accused of and should be afforded an opportunity to respond to their accusers.

A.1.3 Procurement policy

An organization's procurement policy should state that procurement is to be undertaken in accordance with the provisions of ISO 10845-1, ISO 10845-2, ISO 10845-3 and ISO 10845-4 and document:

- a) its procurement system around a process which commences once the need for procurement is identified and ends when the transaction is completed (see [Annex D](#)),
- b) its code of conduct for procurement and the procedures for disciplining those that transgress the code,
- c) the names or positions of persons or committee designated to manage and control procurement activities (see [Annex E](#)), and
- d) the choices made in terms of procedures, methods, parameters and options in the implementation of a procurement system and the conditions under which such choices may be exercised (see [Annex F](#)).

ISO 10845 (all parts) is sufficiently generic to be used in conjunction with most legislative regimes and international procurement systems. The procurement policy of an organization is all about the choices or options which may be exercised, under what conditions and how procurement processes are

managed and controlled. The procurement policy of an organization accordingly sets boundaries for the implementation of ISO 10845.

The procurement policy, when read together with this document, establishes the procurement system of an organization.

A.1.4 Secondary procurement policy

Public procurement, because of its nature and size, can have a significant impact on social and economic development. Procurement has accordingly been used internationally for several decades to, amongst other things, stimulate regional and national economic activity, protect local industries, develop competitive local suppliers, develop supply chains, address regional, gender and racial inequities and disparities, create jobs particularly for local labour, create short term work opportunities for unskilled and semiskilled workers, employ the youth and people with disabilities, transfer skills and improve working conditions. Private sector procurement has also embraced the promotion of social and economic development in order to mitigate community risks and in the pursuit of sustainable development objectives.

Economic rent can be paid through the procurement system in the promotion of secondary objectives i.e. there is a difference between the selling price and the costs to provide the goods or services due to distortions in competition to achieve such objectives. There is accordingly a fine balance between leveraging objectives through the procurement processes and specifying deliverables. It is therefore essential that the specifying of a deliverable be set as far as possible on a cost neutral basis. Legislation can, however, permit a distortion, in which case it will be permissible to distort competition or the cost effectiveness of the procurement to support political imperatives.

Secondary procurement policies, by definition, promote objectives additional to those associated with the immediate objective of the procurement itself. Such policies can be framed around both social, economic and environmental goals. Social goals include the redefining of business ownership patterns and the composition of the workforce, the distribution of employment opportunities, the relief of poverty and health and safety. Economic goals include the redefining of the distribution of the size of businesses, increased use of local resources and job creation (i.e. the increase in the total volume of employment generated per unit of expenditure). Environmental goals include reductions in greenhouse gas emissions, minimizing of waste, use of renewable materials, the harvesting of rain water and the effects on the environment relating to the production and disposal of building products.

ISO 19208 suggests that the common drivers associated with contributions to sustainable development (see [Annex C](#)) are usage of resources such as energy and water, choice of building materials, choice of construction methods and resources, waste disposal, and resilience.

Many secondary procurement policies, particularly those in developing countries, focus on the participation of targeted enterprises and targeted labour in the performance of a contract, the precise definitions of these target groups being dependent upon the goals associated with a particular secondary policy. [Annex G](#) describes a wide range of procedures that may be used to secure or promote secondary procurement policies particularly those relating to participation of target groups.

Key performance indicators (KPIs) in the form of quantitative or qualitative measures of impacts or changes that may be beneficial which relate directly to secondary procurement objectives (desired results) need to be formulated. Such indicators need to be formulated in such a manner that they are contractually enforceable. They need as such to be described in qualitative terms and to be linked to measurable and quantifiable targets and be provided with a means of verifying and auditing claims regarding performance in relation to the target.

[Figure A.2](#) provides a four-level model for specifying KPIs relating to secondary procurement objectives, based on the provisions of ISO 19208. A performance parameter in terms of this model may be regarded as a KPI.

[Table A.1](#) illustrates the structure of a performance standard relating to the participation of target groups in contracts as provided for in some of the parts of ISO 10845. The objective (Level 1) of ISO 10845-4, ISO 10845-6, ISO 10845-7 and ISO 10845-8 focuses on different aspects of the participation

of target groups in a contract. Clause 3 of each of these standards establishes qualitative (Level 2), quantitative (Level 3) requirements in relation to the objective (Level 1) and how credits towards the contract participation goal can be obtained. The remainder of the clauses establish the means for verifying and auditing the attainment of the contract participation goals (key performance indicators).

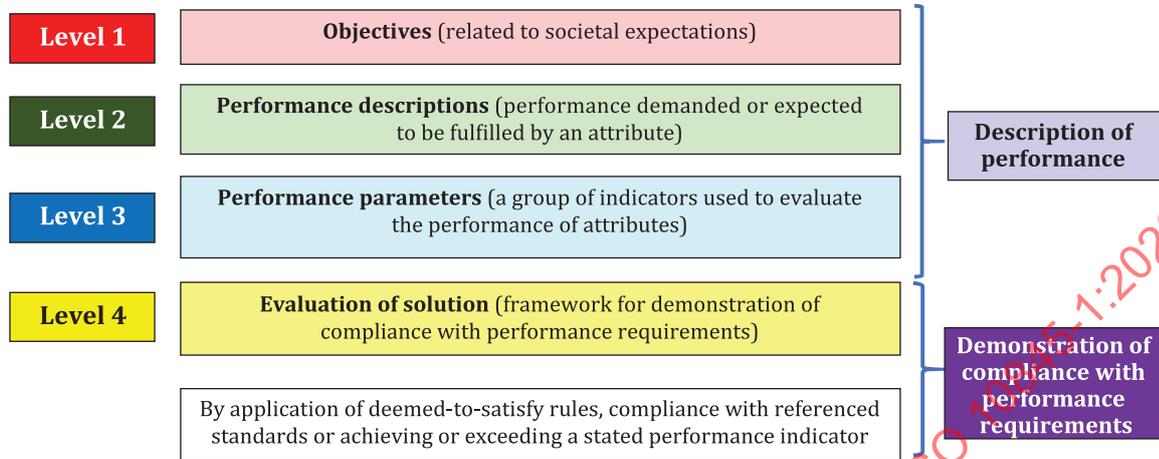


Figure A.2 — Four level model for the specifying of targets (KPIs) relating to secondary procurement objectives

NOTE An attribute is a characteristic assessed in terms of whether it does or does not meet a given performance (performance is the impact on economic conditions, the environment, society or quality of life)

Table A.1 — Performance framework for the engagement of target groups in contracts

Aspect of performance	Participation of targeted enterprises in contracts	Participation of targeted partners in joint ventures in contracts	Participation of local enterprises and labour in contracts	Participation of targeted labour in contracts
Level 1: Objective	Provide business opportunities to specified targeted enterprises	Provide joint venture partner opportunities to specified target groups	Provide business and employment opportunities to local enterprises and targeted labour	Provide employment opportunities to specified targeted labour
Level 2: Performance descriptions	Engage targeted enterprises directly or indirectly	Enter into a joint venture agreement at a main contract level with one or more targeted partners	Engage targeted labour and targeted enterprises directly	Engage targeted labour directly
Level 3: Performance parameters	The contract participation goal (value of goods, services and works for which the contractor contracts targeted enterprises expressed as a percentage of the contract amount) is not less than ...%	The contract participation goal (sum of the participation parameters in respect of each targeted partner multiplied by the contract amount of the contract, expressed as a percentage of the contract amount) is not less than ...%	The contract participation goal (amount equal to the sum of the wages and allowances for which the contractor contracts to engage targeted labour and the value of goods, services and works for which the contractor contracts targeted enterprises, expressed as a percentage of the contract amount) is not less than ...%	The contract participation goal (sum of the wages and allowances expressed as a percentage of the contract amount) is not less than ...%
Level 4: Evaluation of solution	Apply the relevant provisions of ISO 10845-5:2011	Apply the relevant provisions of ISO 10845-6:2011	Apply the relevant provisions of ISO 10845-7:2011	Apply the relevant provisions of ISO 10845-8:2011

Table A.2 provides examples of other key performance indicators (KPI) (performance parameters).

Table A.2 — Examples of KPIs and their definitions

KPI	Definition of KPI
Contract local direct employment goal	The percentage of the total number of equivalent person days worked by people employed by the contractor or a subcontractor within the site who are local people
Contract skills development goal	The number of hours of skills development opportunities that a contractor contracts to provide in relation to work directly related to the contract or order up to: <ul style="list-style-type: none"> — completion in the case of a professional service contract; — the end of the service period in the case of a service contract; — completion in the case of an engineering and construction works contract; and — the delivery date for all the work required in terms of a supply contract
Local content goal	The portion of the tendered price which is not included in the imported content

A targeting strategy is a strategy used to promote secondary procurement objectives. A targeted procurement procedure is the process used to create a demand for the services or goods of, or to secure the participation of, targeted enterprises and targeted labour in contracts in response to the objectives of a secondary procurement policy. There are a number of targeted procurement procedures which can be used to promote secondary procurement objectives as indicated in Table A.3 which are more fully described in Annex G.

Table A.3 — Targeted procurement procedure options

Targeted procurement procedure	Outline of procedure
Granting of tender evaluation points	Tender evaluation points for contract-specific goals are granted to tenderers who undertake to achieve a specified KPI in the performance of the contract
Accelerated rotations on electronic databases	Target groups are identified and accelerated at a faster rate than non-target groups on electronic data bases linked to the nominated procurement procedure
Granting of a percentage of the total number of evaluation points used to short-list tenderers following a call for expressions of interest	A point scoring system is used to shortlist respondents following a call for expressions of interest in the qualified procedure, a percentage of the total points on offer are linked to the attainment of KPIs
Financial incentives for the attainment of key performance indicators in the performance of the contract	An incentive payment is linked to the improvement upon or attainment of a KPI in the execution of a contract
The creation of contractual obligations to engage target groups in the performance of the contract by establishing requirements for the tendering of subcontracts in terms of a specified procedure or establishing obligations to attain contract participation goals in accordance with the relevant provisions of ISO 10845 (all parts)	Contractors can be required, as a contractual obligation, to subcontract a percentage of the work to targeted enterprises or contract goods or services from targeted enterprises. They may also be required to enter into joint ventures with targeted enterprises or engage targeted labour in the performance of a contract. This can most readily be achieved by requiring contractors to archive a minimum contract-participation goal in accordance with the requirements of ISO 10845-5, ISO 10845-6, ISO 10845-7 or ISO 10845-8 Alternatively, contractors may be required to subcontract specific portions of a contract to targeted enterprises

Well-formulated secondary procurement policies should outline clear policy themes, establish priorities where there is more than one policy theme and project policy outcomes. Such policies should enable

short-term and medium-term targets or goals (deliverables) to be established when the policy is put into operation.

Goals at project or contract level should be

- a) clearly defined to make them contractually enforceable,
- b) measurable and quantifiable to allow them to be monitored and evaluated, and
- c) verifiable and auditable for reasons of transparency and to ensure that the policy intent is achieved.

Goals at programme level should be aggregated and evaluated to facilitate the monitoring of progress towards the attainment of specific policy objectives (see [Annex E](#)).

The linking of social and economic goals to procurement causes value for money to be redefined. Depending on the objectives of a secondary procurement policy, value for money can be redefined in terms of a combination of price and factors such as the quantum of employment generated by choices in technologies and methods, or the quantum of the engagement of targeted enterprises and labour.

The redefining of value for money in terms of objectives additional to those relating to the immediate objectives of procurement necessitates and requires that

- a) the tender-evaluation criteria and contractual obligations, as relevant, relating to secondary procurement policies be objective and fully described in procurement documents,
- b) tenderers structure their tenders to facilitate the engagement of targeted enterprises and targeted labour in an economical manner in order to win or secure contracts,
- c) the performance of the contracts be monitored to verify that objectives are in fact met, and
- d) measures be put in place to sanction those contractors who secure contracts on a fraudulent basis, or fail to deliver on their undertakings in the performance of the contract.

The targeted procurement procedures that are presented in [Annex E](#), particularly when used in conjunction with ISO 10845-5, ISO 10845-6, ISO 10845-7 or ISO 10845-8, facilitate the above in relation to the social and economic goals relating to business and employment opportunities.

Ideally, secondary procurement policies should seek to promote social and economic objectives. It might, however, be necessary to reserve contracts in support of sheltered employment programmes to provide work for handicapped persons who, by reason of the nature or the seriousness of their disabilities, cannot carry out occupations under normal conditions.

A.1.5 Electronic databases

The setting up of an electronic database involves

- a) the identification of
 - 1) recurring fields of services or goods that are required,
 - 2) general criteria relating to the admission to the database, including those relating to branch offices,
 - 3) prequalification criteria, based on capabilities and the ability to provide the required service or supply, for admission to the database in one or more fields, and
 - 4) target groups, if any, who will rotate in the database at an accelerated rate (see [Annex E](#)),
- b) the placement of an advertisement in suitable media for a call for expressions of interest to be admitted to the database to provide goods or services in the required fields at least once a year,

- c) the admission to the database, in one or more fields, only those respondents who submit expressions of interest that comply with both the admission and prequalification requirements, and where applicable, to a preferred category,
- d) the notification of applicants of the administrative action taken, i.e. whether or not they have been entered, and if not, on what grounds, and
- e) the establishment of the search criteria associated with a particular appointment to identify the
 - 1) highest ranked entry which satisfies the search criteria and value limits for a small contract and negotiate a contract with this contractor, or
 - 2) five highest ranked entries which satisfy the search criteria where the value limits for a small contract are exceeded.

[Annex E](#) provides guidance on the use of this method of procurement and suggests that its use might not be appropriate in high-value contracts. [Annex E](#) describes a mechanism for providing accelerated work opportunities to targeted enterprises.

A.1.6 Means of communication

The employer should only use a means of communication that is appropriate within the employer's organizational context.

A.2 Commentary on preparing for procurement ([Clause 5](#))

A.2.1 Preparation for a procurement other than a disposal

This subclause establishes a set of requirements which are preparatory to any procurement. They are designed to ensure that the procurement is approached in a systematic manner, the necessary choices in the procurement processes and procedures are made, and procurement-related risks are managed from the outset.

The built environment (buildings and civil engineering works) is a key element in determining the quality of life, and contributing to cultural identity and heritage and, as such, is an important factor in the appreciation of the quality of the environment in which society lives and works. The building and construction sector have a significant interface with poverty reduction through the basic economic and social services provided in the built environment and the potential opportunities for the poor to be engaged in construction, operation and maintenance. It has potential to show improvement relative to its economic, environmental and social impacts. Over their life cycle, construction works absorb considerable resources and contribute to the transformation of areas. As a result, they can have significant economic consequences and impacts on the environment, human health and livelihoods. It is accordingly important, when procuring, to consider the environmental, social and economic impacts of such procurement (see [Annex C](#)).

A.2.2 Preparation for a disposal

This subclause establishes a set of requirements which are preparatory to any disposal. They are designed to ensure that the disposal is approached in a systematic manner, the necessary choices in the procurement processes and procedures are made and procurement-related risks are managed from the outset. It might be necessary, prior to deciding to proceed with a procurement strategy, to consider alternative disposal strategies, such as transfer to another organization, either at market-related value or free of charge, recycling or reuse of component materials, or dispose of by means of dumping at an authorized dump site, burning, demolition, etc.

A.3 Commentary on procurement methods and procedures ([Clause 6](#))

A.3.1 General

Shortlisting is based on the qualifications of the respondents. The formation of a joint venture after shortlisting may necessitate that the respondent be re-evaluated. This might change the shortlist, depending upon the criteria for drawing up such a list, hence the need to obtain consent to do so.

The requirement relating to the prohibiting of those responsible for the preparation of a procurement document or part thereof from submitting a tender for such work relates to a conflict of interest. Professional service providers are required to provide professional, objective and impartial advice and at all times hold the employer's interests paramount, without any consideration for future work. Conflicts of interest accordingly might arise from the preparation of procurement documents for an employer, should such a service provider tender for work associated with such documents. If, for reasons acceptable to the employer, it is not desirable to debar a professional service provider who has participated in the development of the scope of work and other such documentation associated with a particular tender, the employer should state in the tender data that such a professional service provider is a potential tenderer and that all the information which was made available to, and the advice provided by, that professional service provider which is relevant to the tender will be made equally available to all potential tenderers upon request, if not already included in the scope of work. The employer should, in such circumstances, review the outputs of the professional service provider and be satisfied that the procurement document is objective and unbiased, taking the role and recommendations of that professional service provider into account.

A.3.2 Procurement documentation

The requirements for procurement documentation are designed to ensure that the procurement remains fair, equitable, transparent, competitive and cost-effective. Procurement documents need to not only support the implementation of the selected procurement strategy but also incorporate the tactics directed towards the selection of a contractor who is most likely to delivery best value through the performance of the contract, life cycle costs of what is offered, the availability of spares, operation, maintenance requirements etc. This ensures that the procurement remains cost effective i.e. it contributes to value for money.

Eligibility criteria enable an employer to introduce minimum qualification or pre-qualification criteria into the procurement process such as that relating to financial standing and capability, business and professional standings and health and safety, environmental management, quality management and building information modelling capabilities. Such criteria should be framed around threshold or minimum requirements which, if not satisfied, would pose an unacceptable risk to the employer should the respondent or tenderer be recommended for the award of a contract and as such be overlooked for the award of the contract. The formulation of such criteria should be such that respondents and tenderers can readily self-assess their compliance/non-compliance with the stated criteria. Respondents or tenderers who fail to comply with the eligibility criteria will either refrain from making a submission or have their submissions rejected at the outset of the evaluation process. This reduces the work load on those that are tasked with the evaluation of submissions.

Care needs, however, to be taken in setting eligibility criteria. Such criteria should not be set any higher than is necessary so as not to unfairly eliminate capable respondents and tenderers who are able to offer better value or unfairly discriminate against small and medium sized enterprises.

The awarding of contracts on the basis of the lowest tendered price does not necessarily represent value for money. The introduction of quality in the evaluation of tenders in terms of methods 2 (financial offer and quality) and 4 (financial offer, quality and preference) ([Table 3](#) introduces a reasoned judgement in evaluating the cost effectiveness of awarding a contract to a particular tenderer as it combines the financial offer with the ability of the product or service to satisfy stated or implied needs. The inclusion of quality in the evaluation of tenders using methods 2 and 4 enables matters that form an integral part of the tender offer and which cannot be directly expressed in monetary terms and are justifiable in terms of procurement outcomes to be taken into account alongside the financial offer and, if applicable,

preference. This enables the most economically advantageous or best value offer to be identified. This is particularly important in construction works projects where:

- a) the outturn project cost (the actual, total cost calculated at the end of the project) is frequently different to the initial starting price of the contract and is a function of the proficiency, quality and/or performance of the successful tenderer in mitigating project risks which arise during the performance of the contract (see [Annex B](#)); and
- b) the design costs typically represent 1 % to 2 % of the overall lifecycle cost of a project, with construction accounting for approximately 6 % to 18 % of the cost.

The common law of business balance, which is widely attributed to John Ruskin (1819-1900), states that *“There is hardly anything in the world that someone cannot make a little worse and sell a little cheaper, and the people who consider price alone are that person’s lawful prey. It’s unwise to pay too much, but it’s worse to pay too little. When you pay too much, you lose a little money — that is all. When you pay too little, you sometimes lose everything, because the thing you bought was incapable of doing the thing it was bought to do. The common law of business balance prohibits paying a little and getting a lot — it can’t be done. If you deal with the lowest bidder, it is well to add something for the risk you run, and if you do that you will have enough to pay for something better.”*

Value is a combination of “*what*” is important and “*how much*” it is important. The quality criteria are the “*what*” while the weightings embedded in methods 2 and 4 are the “*how much*”. Examples of commonly encountered quality criteria, appropriate to the different categories of contract, are listed in [Table A.4](#).

Table A.4 — Examples of commonly encountered quality criteria

Category of contract	Subject matter of quality criteria and sub-criteria
<p>Construction works (which may include any level of design responsibilities)</p>	<p>Technical approach/methodology/proposed programme for satisfying stated employer's objectives/managing project risks/reducing outturn costs</p> <p>Project team organization (qualifications/experience of staff allocated to the project/availability of skills to manage and perform the contract (assigned personnel))</p> <p>Recent experience (track record) on previous contracts of a similar nature, scope or complexity</p> <p>Response to (ability to relate to) the proposed scope of work/project design (approach paper) which establishes the manner in which the tenderer intends to perform the contract and add value in the attainment of the employer's stated objectives</p> <p>Experience of key personnel responsible for the management of the physical construction processes and the coordination, administration and management of resources on the site</p> <p>Availability of equipment and personnel required for the project and contingency plans</p> <p>Management structure and resources allocated to the contract</p> <p>Time to completion</p> <p>Aesthetic and functional characteristics (design, operating costs, ease of use, adaptability for changes in use, demonstration of innovation and maintainability)</p> <p>Quality control/health and safety/environmental practices and procedures which are geared towards consistently and reliably complying with stated requirements</p> <p>Teamworking arrangements (partnering arrangements/collaborative approaches with the client, subcontractors and suppliers)</p> <p>Technical merit (appropriate to the client's needs and constraints/degree of flexibility in carrying out the contract/method of carrying out the contract/approach to satisfying legislative requirements/approach to sustainability/standards of materials, checks and independent inspections)</p> <p>Value added by the tenderer in delivering the required works in accordance with, where stated, client values i.e. the answer to the question as to why the employer will derive better value for money by contracting with the tenderer rather than with any other tenderer</p> <p>Approach to promoting stated secondary procurement objectives</p>

Table A.4 (continued)

Category of contract	Subject matter of quality criteria and sub-criteria
Services (including professional services)	<p>Response to (ability to relate to) the proposed scope of work/project design (approach paper) which establishes the manner in which the tenderer intends to perform the contract and add value in the attainment of the employer's stated objectives</p> <p>Adequacy of proposed work plan and proposed methodology</p> <p>Organization, logistics and support resources</p> <p>Demonstrable managerial ability appropriate to the size and nature of work</p> <p>Control procedures</p> <p>Qualifications and competence of the key staff (assigned personnel) in relation to the scope of work</p> <p>Demonstrated experience (past performance) in comparable projects</p> <p>Demonstrated experience with respect to specific aspects of the project</p> <p>Experience (familiarity) in the region or similar regions (local knowledge)</p> <p>Quality assurance systems which ensure compliance with stated employer's requirements</p> <p>Sound knowledge of the employer's policies or work procedures (or both)</p> <p>Arrangements for the transfer of knowledge</p> <p>Demonstrable capability to mobilize own, hired and subcontracted resources in projects of a similar nature</p> <p>Value added by the tenderer in delivering the required works in accordance with, where stated, client values i.e. the answer to the question as to why the employer will derive better value for money by contracting with the tenderer rather than with any other tenderer</p>
Goods	<p>Attainment of beyond minimum quality standards, e.g. quality marks</p> <p>Quality assurance systems/environmental practices which ensure compliance with stated employer's requirements or objectives</p> <p>Periods for delivery</p> <p>Availability of after-sales service/technical support/spare parts</p> <p>Safety and environmental benefits</p> <p>Product reliability and performance</p> <p>Life-cycle costs</p>

The "how much" depends on the weightings assigned to the parameters under evaluation) (i.e. financial offer and quality or financial offer adjusted for a preference and quality), the minimum number of points for quality stated in the tender data below which tenderers are eliminated from further consideration and the manner in which the qualitative indicators are measured (linear logarithmic scale) and the manner in which the points are for financial offer are calculated. The difference in points between tenderers is the differentiator rather than the total number of points. It might be necessary to consider a number of scenarios before deciding on a particular ratio of quality: financial offer as the difference in points determines the potential cost premium that is payable (see ISO 10845-3).

The prompts for judgements provided to those tasked with the evaluation of submissions should be framed in a similar manner to those provided in [Tables A.5](#) and [A.6](#). The making known of the prompts for judgement to prospective tenderers allows tenderers or respondents to focus their submissions.

Where it is desirable to evaluate quality aspects of submissions in order to establish a minimum level of quality offered, but undesirable to evaluate quality alongside financial offer or financial offer adjusted for a preference, method 2 or method 4 should be used with a weighting of zero for quality.

Table A.5 — Qualitative indicators or prompts for judgement used in the evaluation of quality (linear scale)

Score ^a %	Qualitative indicator or prompt for judgement
0	Failed to address the question/issue.
20	A detrimental response/answer/solution — limited or poor evidence of skill/experience sought, high risk that relevant skills will not be available.
40	Less than acceptable response/answer/solution — lacks convincing evidence of skill/experience sought, medium risk that relevant skills will not be available.
60	Acceptable response/answer/solution to the particular aspect of the requirement — evidence given of skill/experience sought.
80	Above acceptable response/answer/solution — demonstrates real understanding of requirement and evidence of ability to meet it based on
100	Excellent response/answer/solution — gives real confidence that the supplier will add real value based on

^a The threshold score, below which tenderers are eliminated from further consideration, should be between 45 % and 60 %.

Table A.6 — Qualitative indicators or prompts for judgement used in the evaluation of quality (logarithmic scale)

Score ^a %	Rating	Qualitative indicator or prompt for judgement		
		Example 1 (Proposed organization and staffing)	Example 2 (Approach paper)	Example 3 (Knowledge of issues pertinent to the project)
0	No response	Failed to provide information.	Failed to provide information.	Failed to provide information.
40	Poor	The organization chart is sketchy, the staffing plan is weak in important areas. There is no clarity in allocation of tasks and responsibilities.	The technical approach and/or methodology is poor/unlikely to satisfy project objectives or requirements. The tenderer has misunderstood certain aspects of the scope of work and does not deal with the critical aspects of the project.	Key staff have limited experience of issues pertinent to the project.
70	Satisfactory	The organizational chart is complete and detailed, the technical level and composition of the staffing arrangements are adequate.	The approach is generic and not tailored to address the specific project objectives and methodology. The approach does not adequately deal with the critical characteristics of the project. The quality plan, manner in which risk is to be managed, etc., is too generic.	Key staff have reasonable experience of issues pertinent to the project.

^a The threshold score, below which tenderers are eliminated from further consideration, should be between 60 % and 70 %.

Table A.6 (continued)

Score ^a %	Rating	Qualitative indicator or prompt for judgement		
		Example 1 (Proposed organization and staffing)	Example 2 (Approach paper)	Example 3 (Knowledge of issues pertinent to the project)
90	Good	Besides meeting the “satisfactory” rating, staff are well balanced, i.e. they show good coordination, complementary skills, clear and defined duties and responsibilities. Some members of the project team have worked together before on limited occasions.	The approach is specifically tailored to address the specific project objectives and methodology and is sufficiently flexible to accommodate changes that might occur during execution. The quality plan and approach to managing risk, etc., is specifically tailored to the critical characteristics of the project.	Key staff have extensive experience of issues pertinent to the project.
100	Very good	Besides meeting the “good” rating, the proposed team is well integrated and several members have worked together extensively in the past.	Besides meeting the “good” rating, the important issues are approached in an innovative and efficient way, indicating that the tenderer has outstanding knowledge of state-of-the-art approaches. The approach paper details ways to improve the project outcomes and the quality of the outputs.	Key staff have outstanding experience of issues pertinent to the project.

^a The threshold score, below which tenderers are eliminated from further consideration, should be between 60 % and 70 %.

A.3.3 Solicitation of tender offers

This subclause establishes the generic range of procurement methods. [Annex F](#) provides guidance on the usage of these standard methods.

The methods and procedures for procurements are generic in nature and are not specific to a category of procurement, i.e. services, goods or construction works. Some methods may, however, be more frequently used than others as they might be better suited to a particular category of contract.

The minimum time frames associated with a procedure are the absolute minimum that should be given to domestic tenderers and respondents. These time frames might need to be increased when soliciting tender offers and submissions of interest from international tenderers and respondents.

A.3.4 Framework agreements

Framework agreements, which are usually entered into following a negotiated, competitive selection or competitive negotiation procedure, allow the employer to procure work on an as-instructed (call-off) basis over a set term without necessarily committing to any quantum of work. This may be achieved by issuing orders in terms of a framework contract during the term of the contract, i.e. an instruction to provide works, goods or services within a stated period of time for an agreed price.

Framework agreements do not bind an employer to make use of such agreements to meet needs. The market can be approached for goods, services and works whenever better value in terms of time, cost and quality may be obtained.

Price in the context of a framework agreement may be considered to be a sum of money for which something is purchased, the actual cost of acquiring something calculated according to some specific measure, or an estimate of what the transaction is worth. Accordingly, framework contracts contain prices for work to be executed over a term or cost parameters which enable prices to be determined

once the scope of work has been determined. They may also contain a combination of prices and cost parameters.

Framework contracts need to contain terms which establish

- the rights and obligations of the contracting parties and the agreed procedures for the administration of the contract and the issuing of orders,
- the term of the agreement during which an order may be issued,
- the scope of work which may be included in an order to enable decisions to be made as to what is covered in the agreement and what needs to be procured outside of the agreement, and
- the basis by which contractors will be remunerated for work performed in terms of an order, if and when such an order is issued.

Orders that are issued

- may only cover goods, services and works work falling within the scope of work associated with the agreement,
- may not be issued after the expiry of the term of the agreement (see [Figure A.3](#)); and
- may be completed even if completion of the order is after the expiry of the term (see [Figure A.3](#)).

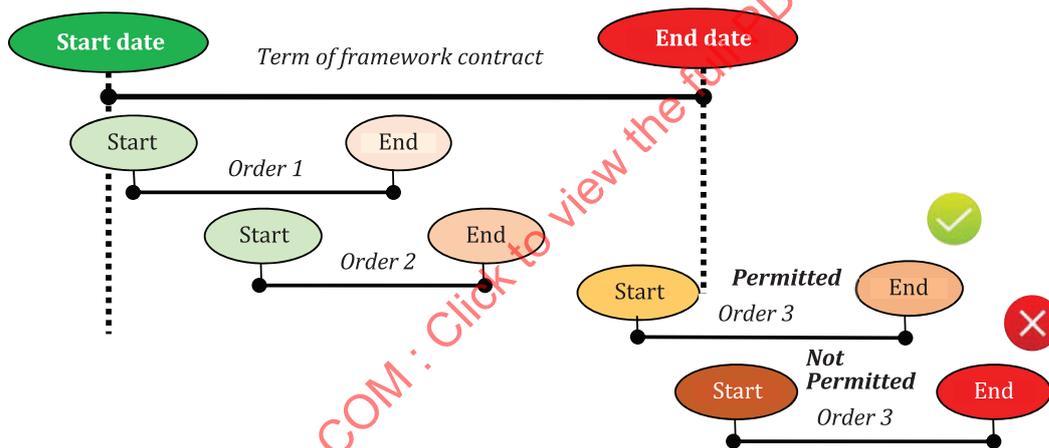


Figure A.3 — Timing of call offs in a framework agreement

Framework agreements should only be entered into with contractors who have the resources and the capability to carry out work that is likely to be instructed for a term usually not exceeding 3 to 4 years. Framework agreements can be entered into with a single or a limited number of contractors (typically not more than 3 but certainly not more than 5), based on the projected demand and geographic location for goods, services or works. The issuing of orders from framework agreements where a number of framework contractors have agreements covering the same scope of work may be made with and without requiring competition amongst such contractors. Competition amongst framework contractors for orders needs to take place where there is no justifiable reason for issuing an order to a particular framework contractor.

Framework agreements enable lessons learned in one order to be taken to the next order and enable a team to work together on an integrated approach over a period of time. It also enables performance, including that of promoting secondary objectives, to be improved upon over time.

NOTE 1 It becomes difficult to find justifiable reasons for issuing an order to a particular framework contractor when there are more than 3 framework contractors covering the same scope of work. As a result, competition amongst framework contractors may need to take place.

NOTE 2 Framework agreements have similarities with term service contracts, but are different in several important aspects. A term contract is a contract that enables the employer to order work over a fixed term at agreed rates. Such contracts have, at the time that they are entered into, a contract value. Those who administer such contracts are authorized to instruct the required work over the term against such contracts. A framework contract is different to a term contract in that it has no value at the time of its formation and more than one contract covering the same scope of work can be entered into. Framework contracts frequently have no fixed rates. Consequently the terms of the contract can have to be applied in order to arrive at a price. Those administering such contracts require authorization to issue an order for three basic reasons (see [Annexes D](#) and [E](#)):

- authority to incur the required expenditure;
- confirmation that the goods, services or works fall within the scope of the framework contract approved at the time that the framework contract was entered into; and
- where more than one framework agreement covers the same scope of work, the acceptability of the reasons for selecting a particular framework contractor.

A.3.5 Design competitions

Design competitions enable employers to award contracts on the basis of the quality offered. They can be designed to extract innovative designs, ideas and practices and to identify talented designers to participate in the development of the physical fabric of a construction works project. They may as such be used to:

- discover talent and skill which, but for a competition, would remain unknown;
- afford opportunities to professionals through a competitive process to undertake work which might not otherwise have been possible;
- enable young unknown talents to come to the fore and be noticed;
- obtain outstanding and unique design concepts and explorations, and
- promote the project through publicity and exhibitions.

Competition rules should be drafted to regulate the conducting of the competition. Such rules should as necessary

- a) describe the purpose of the design competition,
- b) establish the competition brief and evaluation criteria,
- c) establish admission and submission requirements,
- d) identify the language of the competition,
- e) indicate if prizes are to be awarded and if so what is the nature of the prize,
- f) describe how the anonymity of participants will be achieved in the process,
- g) address the marking and safeguarding of submissions,
- h) how communications with the competition administrator will take place,
- i) how additional information and clarifications will be handled,
- j) describe the actions and functions of the competition administrator and the jury,
- k) establish how the winners will be announced, and
- l) establish who holds the copyright and has ownership over the documents.

A.3.6 Tender process and procedures

Four standard evaluation methods are provided for, namely method 1 (financial offer), method 2 (financial offer and quality), method 3 (financial offer and preference) and method 4 (Financial offer, quality and preference). Weightings and points are allocated to the parameters that are scored in methods 2 to 4. The weighted scores for each of the parameters that are evaluated are added together. The tenderer with the highest score is considered to be the most competitive.

The tender procedures are compatible with those framed in ISO 10845-3. Comprehensive guidance on the application of these procedures is given in ISO 10845-3

A.3.7 Contract administration

Contract administration requirements are linked to the conditions of contract which contain procedures for the administration of a contract. Appropriate conditions of contract should be used in relation to the nature of the contract. ISO 10845-2 provides guidance on the selection of a standard form of contract for the provision of goods, services and construction works.

Data should be captured upon completion or termination of a contract as it informs future selections in the pursuit of best-value procurement.

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Annex B (informative)

Differences between categories of procurement

The procurement of general goods and services for consumption usually involves the direct acquisition of products which are standard, well-defined and readily scoped and specified. The process normally involves the production of a specification which then forms the requisition for goods and services. An immediate choice can be made in the terms of the cost of goods and services satisfying the specified requirements, which can be paid for upon delivery. In contrast, it is usually not possible to directly acquire construction works in the way that general goods and services are acquired. The delivery of construction works involves the procurement, programming and coordination of a network of suppliers of goods and services which are required to collectively deliver or alter construction works on a site. This network can include different companies specialising in design, manufacture, supply, assembly or construction.

There are many more risks to manage in construction procurement, due to unforeseen events during the delivery of the project. In addition, construction works requirements are often established from a perspective of desired performance, rather than a well-defined specification. A range of different combinations of goods and services with differing characteristics such as initial cost, reliability, life-cycle costs, and operating costs may satisfy the performance requirements. A construction product is usually delivered and paid for incrementally over a period.

[Table B.1](#) outlines the significant common differences between the procurement characteristics associated with the provision, alteration, refurbishment and rehabilitation of construction projects and those for general goods and services.

Table B.1 — Significant differences commonly encountered between the procurement of general goods and services for consumption and the procurement of construction works

Characteristic / consideration	General goods and services for consumption	Provision of construction works
Satisfying the business need	The business need is commonly achieved through the production of a specification, which then forms a requisition for goods or services	The business need is frequently satisfied though multiple contracts which need to be procured and managed in such a way that the anticipated benefits are progressively realised
Demand management	The demand is usually determined and managed through inventory/bin levels or the frequency of the required service	Demand is most often determined and managed through service life plans which are based on an assessment of current performance against desired levels of service or functionality and strategic infrastructure plans which provide a credible forecast of current demand and net demand for services or requirements for functionality over a period of time Demand also needs to be proactively managed through the planning, acquisition and contract management phases to prevent scope creep

Table B.1 (continued)

Characteristic / consideration	General goods and services for consumption	Provision of construction works
Risks	Risks are relatively low as they are typically linked to the ability of the contractor to timely supply the required goods or to provide the required service to the standard demanded by the employer within the tendered amount. The consequences of late delivery are usually low	Risks are high due to uncertainties at the start of a contract which include economic circumstances, human behaviour, natural events, weather, inherent site conditions, political circumstances, community unrest, technology and technical issues, management activities and controls and individual activity. Risks can also manifest in commercial and legal relationships and weak employers as well as in the difference between estimated quantities at tender stage and final quantities at the completion of the works and the manner in which contractors are compensated for risk events for which they are not responsible for
Interdependencies and interfaces between contracts	Interdependencies and interfaces between contracts are rare as the procurement commonly involves off the shelf products or readily available commodities or standard, well defined and scoped services	There are several interfaces and interdependencies between contracts as works (products) are developed or maintained on a site. A supply chain frequently needs to be contracted and mobilised to provide the necessary professional services, manufacture and supply materials, products, components and assemblies, provide the necessary equipment and labour to provide the works
Final contract price of contract	The final contract price typically equates to the quantum of goods or services which are consumed multiplied by the agreed rate	The final contract price in works contracts equates to the sum of the initial contract price for work which is known, the cost of changes in scope of contract (variations) to enhance quality performance or to address shortcomings which can impair performance, the amount of contract price adjustment for inflation provided for in the contract and the cost of risk events that materialise in the execution of a contract for which the contractor is not responsible
Budget, contract price and purchase order value	Contract price is commonly adjusted to fit the budget or the budget reduced to the contract amount when it is known. The purchase order (financial control) amount typically equals the contract price which in turn equals the budget	The budget needs to include contingences to fund changes in requirements established at the start of the contract to enhance quality or performance, or to address shortcomings which can impair performance, and risk events for which the contractor is not responsible. The purchase order amount may also need to be adjusted to enable contingencies to be accessed. The budget, the amount due in terms of the contract and the purchase order amount are rarely the same (see Annex E)
Conditions of contract	Conditions of contract describe the rights and obligations of the parties and commonly lack agreed procedures for the administration or management of the contract Frequently a contract or a service level agreement is negotiated after the evaluation of tenders, based on the tender submission	Conditions of contract provide terms that collectively describe the rights and obligations of contracting parties and the agreed procedures for the administration of the contract A standard form of contract is used which provides fixed terms and conditions which are usually not varied. This is necessary to allocate risks to the parties and to provide the methodology by which adjustment to both the prices and the time for completion can be made for changes in the scope of work and for risk events for which the contractor is not at risk. This enables tenderers to price for such risk
Value for money (cost effectiveness)	Reducing the cost of resources, increasing output for a given input or minimising input for a given output while maintaining quality	The optimal use of resources or the effective, efficient, and economic use of resources to achieve intended project outcomes. It speaks to the cost effectiveness of the outputs of the procured resources in the delivery of project outcomes

There are also differences in the approach to sustainable procurement as construction works commonly incorporates materials (substances that can be incorporated into the works), products (item manufactured or processed for incorporation into the works), components (products manufactured

as distinct units to serve a specific function or functions) and assemblies (set of related components attached to each other) and involves a wide range construction operations, often with competing impacts (see [Annex C](#)).

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Annex C (informative)

Sustainable procurement in construction works contracts

C.1 General

Sustainability is the state of the global system, including environmental, social and economic aspects, in which the needs of the present are met without compromising the ability of future generations to meet their own needs (ISO 6707-3). Sustainable development, on the other hand, is development that meets the environmental, social and economic needs of the present without compromising the ability of future generations to meet their own needs (ISO 6707-3). It is rooted in the simple concept of providing a better quality of life for all, now and for generations to come. It is a way of looking at all resources that will lead to a higher quality of life for the current generation, without compromising that of future generations.

While the challenge of sustainable development is global, the strategies for addressing sustainability in construction works are local and differ in context and content from region to region. Such strategies need to reflect the context not only in the built environment, but also in the social environment which includes social equity, cultural issues, traditions, heritage issues, human health and comfort, social infrastructure and safe and healthy environments. It may in addition, particularly in developing countries, include poverty reduction, job creation, access to safe, affordable and healthy shelter and mitigation of loss of livelihoods. Given the disparities in standards of living between developed and developing nations, the approach in general to the social component is very different. This results in different development priorities between the developed nations and developing nations as indicated in [Figure C.1](#). In nations with dual economies the priorities differ regionally and within communities, depending upon where the poor and the affluent live.

Developed nations			Developing nations	
GREEN AGENDA			BROWN AGENDA	
Ecosystemic well-being	Key concern		Human well being	
Forever	Time frame		Immediate	
Local to global	Scale		Local	
Future generations	Concerned about		Low income groups	
Protect and work with	Nature		Manipulate and use	
Useless	Services		Provide more	
Affluence and overconsumption			Poverty and underdevelopment	

Figure C.1 — The “green” and “brown” agendas

Sustainable development changes the traditional linear economy of make, use and dispose into a circular economy in which resources are kept in use for as long as possible, extracting the maximum value from them whilst in use, and then recovering and regenerating products and materials at the end of each service life.

C.2 ISO 20400 approach to sustainable procurement

ISO 20400 defines sustainable procurement as “procurement that has the most positive environmental, social and economic impacts possible over the entire life cycle.” ISO 20400 assists organizations in meeting their sustainability responsibilities by providing an understanding of what sustainable

procurement is and what the sustainability impacts and considerations are across the different aspects of procurement activity (policy, strategy, organization and process).

ISO 20400 suggests that:

- the main principles are accountability, transparency, ethical behaviour, full and fair opportunity, respect for stakeholders interests, respect for human rights, the rule of law and international norms of behaviour, innovative solutions, focus on needs, integration, analysis of all costs and continual improvement;
- the core subjects are organizational governance, human rights, labour practices, the environment, fair operating practices, consumer issues and community involvement and development; and
- the key considerations for sustainable procurement are managing risk (and opportunities), addressing adverse sustainability impacts through due diligence, setting priorities for sustainability issues, exercising influence and avoiding complicity.

ISO 20400 points out that the commitment of top management is critical to successful sustainable procurement. Without this formal commitment, individuals in procurement have no mandate to integrate sustainability into their procurement strategies or processes and sustainable procurement will remain an ad hoc activity without resources and recognition at an organizational level.

ISO 20400 defines procurement narrowly as the “activity of acquiring goods or services from suppliers” and as such focuses on general goods and services (see [Annex B](#)). Construction works involves the combination of many goods and services in the development of a product on a site. Procurement in a construction context focuses not only the acquisition process but also on the planning and contract management phases of the procurement process i.e. the upstream and downstream activities of the procurement process. What is planned needs to be delivered in the face of many risks which may manifest and several competing objectives and impacts (see [Annex B](#)).

C.3 Sustainable procurement in the context of construction works

C.3.1 Concepts

Value for money refers to a project that is well worth the money spent on it. It is the effective, efficient and economic use of resources, or the optimal use of resources to achieve intended outcomes (see [Figure C.2](#)). Value for money is the attainment of a desirable or satisfactory outcome in relation to a carefully considered budget. In the context of construction works projects, project outcomes are benchmarked against the client’s value proposition, usually set at the outset of the project and perhaps modified at the start of construction or supply.

The client’s business case, vision, values and project priorities collectively make up the client’s value proposition for a project i.e. the promise of measurable benefits resulting from the project. A project that achieves the client value proposition effectively, efficiently and economically is a project that achieves value for money. Activities associated with the planning, designing, manufacturing/fabrication, construction/installation and commissioning need to translate the client’s value proposition through a number of activities and influencing and controlling actions into project outcomes which impact on the three aspects of sustainability (economic, environmental and social) and result in a product as indicated in [Figure C.3](#).

Governance, client leadership and procurement strategy and tactics (see [Table C.1](#)) typically have the greatest impact upon project outcomes. These are all within the control of the client.

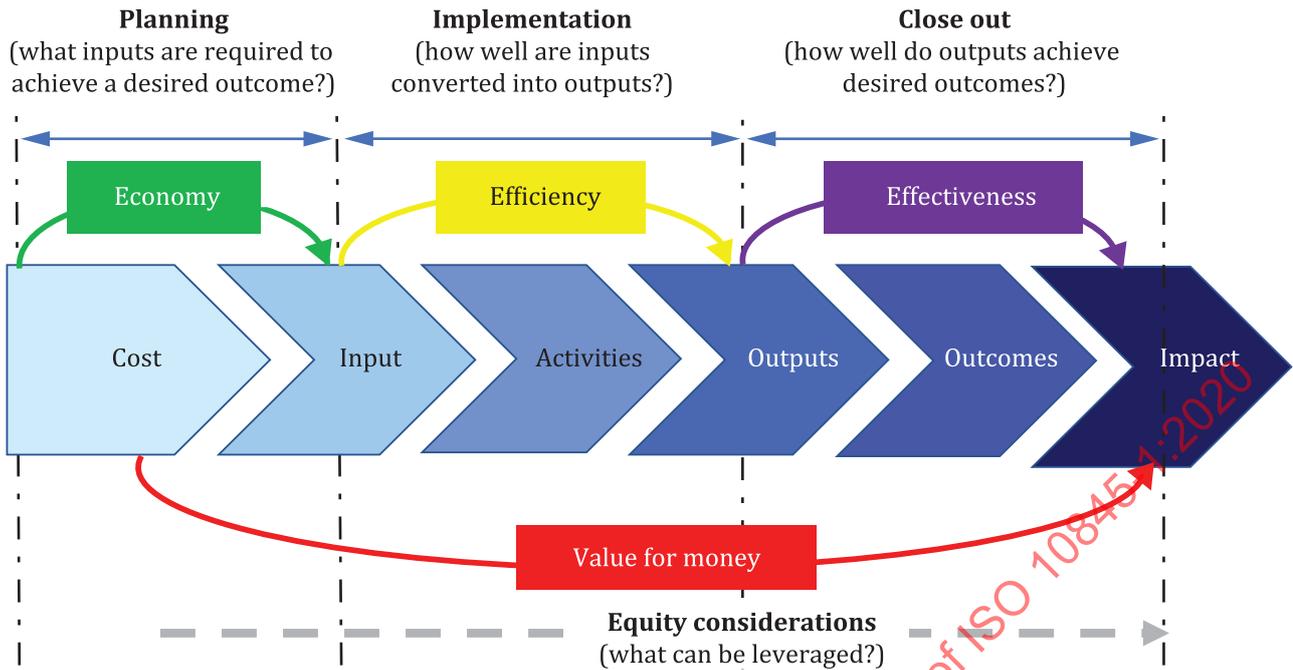


Figure C.2 — The relationship between the four “Es” in the value for money concept

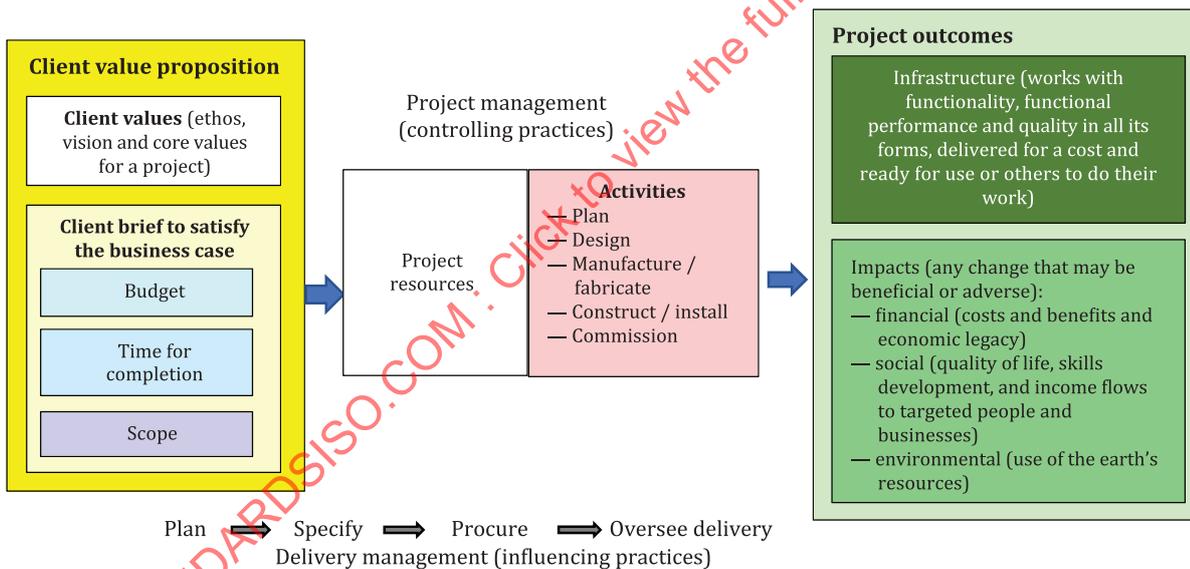


Figure C.3 — Translating the client value proposition for an infrastructure project into project outcomes

Table C.1 — Concepts associated with governance, client leadership and procurement strategy and tactics

Area	Concept
Governance	Governance is the system by which the whole organization is directed and controlled and held accountable to achieve its core purpose over the long term. Management, on the other hand, is the act of bringing people together to accomplish desired goals and objectives, using available resources in an efficient, effective and risk aware manner. Governance as such authorizes, directs, empowers, provides oversight and limits the actions of management.
Client leadership	Leadership is exercised by a client delivery manager (named individual who is held accountable for procurement outcomes) to deliver infrastructure projects efficiently, effectively and economically so that a desirable or satisfactory outcome, benchmarked against the client's value proposition, is achieved which reflects an optimal balance of the project benefits, risks and costs. Such leadership is a "buying" function which generally focuses on resolving challenges which are beyond the control of those that are responsible for the "selling" function i.e. the physical delivery of infrastructure projects.
Procurement strategy and tactics	Procurement strategy is all about the choices made in determining what is to be delivered through a particular contract, the contracting arrangements, how secondary procurement objectives are to be promoted and which selection method will be employed to solicit tender offers. Procurement tactics on the other hand typically relate to the selection of the other party to a contract who is most likely to deliver best value or a cost-effective solution through the performance of the contract.

Sustainable procurement in a construction works context is therefore more about achieving a balance between competing environmental, social and economic impacts (changes that may be beneficial or adverse) within budgetary constraints and in the face of risks (the effect of uncertainty of objectives) that manifest during the delivery process.

C.3.2 Developing and achieving a client's sustainability value proposition

Clients need to formulate and document their sustainability value propositions, brief those that are responsible for planning and designing construction works and incorporate sustainability requirements in contracts that are entered into. Standards provide a solid platform for doing so.

The client's sustainability value proposition can be informed from many standards. For example:

- ISO 26000 provides guidance on how businesses and organizations can operate in a socially responsible way. This means acting in an ethical and transparent way that contributes to the health and welfare of society.
- ISO 15392 identifies and establishes general principles for sustainability in construction works. It is based on the concept of sustainable development as it applies to the life cycle of buildings and other construction works, from their inception to the end of life.

A critical consideration is the service life of construction works i.e. the period of time after installation during which construction works or its parts meet or exceeds the performance requirements. There is a need to forecast and control the cost of ownership as a high proportion of the life cycle costs may be set by the time that the construction works is complete. Service life planning aims to reduce the costs of ownership. An assessment of how long each component or element lasts informs specifications, detailing and maintenance planning. ISO 15686-1 identifies and establishes general principles for service life planning and a systematic framework for undertaking service life planning of a planned construction works throughout its life cycle (or remaining life cycle for existing buildings or construction works).

Life cycle assessment (LCA) should not be confused with life cycle costing. LCA is a broader concept which entails identifying the "cradle to the grave" resources that are consumed and/or the effects on the environment throughout the service life of construction works. Life cycle costing (LCC), on the other hand, is a technique which enables comparative cost assessments to be made over a specified period of time, taking into account all relevant economic factors both in terms of initial costs, future operational

costs and disposal costs (see ISO 15686-5). This enables comparisons of future costs of alternatives to be made which enables the most economic overall design to be identified.

Life-cycle costs might be required during

- a) the investment stage, in order to provide an economic prediction of the total life-cycle cost, to enable the owner of the construction works to make informed decisions regarding which project option is viable, sustainable and represents the best value,
- b) the early stages of scheme design to inform the selection of fundamental or cost-significant elements, such as structure, building envelope or services, and
- c) the detailed design stage, to appraise and select the detailed design options from a life-cycle cost and performance perspective, and optimize the life-cycle cost plan.

Life-cycle costs might also be required during the tender-evaluation process to compare the competitiveness of tenders received and to assess the project affordability.

ISO 19208 provides a framework for the specification of performance in order to satisfy user requirements (statement of need to be fulfilled) or societal expectations (what society deems acceptable). ISO 19208, which considers performance as the “ability to fulfill required functions under intended use conditions, behaviour when in use or impact on economic conditions, the environment, society or quality of life,” recognizes four categories of performance, namely reaction to agents, influence on human activities, impact on society and changes in performance over time. It also provides a four-level generic model for describing the performance of an attribute (characteristic assessed in terms of whether it does or does not meet a given performance) as indicated in [Figure C.4](#).

The common drivers for objectives associated with contributions to sustainability described in ISO 19208 are indicated in [Table C.2](#). Performance parameters which relate to the contribution to sustainable development are frequently linked to indicators. Such indicators should be objective, verifiable and reproducible and, wherever possible, linked to predetermined benchmarks, reference levels or scales of value which are within levels acceptable to the user and meet the expectations of the community and society.

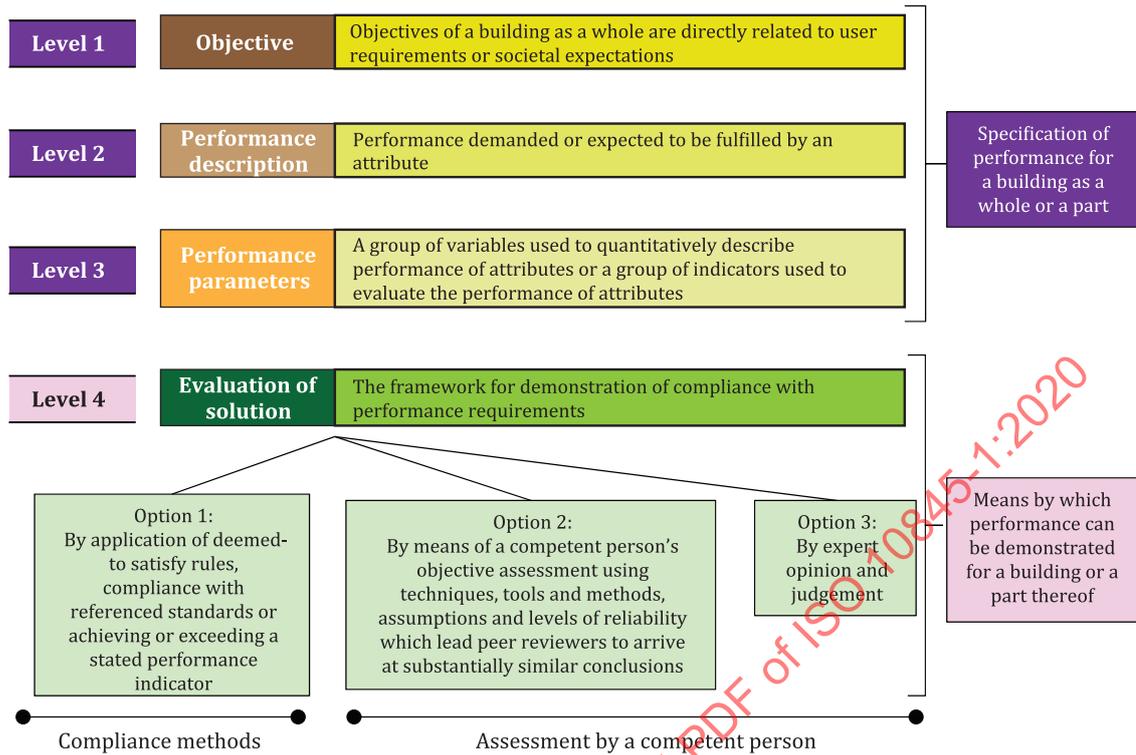


Figure C.4 — Framework for assessing the performance of a system, element or component of construction works

Table C.2 — Common drivers for objectives associated with contributions to sustainability

Subject matter of objective	Areas of concern
Usage of resources such as energy and water	Greenhouse gas emissions Use of renewable and non-renewable resources Consumption of fresh water Life cycle costs
Choice of building materials	Use of renewable and non-renewable resources and release of emissions because of materials and energy flows Economics Potential to generate business and employment opportunities for targeted groups Formation of waste hazards
Choice of construction methods and resources	Health and safety during construction Potential to generate business and employment opportunities for targeted groups
Waste disposal	Recycling Hazardous waste
Resilience	“Bounce back” from disaster The capacity to restore not only buildings and other constructed works but also social systems following exposure to hazards

NOTE An attribute is a characteristic assessed in terms of whether it does or does not meet a given performance.

Annex D (informative)

Generic procurement processes

There are typically six principal tasks associated with a generic procurement process:

- a) the establishment of what is to be procured;
- b) a decision on procurement strategies;
- c) the solicitation of tender offers;
- d) the evaluation of tender offers;
- e) the award of the contract;
- f) the administration of the contract and confirmation of compliance with the requirements.

The commonly encountered actions associated with the principal procurement tasks are described in [Table D.1](#). Each procurement activity may be broken down into a series of subactivities and principal tasks as indicated in [Table D.2](#). These subactivities should incorporate control points to facilitate the management of the procurement process (see [Annex E](#)).

Table D.1 — Principal activities and related actions typically associated with a generic procurement process

Principal activity		Principal task
No.	Description	
1	Establish what is to be procured.	Clarify what is to be procured and initiate the procurement process.
2	Decide on procurement strategies.	Determine how the procurement is to take place i.e. which of the required goods and services or combinations thereof are to be delivered through a particular contract, the contracting arrangements, how procurement is to be used to promote secondary procurement objectives, if any, and the selection methods used to solicit tender offers.
3	Solicit tender offers.	Solicit tender offers in terms of a set of procedures.
4	Evaluate tender offers.	Evaluate tender offers in terms of undertakings and parameters established in procurement documents.
5	Award the contract.	Enter into the contract with the successful tenderer.
6	Administer the contract and confirm compliance with requirements.	Act in terms of the contract and confirm that procurement is in accordance with all requirements.

[Table D.2](#) presents a generic set of subactivities associated with each principal procurement activity and which incorporates actions leading to procedural milestones (control points).

Table D.2 — Subactivities and related principal actions associated with each procurement activity

Procurement activity		Subactivity	
No.	Description	Description	Principal action
1	Establish what is to be procured	1) Prepare broad scope of work for procurement	Develop a title for the procurement for the purpose of project identification and a broad scope of work.
		2) Estimate financial value of proposed procurement	Estimate the financial value of the proposed contract for budgetary purposes, based on the broad scope of work.
		3) Obtain permission to start with the procurement process ^a	Designated person makes a decision to proceed/not to proceed with the procurement based on the broad scope of work and the financial estimates.
2	Decide on procurement strategies	1) Establish opportunities for promoting secondary procurement policies, if any	Identify the specific goals which are to be pursued, if any, and establish quantitative targets and implementation procedures which are consistent with the employer's objectives.
		2) Establish contracting strategy	Decide on an appropriate form of contract and the methodology by which contractors are to be paid.
		3) Establish targeting strategy	Decide on the methodology that is to be used to implement secondary procurement policy.
		4) Establish selection method	Identify the process that will be followed to solicit tender offers and to conclude a contract.
		5) Obtain approval for procurement strategies that are to be adopted ^a	Designated person or body confirms selection of strategies so that tender offers can be solicited.
3	Solicit tender offers	1) Prepare procurement documents	Prepare expressions of interest or tender documents (or both), as appropriate, that are compatible with the approved procurement strategies.
		2) Obtain approval for procurement documents ^a	Review the procurement document, identify sections, if any, which require amendments or improvements, and grant the necessary approval.
		3) Confirm that budgets are in place ^a	Ensure that the finance/necessary budget is available for the procurement to take place.
		4) Invite contractors to submit tender offers or expressions of interest	Advertise tenders/identify contractor(s) that are to be invited to submit tender offers in accordance with the approved selection method, issue procurement documents, respond to requests for clarification, conduct clarification/site meetings, issue attendees with minutes of such meetings, and issue addenda, as relevant.
		5) Receive submissions	Ensure that arrangements are in place to receive tender offers/expressions of interest and return unopened those that are received late, are not delivered in accordance with instructions given to respondents/tenderers or where only one tender is received and it is decided to call for fresh tenders.
		6) Open and record submissions received	Open submissions and record data relating to the submission.

^a Shaded cells indicate the presence of a control point.

Table D.2 (continued)

Procurement activity		Subactivity		
4	Evaluate tender offers	Qualified, proposal or competitive negotiations selection methods only	1) Evaluate and prepare evaluation report on submissions received	Evaluate in accordance with the provisions of the procurement document that was issued and prepare an evaluation report (see ISO 10845-3 and ISO 10845-4).
			2) Obtain authorization to proceed with next phase of the procurement process ^a	Review evaluation report and ratify recommendations so that the next phase of the procurement process can commence.
			3) Invite tender offers from qualified respondents or selected tenderers	Issue next phase procurement documents.
			4) Open and record submissions received and, if necessary, repeat 1 to 4 above	Open submissions, record data relating to the submission and evaluate in accordance with the provisions of procurement documents.
		5) Evaluate tender offers and prepare a tender evaluation report	Evaluate in accordance with the provisions of the procurement document that was issued and prepare an evaluation report.	
		6) Confirm recommendations contained in tender evaluation report	Review report and ratify the recommendation or refer the report back to those who performed the evaluation for re-evaluation.	
5	Award contract	1) Notify unsuccessful tenderers of the outcome	Notify the unsuccessful tenderers of the outcome and respond to any correspondence raised in this regard.	
		2) Compile contract document	Assemble contract document from the relevant tender returnables and issue draft contract to tenderer, capturing all the changes that were agreed to between the offer and acceptance.	
		3) Award contract	Accept the tender offer in writing and issue the contractor with a signed copy of the contract.	
		4) Capture contract award data	Capture, into a database, essential contract data for record purposes.	
		5) Upload data in financial management and payment systems	Upload financial data.	
^a Shaded cells indicate the presence of a control point.				

Table D.2 (continued)

Procurement activity		Subactivity		
6	Administer contracts and confirm compliance with requirements	1)	Administer contract in accordance with the terms and provisions of the contract	Administer the contract in accordance with its terms and conditions and pay contractors within the time periods provided for in the contract.
		2)	Confirm compliance with requirements	Monitor contractor's performance for compliance with the requirements of the contract.
		3)	Capture contract completion/ termination data	Record, in a database, key performance indicators relating to time, cost and the attainment of specific goals associated with a secondary procurement policy, or if the contract is terminated or cancelled, the reasons for this.
		4)	Obtain approval to waive penalties or low performance damages	Approve waiver of penalties or low performance damages.
		5)	Obtain approval to notify and refer a dispute to an adjudicator, or for final settlement to an arbitrator or court of law	Grant permission for the referral of a dispute to an adjudicator or for final settlement to an arbitrator or court of law.
		6)	Obtain approval to increase the total of prices, excluding contingencies and price adjustment for inflation, or the time for completion at the award of a contract or the issuing of an order up to a specified percentage	Approve amount of time and cost overruns up to a specified threshold.
		7)	Obtain approval to exceed the total of prices, excluding contingencies and price adjustment for inflation, or the time for completion at award of a contract or the issuing of an order by more than 20 % and 30 %, respectively	Approve amount of time and cost overruns above a specified threshold.
		8)	Obtain approval to cancel or terminate a contract	Approve amount.
		9)	Obtain approval to amend a contract	Approve proposed amendment to contract.
		10)	Close out the contract	Close out contract and finalise amount due.
^a Shaded cells indicate the presence of a control point.				

[Table D.3](#) establishes a set of principal actions associated with the issuing of orders in terms of a framework agreement following the putting in place of a framework agreement (see [6.4](#)) using the procurement activities provided for in [Table D.2](#). The activities associated with the administration of an order issued in terms of a framework agreement is as set in activity 6 of [Table D.2](#).

Table D.3 — Procurement activities associated with the issuing of an order in terms of a framework agreement

Activity ^a	
1	Confirm justifiable reasons for selecting a framework contractor where there is more than one framework agreement covering the same scope of work
2	Prepare procurement documents
3	Obtain approval for procurement documents
4	Confirm that budgets are in place
5	Quotations amongst framework contractors not invited: Issue draft order documentation and consult with contractor and prepare evaluation report Quotations amongst framework contractors invited: Invite quotations from all framework contractors participating in the agreement, receive and evaluate submissions and prepare evaluation report
6	Authorize the issuing of the order
7	Log order onto management system
8	Issue order to contractor
9	Notify issuing of order to oversight person
10	Administer orders in accordance with contract and confirm compliance with requirements
^a Shaded cells indicate the presence of a control point.	

The control points located within [Tables D.2](#) and [D.3](#) provide an opportunity to:

- a) authorize the proceeding with an activity within a process, or the commencing of the next process;
- b) confirm conformity with requirements before completing processes; or
- c) provide information which creates an opportunity for corrective action to be taken.

Annex E (informative)

Establishing a procurement system and managing procurement processes

E.1 Establishing an organization's procurement system

An organization should develop its procurement system around the generic procurement processes and generic selection methods outlined in [Annex D](#) and this annex. This is possible as this document contains the full range of methods and procedures that both public and private sector organizations may require in their procurements without prescribing when and under what circumstances such methods may be utilized or imposing the manner in which procurement is to be managed and controlled. Being generic in nature, it does not impose matters of policy on an employer. Instead, it establishes a comprehensive rule-based framework within which an organization may develop its procurement policy in order to implement the wide range of standard procurement methods and procedures.

An organization's procurement policy developed in accordance with the provisions of [4.3](#) should in addition to requiring that procurement be undertaken in accordance with the relevant requirements of ISO 10845-1, ISO 10845-2, ISO 10845-3 and ISO 10845-4, incorporate provisions developed along similar lines to that described in [E.2](#) and be informed by considerations presented in [Annex F](#).

E.2 Managing procurement processes

E.2.1 Control framework

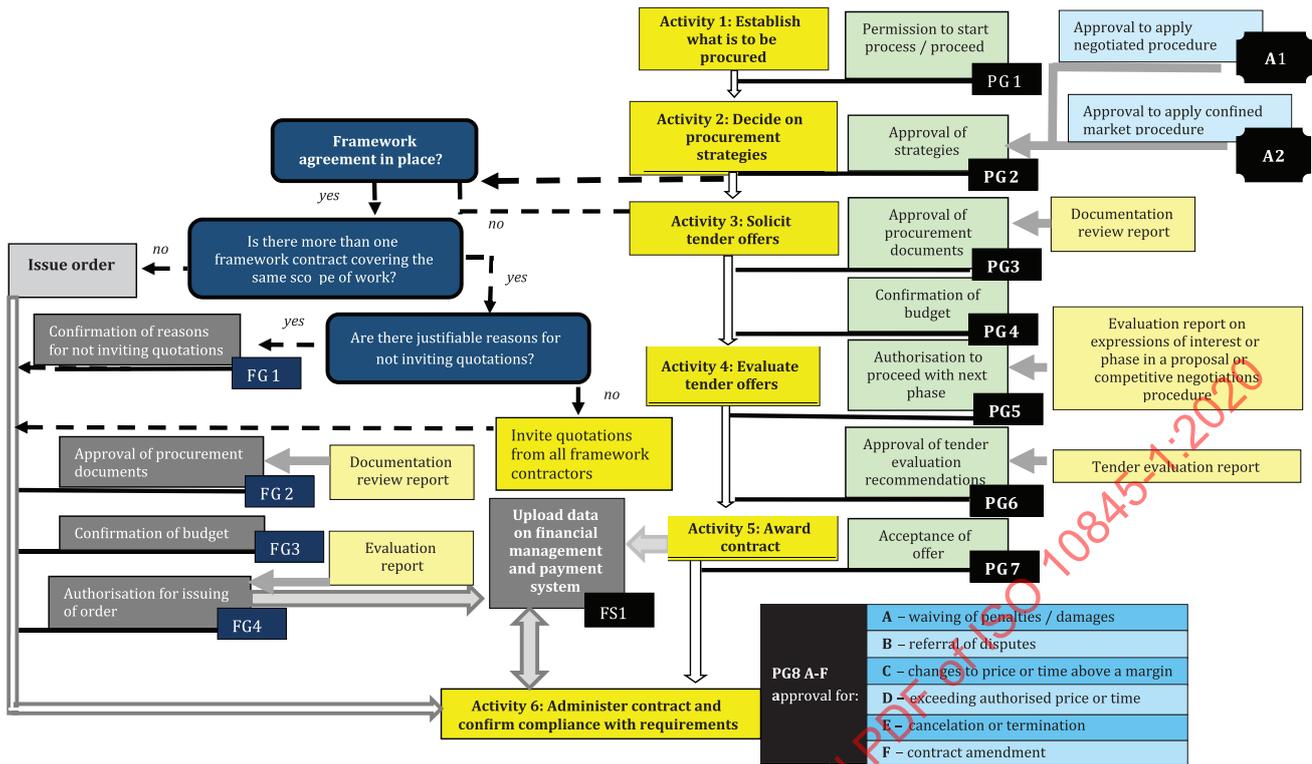
Procurement should be implemented in accordance with the provisions of the control framework indicated in [Figure E.1](#) which contains:

- a) procurement gates;
- b) framework agreement gates;
- c) authorization gates; and
- d) a gate relating to the interface with a financial management system.

The activities associated with the control framework indicated in [Figure E.1](#) are set out in [Tables D.2](#) and [D.3](#) whenever a negotiated, competitive selection or competitive negotiations procedure is applied, with the exception of the shopping procedure. Procurement gates 6 and 7 may be combined in the case of the quotation procedure and the negotiation procedure where the value of the contract is less than the threshold set for the quotation procedure in an organization's procurement policies.

The organization's policy should assign responsibilities to designated person (a post in the organization, a committee or board or the equivalent thereof) for taking the key actions at the gates identified in [Figure E.1](#). [Tables E.1](#) and [E.2](#) provide a template for assigning responsibilities for taking the key actions identified in [Tables D.2](#) and [D.3](#) and [Figure E.1](#).

The employer's procurement policy should also make provision for a designated person to authorize the use of the negotiated procedure except where a rapid response is required in the presence of, or the imminent risk of, an extreme or emergency situation or above the thresholds (see [Annex F](#)) arising from the conditions set out in the standard and which can be dealt with or the risks relating thereto arrested within 48 h.



Key

- PG1 to PG8 procurement gates
- FG1 to FG4 framework agreement gates
- FS1 financial system gate
- A1 and A2 approval gates for selection methods

Figure E.1 — Control framework for procurement

Table E.1 — Procurement activities and gates associated with the formation and conclusion of contracts above the quotation threshold

Activity	Subactivity (see Table D.2)	Responsible person
1*	Establish what is to be procured 3 PG1	Obtain permission to start with the procurement process [designated person]
2	Decide on procurement strategy 5 PG2	Obtain approval for procurement strategies that are to be adopted including specific approvals to approach a confined market or the use of the negotiation procedure [designated person]
3	Solicit tender offers 2 PG3	Obtain approval for procurement documents Procurement documentation committee
	3 PG4	Confirm that budgets are in place [designated person]
4	Evaluate tender offers 4.2 PG5	Obtain authorization to proceed with next phase of tender process in the qualified, proposal or competitive negotiations procedure Evaluation committee
	4.7 PG6	Confirm recommendations contained in the tender evaluation report Tender committee

Table E.1 (continued)

Activity		Subactivity (see Table D.2)		Responsible person
5	Award contract	5.3 PG7	Award contract	The following authorized persons: $\leq R_x$ - [designated person] $> R_x$ but $\leq R_y$ - [designated person] $> R_y$ but $\leq R_z$ - [designated person] $> R_z$ - [designated person]
		5.5 GF1	Upload data in financial management and payment system	$\leq R_x$ [designated person]
6	Administer contracts and confirm compliance with requirements	6.4 PG8A	Obtain approval to waive penalties or low performance damages	[designated person]
		6.5 PG8B	Obtain approval to notify and refer a dispute to an adjudicator	[designated person]
		6.6 PG8C	Obtain approval to increase the total of prices, excluding contingencies and price adjustment for inflation, or the time for completion at the award of a contract or the issuing of an order up to a specified percentage	$\leq x$ % - [designated person] $> x$ % but $\leq y$ % - [designated person] $> y$ % but $\leq z$ % - [designated person]
		6.7 PG8D	Obtain approval to exceed the total of prices, excluding contingencies and price adjustment for inflation, or the time for completion at award of a contract or the issuing of an order by more than z %	[designated person]
		6.8 PG8E	Obtain approval to cancel or terminate a contract	[designated person]
		6.9 PG8F	Obtain approval to amend a contract	[designated person]

Table E.2 — Procurement activities and gates associated with the issuing of an order above the quotation threshold in terms of a framework agreement

Activity (see Table D.3)		Responsible person
1 FG1	Confirm justifiable reasons for selecting a framework contractor where there is more than one framework agreement covering the same scope of work	[designated person]
3 FG2	Obtain approval for procurement documents	Procurement documentation committee
4 FG3	Confirm that budgets are in place	[designated person]
6 FG4	Authorize the issuing of the order	The following authorized persons: $\leq R_x$ - [designated person] $> R_x$ but $\leq R_y$ - [designated person] $> R_y$ but $\leq R_z$ - [designated person] $> R_z$ - [designated person]

The responsibilities for taking the key actions associated with the quotation procedure and the negotiation procedure or the issuing of orders where the value of the contract is less than the threshold set for the quotation procedure can be simplified. For example, a designated person may grant approval for the issuing of the procurement documents, based on the contents of a documentation review report developed in accordance with the provisions of E.2.3.2, while the authorized person may award the contract if satisfied with the recommendations contained in the evaluation report prepared in accordance with the provisions of this policy and finalized by the evaluation committee.

E.2.2 Amount due in terms of the contract, budget amount and purchase order value

Risk (the effect of uncertainty on objectives) can influence the delivery of a project with respect to time, cost and quality, and in extreme cases, the completion of the contract. The generic sources of risk on construction projects include commercial and legal relationships, economic circumstances, human behaviour, natural events, weather, inherent site conditions, political circumstances, community unrest, technology and technical issues, management activities and controls and individual activity. Risks can also manifest in the failure to make decisions or provide information timely, to pay promptly or provide timeous access to a site. Accordingly, risk taking is necessary in construction projects.

A central issue that needs to be dealt with is the financial liability relating to the uncertainty of future events, who takes the risk for the difference between the actual prices paid in terms of the contract and those estimated at the time of tender and how changes to requirements to enhance quality, performance in use or the usefulness of outputs or to address shortcomings are assessed and paid for.

Standard forms of contract contain the terms that collectively describe the rights of the contracting parties and the agreed procedures for the administration of the contract. They enable risks to be allocated between the parties to the contract. They also make provision for standard adjustments to the total of the prices and the time for completion. Such adjustments, depending upon the nature of the contract and the contracting and pricing strategy that is adopted, can include provisions such as:

- price adjustment for inflation;
- the assessment of the impact on the prices of changes in legislation, foreign currency fluctuations, changes in and the remeasurement of quantities stated in the contract, errors and omissions in bills of quantities and the application of risk sharing mechanisms in target contracts;
- the cost and time implications of risk events that materialise in the contract for which the contractor is not at risk including changes in the specific requirements of contract to enhance quality, performance or to address shortcomings which can impair performance or the usefulness of outputs; and
- correction of assumptions made regarding items which were identified but could not be fully priced at the time of tender e.g. specialist subcontracts.

Accordingly, the application of the aforementioned terms and conditions of a contract, although changing the total of the prices and the time for completion at the start of a contract, does not constitute an amendment to the contract and as such require approval at procurement gate PG8F. Amounts due in terms of the contract, nevertheless need to be funded, and the consequences of late delivery need to be accommodated. Accordingly, the project control budget should include an estimate for price adjustment for inflation, if applicable, as well as some provision for contingencies (budget covering work or price increases that can be required but cannot be foreseen or predicted with certainty) in order to fund what is due in terms of the contract (see [Table E.3](#)). At the same time, a mechanism should be put in place to enable the contingency amounts to be accessed within the financial system. This requires a capability within the financial system to pay the amount due in terms of the contract in excess of the purchase order value i.e. the control within an organization's financial system which ensures that payment to a contractor does not exceed an authorized amount.

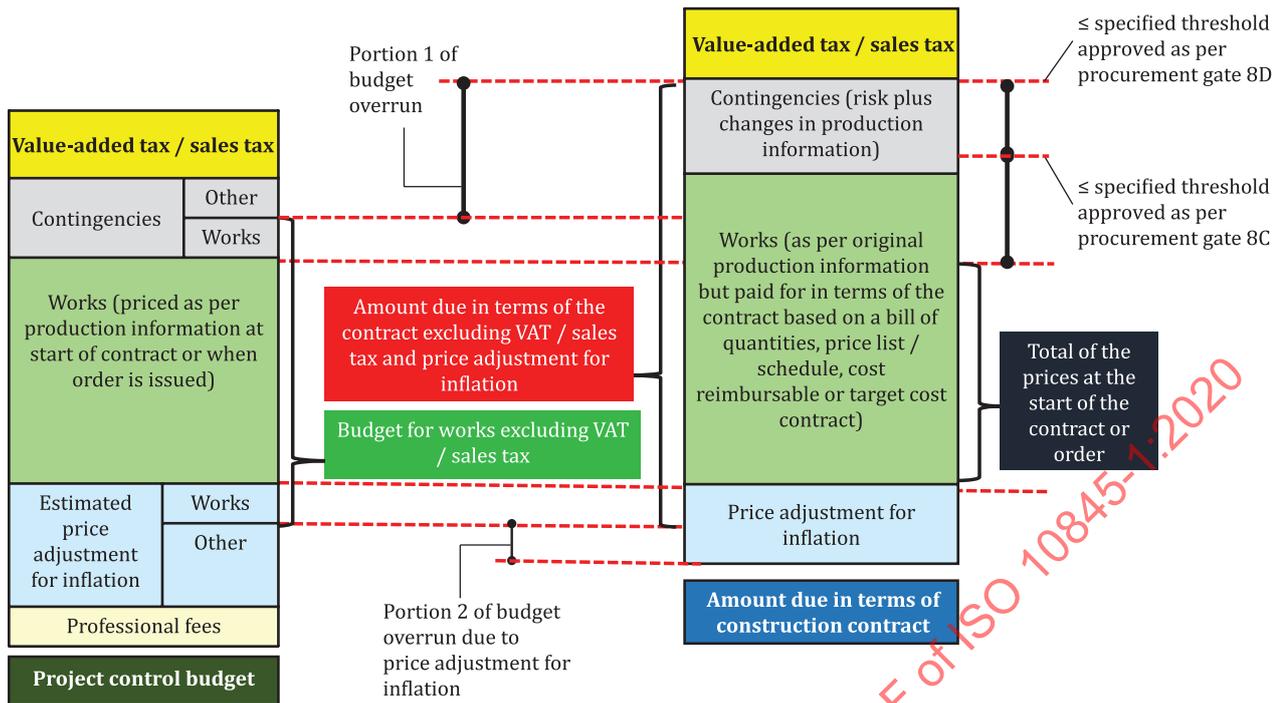
Table E.3 — Amount due in terms of the contract, budget amount and purchase order value

Component of cost	Amount due in terms of the contract at close out	Budget amount	Purchase order value
Base price at time of award	Price at the time of award of the contract, excluding contingencies, based on: <ul style="list-style-type: none"> — work that is priced; and — estimates of costs to cover identified work or services to be performed which cannot be accurately priced e.g. specialist subcontracts 		
Price adjustment for inflation	Actual value based on published indices	Estimated value based on forecasted indices	
Changes to requirements	Cost of effecting changes assessed in terms of the provisions of the contract	Contingency provided within the project control budget (which can if necessary be topped up from contingencies spread across multiple projects)	Allowance for some contingency
Correction of assumptions			
Risk events manifesting for which the contractor is not at risk			

A stepwise approach to accessing of contingencies is provided in the control framework as indicated in [Figure E.2](#). The price at the time that the contract is awarded or an order is issued should be without provision for contingencies or allowances for price adjustment for inflation. Contingencies should be managed above the contract level. This stepwise approach to accessing contingencies encourages the seeking of alternative ways to deal with issues which lead to increases in the total of the prices for a contract or an order.

Accordingly, no provision for contingencies or price adjustment for inflation should be included in the contract price at the time that the contract is awarded or an order is issued. Such a price should be the nett contract price i.e. the value of the contract, based on the scope of work (document that specifies and describes the goods, services, or works which are to be provided, and any other requirements and constraints relating to the manner in which the contract work is to be performed) at the start of the contract or order. Budgetary items should be discouraged. Estimates of likely costs to cover identified work or services to be performed by a subcontractor appointed in terms of the contract and assumed costs, based on a set of assumptions for known work, may be made. These amounts can be included in the contract price and adjusted in terms of the contract when the actual costs are known or when such assumptions are found to be incorrect.

Procurement gates PG8C and PG8D enable time and cost overruns to be managed and as such provide stepped access to contingencies. The principle associated with the stepped thresholds provided for at gates 8C and 8D (see [Table E.3](#)) is that approval to exceed authorized cumulative amounts in excess of these percentages should be granted at a more senior level with each quantum increase. The onus is on those administering the contract to obtain timeous approval so that the work associated with a contract is not disrupted.



NOTE Portion 2 of the budget overrun is not considered at Gates 8C and 8D. Only portion 1 is considered.

Figure E.2 — Provisions in the control framework for controlling costs

Project control budgets, particularly in the public sector, are often rolled up into a programme control budget for a financial year. Such budgets should be periodically adjusted to reflect changing circumstances. PG4 and FG3 gates provide an opportunity to confirm that budget is available to continue with or to delay a particular contract or order.

Data pertaining to contracts should be uploaded in the financial management system at gate FS1.

There are often increases in the total of the prices in construction projects as risks materialise, changes are implemented to enhance the quality or performance of the works or to address shortcomings and the prices are adjusted for the effects of inflation. Accordingly, a value which equates to the total of prices at award excluding contingencies, plus an estimate for increases in the total of the prices associated with price adjustment for inflation, if provided for, and a reasonable percentage for contingencies should be uploaded at gate FS1.

PG8C and PG8D approvals provide the necessary authorization for the financial system to permit the payment of amounts due in terms of the contract which exceed the purchase order value.

E.2.3 Committee system for procurement

E.2.3.1 General

There are many ways in which to manage procurement processes and the integrity thereof. It is, however, recommended that organizations adopt a committee system to oversee the procurement process, comprising the following committees:

- a) procurement documentation committee,
- b) evaluation committee,
- c) tender committee, and
- d) disposal committee.

The organization's procurement policy needs to establish the composition of these committees.

Persons appointed as technical advisors and subject matter experts should be permitted to attend any committee meeting. Such advisers and experts should not participate in the decision-making proceedings of such meetings.

No person who is a board member or an equivalent overarching governing body or who has a conflict of interest should be appointed to a procurement documentation, evaluation or tender committee.

Committee decisions should as far as possible be based on the consensus principle i.e. the general agreement characterized by the lack of sustained opposition to substantial issues. Committees should record their decisions in writing and keep such decisions in a secured environment for a period of not less than five years after the completion or cancellation of the contract.

Committees should make decisions at meetings or, subject to the committee chairperson's approval, on the basis of responses to documents circulated to committee members provided that not less than sixty percent of the members are present or respond to the request for responses. Where the committee chairperson is absent from the meeting, the members of the committee who are present may elect a chairperson from one of them to preside at the meeting.

No member of, technical adviser or subject matter expert who participates in the work of the any of the procurement committees or a family member (a person's spouse, whether in a marriage or in a customary union according to indigenous law, domestic partner in a civil union, or child, parent, brother, sister, whether such a relationship results from birth, marriage or adoption) or associate of such a member, should be permitted to tender for any work associated with the tender which is considered by these committees.

E.2.3.2 Approval of procurement documents

A procurement documentation committee should approve procurement documents before they are issued to the market in terms of a competitive or competitive negotiation selection method, are finalised in the negotiated selection method or issued to framework contractors. Such approval should take place following the review of the procurement documents by a documentation review team.

The procurement documentation committee needs to take into account the contents of the documentation review report and confirm that the procurement documents are fair, transparent and equitable and are likely to result in a cost-effective procurement outcome. The procurement documentation committee needs in particular to confirm the following as relevant when approving a procurement document

- a) the proposed eligibility criteria do not unfairly eliminate tenderers from consideration,
- b) compulsory clarification meetings are justifiable in the context of the procurement,
- c) the weightings between price adjusted for a preference and quality are reasonable,
- d) the quality criteria and any weightings between sub-criteria which are to be scored in the evaluation of tenders are fair and reasonable and are justifiable in terms of procurement outcomes, and
- e) the provisions for applying the organization's secondary procurement policy are not promoting captive markets and are likely to result in the tendering of market related prices.

E.2.3.3 Documentation review requirements

The review of procurement documents associated with the negotiation, competitive selection or competitive negotiation procedure should confirm that

- the procurement documents have been formatted and compiled in accordance with the requirements of the organization's policy and are aligned with the approved procurement strategy,

- appropriate prompts for judgement are included in procurement documents in accordance with the requirements of this document whenever quality is evaluated and scored in the evaluation of calls for expressions of interest or tender offers,
- the selected form of contract in the case of a tender that is solicited is in accordance with the requirements of the organization's policy and any organizational standard templates have been correctly applied,
- the necessary approval has been obtained for additional clauses or variations to the standard clauses in the conditions of contract, conditions of tender or conditions for the calling for expressions of interest, as relevant, not provided for in the organ of state's approved templates,
- the selected submission data in the case of a call for an expression of interest (see ISO 10845-4), or tender data (see ISO 10845-3) and contract data options in the case of a tender, are likely to yield best value outcomes,
- the scope of work adequately establishes what is required and the constraints to the manner in which the contract work is to be provided, and satisfies the drafting requirements of this document,
- the submission or returnable documents are necessary and will enable submissions to be evaluated fairly and efficiently, and
- the risk allocations in the contract and pricing data are appropriate.

The review of procurement documentation associated with the issuing of an order needs to confirm that

- any standard organizational templates have been correctly applied,
- the necessary approval has been obtained for additional clauses or variations to the standard clauses in the conditions of contract not provided in the organ of state's approved templates or the contract,
- the scope of work adequately establishes what is required and the constraints to the manner in which the contract work is to be provided,
- the provisions for competition amongst framework contractors, if relevant, and the selected options are likely to yield best value outcomes, and
- the risk allocations are appropriate.

The documentation review report needs to

- list the names and qualifications of the team members,
- confirm that the documents are in accordance with the requirements of this policy,
- identify sections, if any, which require amendments or improvements,
- capture any comments or opinions which the team may wish to express, and
- recommend that the procurement documents be accepted with or without modifications.

E.2.3.4 Evaluation of tenders and submissions

E.2.3.4.1 Evaluation committee

An evaluation committee should

- a) finalize evaluation reports prepared in accordance with [E.2.3.4.1](#) and address any areas in the report should a report be referred back to the committee by the tender committee,

- b) authorize admission to an electronic data base and the proceeding with the next phase of a procurement process in the qualified and two-stage competitive and the restricted and open competitive negotiation selection methods following the
 - 1) confirmation that the report is complete and addresses all considerations necessary to make a decision,
 - 2) confirmation of the validity and reasonableness of reasons provided for the elimination of tenderers or respondents, and
 - 3) identification and consideration of any risks that have been overlooked which warrant investigation prior to taking a final decision.

E.2.3.4.2 Preparation of evaluation reports

The evaluation report should be prepared by one or more persons who are conversant with the nature and subject matter of the procurement documents or the framework contract (see ISO 10845-3 and ISO 10845-4).

Where quality is evaluated, at least three persons who are conversant with the nature and subject matter of the procurement documents or the framework contract should undertake such an evaluation. Quality should be scored in terms of the prompts for judgement, with fixed scores assigned to each prompt, either individually and averaged or collectively, as appropriate. Those involved in the evaluation of submissions should record their scores for quality against each of the criteria during the process of evaluation, preferably with notes to substantiate the scores. Individuals should record their own markings on a separate sheet. These documents should be placed on file as an audit trail and may form the basis of any debriefing that takes place.

Evaluation reports should contain extracts from the procurement documents which are linked to the evaluation of submissions, such as eligibility criteria, criteria associated with evaluation methods, preferencing, quality criteria (including prompts for judgement), the method by which tenders are reduced to a common base and lists of returnable documents. Such references enable those who are tasked with making decisions based on these documents to do so without having to refer back to submissions in order to understand the content of the report.

An evaluation report which recommends the award of a contract should include in annexures the reports, if any, of prior processes, e.g. a call for an expression of interest, a round in a competitive negotiation procedure or a stage in a competitive selection procedure.

An evaluation report covering the application of the negotiated procedure for the award of a contract or the issuing of an order, should confirm that the negotiated amounts are market-related and represent value for money. Where the total of the prices associated with a target cost contract is negotiated, the total of prices should be certified as being fair and reasonable by a suitably professionally qualified person.

All communications with respondents and tenderers during the procurement process to obtain information and clarifications should be made in writing through the employer's agent named in the submission or tender data. Records of all communications in this regard should be retained for auditing purposes.

E.2.3.5 Recommendation for the award of a contract

The tender committee should

- a) consider the report and recommendations of the evaluation committee and
 - 1) verify that the procurement process which was followed complies with the provisions of this policy;
 - 2) confirm that the report is complete and addresses all considerations necessary to make a recommendation;

- 3) confirm the validity and reasonableness of reasons provided for the elimination of tenderers; and
 - 4) consider risks indicated in the report and identify any risks that have been overlooked or fall outside of the scope of the report which warrant investigation prior to taking a final decision; and
- b) refer the report back to the evaluation committee for their reconsideration or make a recommendation to the authorized person on the award of a tender, with or without conditions, together with reasons for such recommendation.

The tender committee should consider proposals regarding the cancellation, amendment, extension or transfer of contracts that have been awarded and make a recommendation to the authorized person on the course of action which should be taken.

No member of the evaluation committee should serve on the tender committee. A member of an evaluation committee should, however, be permitted to participate in the deliberations of a tender committee as a technical advisor or a subject matter expert.

E.2.4 Actions of an authorized person

E.2.4.1 Award of a contract

The authorized person should, if the value of the contract is within his or her delegation, consider the report(s) and recommendations of the tender committee, or in the case of the awards for contracts below the quotation procedure threshold, the recommendation of the evaluation report and either:

- a) award the contract after confirming that the report is complete and addresses all considerations necessary to make a recommendation and budgetary provisions are in place; or
- b) decide not to proceed or to start afresh with the process.

E.2.4.2 Issuing of an order

The authorized person should, if the value of an order issued in terms of a framework contract is within his or her delegation either:

- a) decide not to proceed or to start afresh with the process, or
- b) authorize the issuing of an order after
 - 1) confirming that the required goods or services, or any combination thereof, are within the scope of work associated with the relevant framework contract, and
 - 2) considering the recommendations of the evaluation report where competition amongst framework contracts takes place or a significant proportion of the total of the prices is negotiated, based on the financial parameter contained in the framework contract, and either confirm the reasonableness of such recommendations and sign the acceptance of the order, or refer the evaluation report and recommendation back to those who prepared it.

Annex F (informative)

Standard selection methods

F.1 General

This document provides for

- a) 11 generic selection methods associated with procurements other than those relating to disposals by auction, electronic actions,
- b) four generic evaluation methods, and
- c) eligibility criteria (minimum qualification or pre-qualification criteria which need to be satisfied in order for a submission to be evaluated) which can be used in conjunction with a selection method.

It also provides for the issuing of orders in terms of a framework agreement which is put in place utilising the aforementioned provisions of ISO 10845 (all parts).

It should be noted that expressions of interest which form an integral part of the nominated, open and restricted competitive negotiations procedures prequalify tenderers to engage with these selection methods. On the other hand, eligibility criteria (see ISO 10845-3), criteria which have to be satisfied in order for a submission to be evaluated, can be used with all the methods of selection to prequalify tenderers. The proposal procedure using the two-stage system, the competitive negotiations procedure and the negotiations procedure provide the employer with an opportunity to engage with tenderers during the tender process.

This approach is distinctly different from that adopted by most multilateral organizations, international agencies and legislators who typically deal with goods, services and construction works separately. Typically, different sets of rules, guidelines and regulations are established for these different categories of procurement. This compartmentalized approach is confusing and makes procurement unnecessarily complex, particularly on projects involving the procurement of all three categories of procurement. This document introduces an alternative approach of first developing generic procurement methods which are used in combination with each other, and then identifying the methods best suited to particular categories of procurement. Combinations of the generic procedures and methods, with or without eligibility criteria, can be used to simulate the bespoke procurement methods adopted by multilateral organizations, international agencies and legislators for a particular category of procurement as illustrated in [Figure E.1](#). At the same time, this approach provides employers with a wide range of options in the pursuit of best-value procurement outcomes.

F.2 Selecting a standard procedure

Procurements, other than those involving disposals, fall into one of the following broad commonly encountered categories and subcategories:

- a) services:
 - 1) professional,
 - 2) miscellaneous,
 - 3) term service, or

- 4) hire of equipment;
- b) goods:
 - 1) provision of imported goods which may or may need to be manufactured to specific requirements,
 - 2) provision on a local, off-the-shelf basis, or
 - 3) design, supply and install plant;
- c) construction works:
 - 4) small, low-risk works, with or without design and interface management responsibilities, or
 - 5) major, high-risk works, with or without design and interface management responsibilities.

Not all selection methods (see [Figure F.1](#)) are appropriate to all these categories and subcategories of procurement. Best value or value for money considerations should be the determinant in selecting a particular selection method.

[Figure F.2](#) indicates the typical considerations associated with the selection of a specific competitive selection procedure.

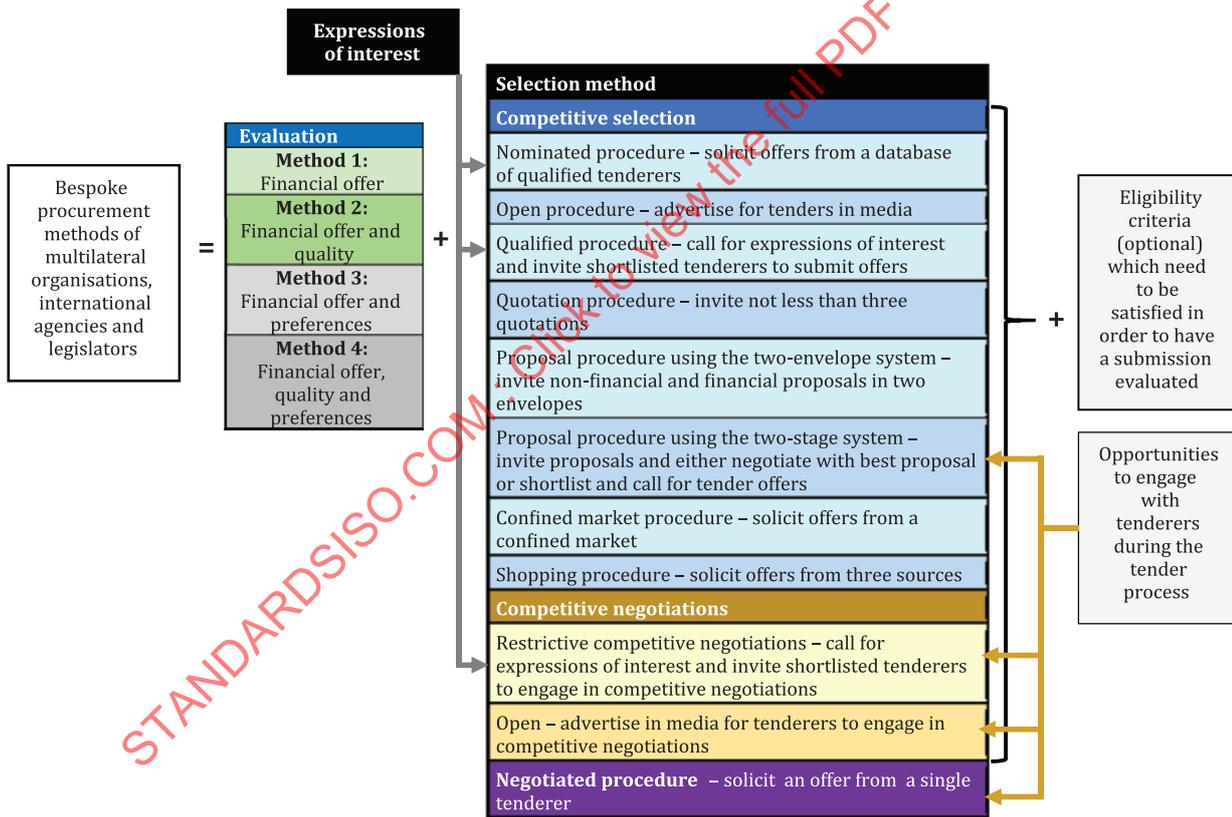


Figure F.1 — Relationship between bespoke procurement methods and the generic methods contained in this document

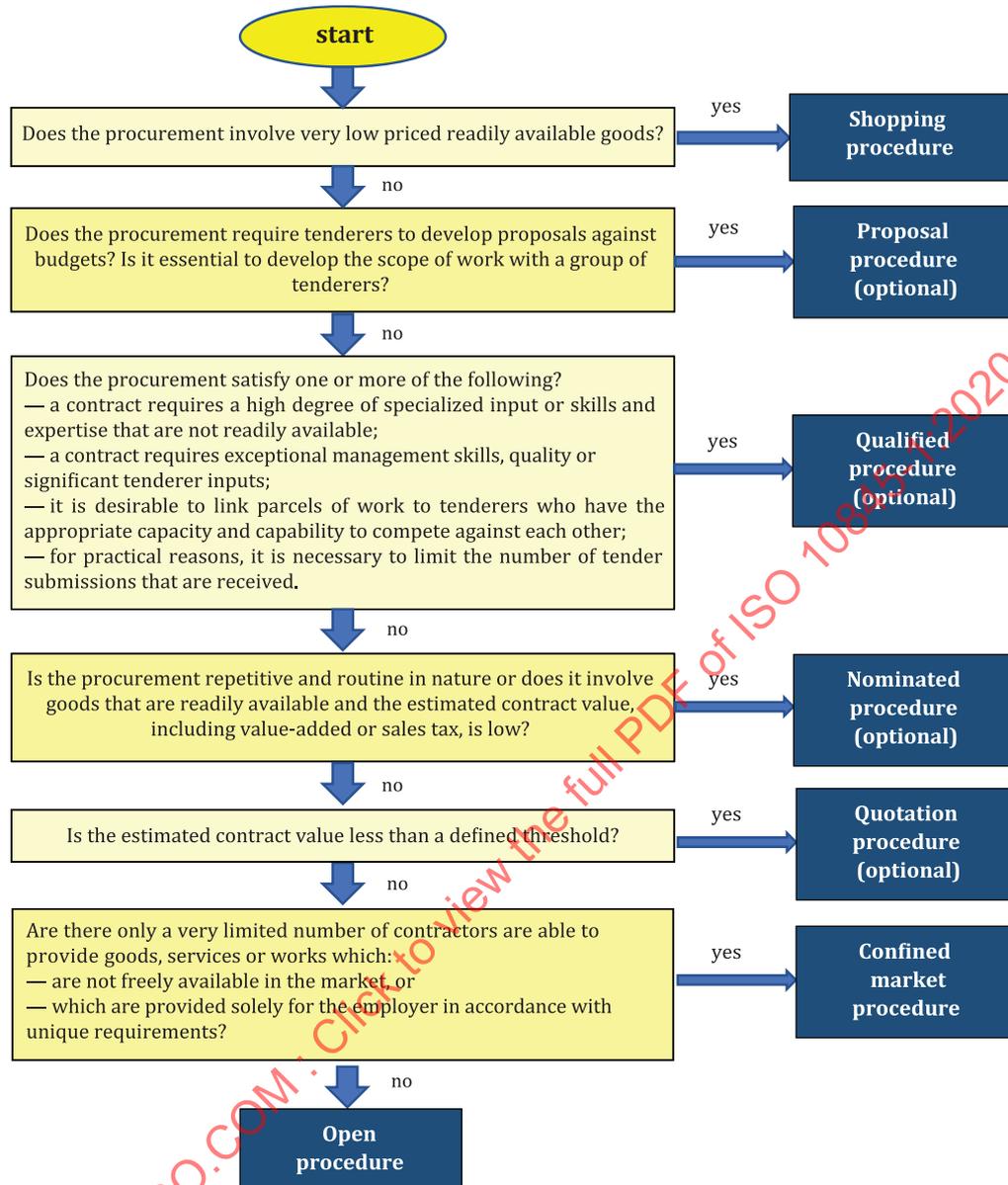


Figure F.2 — Typical considerations when selecting a specific competitive selection procedure

If any doubt exists as to which procedure should be used in a given situation, or the organization does not have the capacity to perform a particular procedure, the open procedure should be adopted.

F.3 Negotiated procedure

The negotiated procedure should be used when

- a) a rapid response is required due to the presence of, or the imminent risk of, an extreme or emergency situation arising from
 - 1) human injury or death,
 - 2) human suffering or deprivation of human rights,
 - 3) serious damage to property or financial loss,
 - 4) livestock or animal injury, suffering or death,

- 5) serious environmental damage or degradation, or
- 6) interruption of essential services;
- b) the required goods, services or construction works cannot technically or economically be separated from another contract previously performed by a specific contractor;
- c) only one contractor has been identified as possessing the necessary experience and qualifications or product to deliver value for money in relation to a particular need;
- d) services and goods have a very low value;
- e) the service or construction works being procured are largely identical to works previously executed by a specific contractor and it is not in the interest of the public or the employer to solicit other tender offers;
- f) a professional service contract has a relatively low value, which can be based on time and proven cost;
- g) the nature of the construction works, goods, or services, or the risks attached thereto do not permit prior overall pricing; or
- h) only one responsive tender is received.

NOTE Sole source or direct appointments are frequently encountered where an organization selects a professional service provider based on its knowledge of such provider's abilities, usually through previous working relationships.

F.4 Competitive selection procedures

F.4.1 Nominated procedure

The nominated procedure should only be used for work that is of a relatively simple and routine nature or in respect of goods and services that are readily obtainable and the value of which is below a prescribed threshold. This procedure is appropriate only where an employer is required to make a large number of such procurements over a period of time and the cost of maintaining the list and administering the system in relation to the cost of advertising tenders and evaluating a possibly larger number of tenders, justifies this approach.

This procedure should not be used where the estimated contract value is above the threshold amount. Fairness and cost-effectiveness on higher-value procurements is arguable, particularly as the procedure solicits tenders from a restricted segment of the market. It may be further argued that where the search criteria are linked to the geographic location of a contractor's office, such criteria tend to become unfair as the value of the contract increases.

The procedure furthermore does not encourage contractors to develop relationships with an employer and reduces access to work opportunities. This can constrain or inhibit the growth of contractors.

F.4.2 Open procedure

The open procedure is a suitable procedure for most procurements. Its use should, however, be questioned where

- a) the cost of advertising or the evaluation of a large number of tender submissions is disproportionate to the value of the work, or
- b) only one contractor has been identified as possessing the necessary experience and qualifications or product for providing the required service, goods or construction works.

F.4.3 Qualified procedure

The qualified procedure should be used when

- a) a contract requires a high degree of specialized input or skills and expertise that are not readily available,
- b) a contract requires exceptional management skills or quality,
- c) a contract requires significant tenderer inputs in order to respond appropriately to requirements so that a financial offer can be determined,
- d) it is desirable, in a large programme, to link parcels of work to tenderers who have the appropriate capacity and capability to compete against each other,
- e) the time and cost required to examine and evaluate a large number of tender offers would be disproportionate to the procurement, or
- f) for practical reasons, it is necessary to limit the number of tender submissions that are received.

The strength of the procedure lies in the elimination of unlikely candidates for the award of the contract from the outset and to limit the number of tender submissions that require evaluation. Tenderers, particularly in high-value tenders or high-input tenders, e.g. design and construct, are more willing to submit competitive tenders in the knowledge that there are a limited number of competitors. In some large programmes, this procedure can be used to identify, at an early stage, those firms that are interested in tendering. Firms can be prequalified to undertake work commensurate with their capacity and capabilities and be invited in relatively small numbers to submit tenders for work that is within the scope of their capacity and capabilities, in such a manner that all prequalified tenderers have an equal opportunity to access work opportunities.

Many professional service providers have the qualifications necessary to undertake most assignments. As a result, employers are faced with the challenge of deciding who is most or best qualified for the assignment. If the assignment is advertised for all interested parties to respond, evaluating requests for proposals can entail a considerable (and inefficient) use of time and effort for the owner. To prevent this waste of time and effort, employers should issue a call for expressions of interest to develop a shortlist of professional service providers who will be invited to submit tenders.

It should be noted, however, that it is possible to prequalify tenderers in an open procedure, should eligibility criteria be established in the tender data. Where this is done, only eligible (prequalified) tenderers would be permitted to submit tenders, and evaluators would confirm eligibility to submit a tender.

F.4.4 Quotation procedure

The quotation procedure should only be used on relatively low-value procurements where a simplified governance process is put in place to reduce transaction costs (see [E.2.1](#)).

F.4.5 Proposal procedure

F.4.5.1 Two-envelope system

The two-envelope system is recommended for use in service contracts where tenderers are required to develop and price proposals to satisfy a broad scope of work established by the employer. The benefits of this approach are that quality (technical submission) may be evaluated in the absence of a financial offer, i.e. a financial offer is only considered should the quality offered comply with the requirements.

The danger in this approach is that quality is scored on a comparative basis. Where tenderers are not given an indication of the project budget or the person-hours considered appropriate to execute the scope of work, there is a danger that a proposal that complies with the minimum requirements with a moderate financial offer is unfairly compared against a proposal that provides “all the bells

and whistles” with an unacceptably high price and is eliminated from consideration. It is therefore recommended that, where this procedure is used, the project budget or the estimated time inputs are indicated to tenderers so that proposals can be compared with each other.

F.4.5.2 Two-stage tendering system

This procedure is well suited where tenderers are:

- a) required to submit technical proposals and, if required, cost parameters around which a contract may be negotiated, or
- b) invited to submit technical proposals in the first stage and to submit tender offers based on procurement documents issued during the second stage.

The procedure allows the scope of work to be developed together with tenderers.

F.4.6 Confined market

This procedure is appropriate where:

- a) the goods or services are not freely available in the market or are manufactured solely for the employer in accordance with the employer’s own specifications;
- b) there is justification for standardising goods or making use of manufacturer-accredited contractors;
- c) a change in product or manufacturer requires modifications to related equipment and fixtures, e.g. a replacement pump requires costly changes to mountings, pipework or electrical connections or the replacement of circuit breakers requires costly changes to mounting frames, face panels, busbars, wiring and the like; or
- d) a replacement model requires the holding of additional spares or maintenance personnel.

F.4.7 Shopping

This procedure should only be used in respect of very low-value goods. It provides a simple means of obtaining off-the-shelf items. The requirement for the obtaining of a written offer provides an audit trail.

F.4.8 Competitive negotiations

This procedure should be used where tenderers need to discuss aspects of the service, goods or construction works which might influence their financial and non-financial proposals. This procedure is well suited to situations in which tenderers might benefit from interactions with designers before finalizing their proposals and in design and construct or supply contracts.

This procedure (open or restricted) should be used where

- a) it is not feasible to formulate detailed specifications for the work or to identify the characteristics of goods or construction works to obtain the most satisfactory solution to procurement needs,
- b) there are various possible means of satisfying procurement needs,
- c) the technical character of the goods or construction works or nature of the services warrants the use of competitive negotiations to realize the most satisfactory solution to procurement needs,
- d) the purpose of the contract is research, experiment, study or development, or
- e) all the tenders received in a competitive selection procedure are non-responsive and the calling for fresh tenders is likely to result in a similar outcome.

The restricted competitive negotiations procedure should be used where in addition to the above:

- a contract requires for its execution a high degree of specialised input, or requires skills and expertise that are not readily available;
- a contract requires for its execution exceptional management skills or quality;
- a tender submission requires significant tenderer inputs in order to respond appropriately to requirements so that a financial offer may be determined;
- the time and cost required to examine and evaluate a large number of tender offers would be disproportionate to the procurement;
- for practical reasons, it is necessary to limit the number of tender submissions that are received; or
- a target price is tendered and finalised prior to the award of the contract.

F.5 Framework agreements

Framework agreements (see 6.4) reduce:

- the employer's need to re-advertise and approach the market for work falling within the scope of the agreement over the term of the agreement, and
- the number of relationships to be managed.

Framework agreements also provide the employer with programming flexibility to manage expenditure relating to the delivery of projects over time and enable collaborative relationships to develop in order to deliver better value and project outcomes, including those relating to the promotion of secondary procurement objectives. They also provide an opportunity for contractors to improve their internal management systems, develop their supply chains and improve their performance in delivering infrastructure including their attainment of secondary procurement objectives, during the term of the contract, through continuity of work over a longer term than is the case in non-framework contracts.

Framework agreements are appropriate where the available budgets and the detailed scope of work is uncertain, the need for goods or services involves repetitive work of a similar nature or a quick response time is required or long-term relationships (say 3 to 5 years) are desirable to achieve efficiencies or desired project outcomes. They also are appropriate where the employer wishes to foster collaborative relationships and wishes to move away from a delivery model based on a series of isolated, highly transactional relationships.

The promotion of secondary procurement objectives in this contracting arrangement is also very flexible and, unlike most other delivery models, allows the employer to change the deliverables associated with such a policy over time in response to emerging needs and changing circumstances. This enables meaningful development of local enterprises and labour to take place over the term of the contract.

It is also possible, with careful planning, for one organization to make use of another organization's framework agreement to satisfy their needs. This can be used to overcome public sector capacity constraints through the establishment of regional framework agreements.

Annex G (informative)

Targeted procurement procedures

G.1 The use of procurement to achieve social and development policy objectives

Public procurement, because of its nature and size, can have a significant impact on social and economic development. Governments in both developed and developing countries have responded to the use of procurement to attain policy objectives in a number of ways, ranging from making it mandatory for officials to use procurement to attain socio-economic objectives to ruling out its use for such purposes. Others allow officials discretion in the use of procurement for such purposes. Certain international trade agreements limit the use of procurement to promote policy objectives by placing prohibitions on discrimination and other restrictive trade measures.

The public procurement system has typically been used for several decades to achieve the following five principle domestic (as distinguished from foreign policy), socio-economic or political functions, in addition to obtaining the required goods, services or construction works:

- a) to stimulate economic activity;
- b) to protect national industry against foreign competition;
- c) to improve the competitiveness of certain industrial sectors;
- d) to remedy regional disparities;
- e) to achieve certain more directly social policy functions, such as to
 - 1) foster the creation of jobs,
 - 2) promote fair labour conditions,
 - 3) promote the use of local labour,
 - 4) prohibit discrimination against minority groups,
 - 5) improve environmental quality,
 - 6) encourage equality of opportunity between men and women, or
 - 7) promote the increased utilization of the disabled in employment.

Secondary or non-commercial objectives can be categorized in terms of obligations placed on tenderers or successful contractors, as tabulated in [Table G.1](#). The focus of each of the four types described in [Table G.1](#) is different. The Type I and II categories (structure or internal workings of the contracting entity) typically focus on the structure and internal workings within the contractor's organization immediately before the commencement of the contract and for the duration of the contract. The Type III category (outsourcing), on the other hand, focuses on undertakings that targeted enterprises or labour (or both) will be engaged in economic activities in the performance of the contract and the monitoring thereof, while Type IV (nominated deliverables) uses procurement to leverage socio-economic benefits.

Several models for public-sector procurement interventions, based largely on country-specific procurement regimes and requirements, have evolved. These can be broadly categorized as falling into one of five generic schemes indicated in [Table G.2](#), which, in turn, can be subdivided into one of the 10 implementation methods identified in [Table G.3](#).

Table G.1 — Classification of secondary objectives in terms of obligations placed on tenderers or contractors

Number	Type Descriptor	Obligation placed on tenderer or successful contractor	Examples of obligations
I	Structure of the contracting entity	Comply with nominated requirements to be eligible for the award of a contract or a score in the evaluation of tender offers	Have a company profile (e.g. equity ownership/control/ operational responsibilities/size) that satisfies prescribed criteria.
II	Internal workings of the contracting entity	Comply with nominated requirements to be eligible for the award of a contract or a score in the evaluation of tender offers, or undertake to implement certain workplace actions during the performance of a particular contract	Have a company staffing structure that satisfies prescribed criteria. Establish and maintain a drug-free work place. Be in good standing with tax-collection authorities. Implement a policy and programme of equal employment opportunity on the grounds of race/gender/disability. Provide conditions of employment more favourable than that provided for in the law. Embrace environment-friendly technologies or practices (or both).
III	Outsourcing	Provide business or employment opportunities (or both) to target groups through activities directly related to a particular contract	Subcontract a portion of the contract to targeted enterprises. Engage targeted enterprises or targeted labour (or both) in the performance of the contract. Enter into a joint venture with targeted enterprises at main or subcontract level.
IV	Nominated deliverables	Undertake to provide specific deliverables, which might be related or unrelated to a particular contract.	Participate in a country's economy to the extent that the sum total of all commercial or industrial activity equals or exceeds a monetary value over a period of time. Develop human resources, e.g. by assisting in tertiary and other advanced training programmes, in line with key indicators.

Concerns regarding the undermining of primary procurement (good governance) objectives are invariably expressed whenever procurement is used as an instrument of socio-economic policy. Typically, the concerns raised revolve around the risk of the following occurring during policy implementation:

- loss of economy and inefficiency in procurement;
- the exclusion of certain eligible tenderers from competing for contracts;
- the reduction in competition;
- unfair and inequitable treatment of contractors;
- lack of integrity or fairness;
- lack of transparency in procurement procedures;
- failure to achieve secondary procurement objectives through the procurement itself.

It should be noted that these risks relate to the compromising of a procurement system's good governance objectives.