

# WINNING PUBLIC SECTOR CONTRACTS

ANDY HAIGH





Published 2010 by Kable, Kings Place, 90 York Way, London, N1 9GU, UK

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ISBN 978-0-85265-229-9

British Library Cataloguing-in-Publication Data  
A catalogue record for this book is available from the British Library

Designed by Gill Hiley  
Printed in the United Kingdom by Jasprint Digital Ltd

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## Preface

Following years of seeing the public sector procurement process from both sides, I have amassed a vast amount of information on the different ways in which suppliers can engage with this process, and the strengths and weaknesses of them all. As a serving officer in the RAF I saw how differences in attitude to the buying and selling processes would get in the way of the Service actually getting what it wanted. And then I saw how a few talented individuals would think and act outside the strict interpretation of the prescribed approaches, which had never been designed to control the specific issues faced, and would sometimes recover the situation. When I left the RAF to join commerce, I learned that there were business people who would drive a complex solution through, to give the public sector the right solution, and not just a solution that gave their business the most profit. And then I often saw these people fail to deliver what they knew to be right, because they did not connect with all the decision-makers in the right way.

When I started my own consultancy business, I had the luxury of being paid to stand back and examine what was going on. My team and I would train public servants and hard-nosed businesspeople in the techniques needed to get the best from a public sector contract competition, and we collected many stories and examples of good and bad approaches to the specification and bidding processes. I developed several tools and techniques, which we were able to test on real bids. We tuned and improved our approaches while keeping abreast of the ever-changing legislation and attitudes of the market to public sector procurement, and more of my time was being absorbed in developing and delivering training to clients for whom success in public sector competitions was critical.

Then my colleagues suggested I try to pull together all my teaching notes and experiences into a book. This is the result.

Andy Haigh  
July 2010





# Acknowledgements

I would like to acknowledge the many people who have made this book a reality. I owe much to my mentor and friend Brian Meade (GPT Director), who died a few years ago. He helped me through my transition from serving RAF officer to commercial businessman in a way that allowed me to harness the best of both. In particular, he showed me how to avoid the pitfalls that so many people make when they naively set out thinking that the skills they have developed in one career will allow them to prosper in the next.

My staunch friend and co-director Peter Lobl has supported me in the development of many of my ideas, giving me an insight into the head of the successful sales professional, and honest feedback in everything I have done. He has picked me up when I have been down, and motivated me when I have started to flag. This book would not have been created without him.

My wife, Sally, who with no experience of the world of procurement still manages to read my drafts and critique them with frightening accuracy, has given me support, encouragement, and an environment in which I could concentrate on getting this book produced. I owe her much.

Finally, there are many others who have helped me to this point. I am grateful to the Sixfold Associates who have supported me in so many ways. The OGC has many excellent staff who have patiently answered my questions and researched sometimes obscure aspects of legislation for me. And, by no means least, are the delegates and attendees of the many courses and workshops I have delivered, who have shared their experiences with me and have challenged my thinking. To you all, a heartfelt thank you.



# 1 Introduction

The public sector in the UK buys more goods and services than any other organisation. And the range of its purchases extends across the entire scope of all goods and services available in the market, with very few exceptions. So why do many organisations, particularly SMEs, avoid going after opportunities to sell what they specialise in if it means engaging the public sector buying processes?

A poll of some companies generated the pluses and minuses listed in **Table 1**. At first sight the 'bad' seems to outweigh the 'good'. This is what some financial directors assume when making the investment decision to venture into the public sector marketplace for the first time. But many organisations have shown that assumption to be false, and now sport an impressive portfolio of public sector contracts.

BAD THINGS ABOUT GOVERNMENT CONTRACTS	GOOD THINGS ABOUT GOVERNMENT CONTRACTS
<ul style="list-style-type: none"> <li>◆ Long gestation periods</li> <li>◆ Bureaucratic processes</li> <li>◆ Failure creates massive brand vulnerability</li> <li>◆ Different formats and forms</li> <li>◆ Longer decision-making processes than commercial organisations</li> <li>◆ No single-point decision-making</li> <li>◆ Political dimensions can have an unexpected impact</li> </ul>	<ul style="list-style-type: none"> <li>◆ Huge public sector spend (especially large deals over long contract periods)</li> <li>◆ Fair procurement policies and proper contractual arrangements</li> <li>◆ Low payment risk</li> <li>◆ Lower profit risk compared with commercial sector</li> <li>◆ Recession-proof</li> <li>◆ Exciting projects that aren't found elsewhere</li> </ul>

**TABLE 1**  
GOOD  
and BAD

In times of difficult business conditions, many companies look to new markets. When 'commercial' opportunities get fewer, and are more difficult to secure, companies can see value in a balanced client portfolio with a mixture of public and private business. Such thinking often causes them to reassess the apparent difficulties, and review their decision to hold back from government contracts.

That is where this book comes in. It seeks to explain the complex processes by which government buys, in the UK and across Europe, and some of the thinking that lies behind them. There are substantial differences in the ways in which the public sector buys, compared with most commercial organisations. After all, the personal and organisational agendas of the buyers are completely different. But once you understand the principles that the public sector procurement system is based on, selling to it isn't more difficult – it's just different.

Moreover, just as in commercial purchasing activities, there are opportunities in the public sector procurement processes for manipulating the process, for using influence to alter the outcome, and even for fraud. No sane person would want to enter a public sector procurement process with illegal intentions, but it's important to know where the line lies between acceptable and non-acceptable activities, where the rules can be bent (but not broken), and where the process itself can be harnessed to gain competitive advantage.

There is no basic difference here between public sector and commercial procurement. It is people who run the processes, and people can have a variety of motives that aren't always aligned with their organisation's objectives. To ensure a fair outcome, and guarantee success, you need to know where these misaligned motives may lead, and either exploit them or protect yourself against them. If you can understand the people, the pressures they're subject to, and the processes they run, you can increase your chances of sales success. You also need to know what your competitors may be doing, so that you can at least ensure a level playing field.

This book is written for public sector competitive procurement situations, but most of the information applies equally to the commercial sector. Many commercial organisations use similar procurement techniques. Some large commercial companies, particularly those whose core business is supplying the public sector, use the same philosophy as the public sector procurement teams to evaluate their own potential suppliers' bids. Wherever there is a formal, rigid, rules-based process for procuring goods and services, then once you've uncovered the rules, the principles described in this book will apply.

## What this book does

This book seeks to demystify the approach to bidding for and winning public sector contracts. It provides guidance for the sales team to navigate through some of the more complex procurement situations that it may encounter, and offers some tools and templates that have been found useful, based on many years of bidding for, winning – and losing – public sector contracts.

The approaches and methods outlined in this book are based on real, hands-on experience from sales and procurement professionals getting their fingers dirty to create and follow through on their own bids. Sometimes these bids have been for themselves, sometimes for the company that employs them, and sometimes for their clients.

Much of the information has come from failures – from not winning bids that should have been won. An early lesson for bid teams is that within their failures are the gold nuggets that will lead to consistent future success. Many of these nuggets are described in this book, so that you don't have to go through the process of failure to learn them.

In recent years people employed in commercial bidding activities have sought to raise the profile of their contribution to their businesses by adopting standard bidding processes and cycles. They have been seeking to match the achievement of project managers by getting their methods and experience formally recognised, and consequently their status elevated within the job market.

In the formal bidding arena the **Association of Proposal Management Professionals (APMP)** has started the campaign to get specific and overdue recognition for those who work in bidding and tendering. Many would argue that it's the specific achievements of these people that keep many companies in business, but they are sometimes viewed just as a low-valued support function for the sales team. The APMP is seeking to correct this image. As one of its functions, it has created a body of knowledge outlining the latest thinking on best practice for its members to draw upon.

The APMP approach is commendable for its underlying bid production process. This is probably the best methodology for any business when it's setting up formal bidding and tendering activities. But the US-oriented focus of the APMP doesn't always mesh well with European public sector procurement processes. This book builds on the APMP approach, which has been honed and added to on the basis of real experience in public sector bidding in this often nonintuitive market sector.

If you adopt the approaches and thinking set out in the following chapters, you'll be able to compete on a fair basis with organisations that have been playing the public

sector procurement game for many years. You'll find many things the procurement officer doesn't want you to know. The tips and tricks are gems that large organisations have struggled for years to uncover, and which they hope their competitors are unaware of. You'll also benefit from distilled experience of bids that went desperately wrong, so that you don't have to make the same mistakes.

This book seeks to illuminate the key points of government procurement processes, and then eliminate any advantage that others may have in trying to manipulate those processes against you. The strength and value of your own products and services will then be the only things on which the procurement competition will be evaluated. If this happens, then we all profit: the public sector gets better value for money, and the pressure on our tax revenues is reduced.

## How this book works

In any business, it is expected that the bid and tendering professional leading a bid team will:

- ◆ be able to select the opportunities most likely to be won
- ◆ know how to pursue the opportunities through the client's processes
- ◆ know the messages that have to be got across
- ◆ understand who they have to get the messages to
- ◆ know who the competitors are, and what they're doing
- ◆ improve the organisation's win rate.

In the commercial world, meeting these expectations can be straightforward – although probably not easy. But in the public sector bidding environment, the techniques required in each case are different.

This book first sets the scene for the procurement process in the public sector, and then looks at some of the ways in which the process or the environment can be exploited for competitive advantage. The flow is as follows.

- ◆ This **introduction** gives general background and advice on using this book, and on the processes.
- ◆ **The buying environment** looks at the EU's influence on public sector procurement processes, and the key principles that these processes are based on. Understanding these principles is key to approaching any challenge to the process you wish to make.
- ◆ **The political scene** looks at the ways in which the procurement processes can be biased, and how you can detect or harness that bias to get the results you want.
- ◆ **Market intelligence** is the information that you have to track down and analyse in order to understand the relationships that surround the procurement process, and harness them for your benefit.
- ◆ **Qualifying the opportunity** describes how you can assess any new opportunity in terms of how suitable it is to carry on investing time and effort to get to the next stage.
- ◆ The two chapters on the **response process** match what the supplier really has to do to best meet the demands of the procurement processes. They deal with how you can influence not only the decision-makers but also the competitors.

- ◆ Many organisations, once they have submitted the formal documents, sit and wait for the next stage. The **presentation stage** covers the time after the bid has been submitted. It deals with the formal presentation, if one is called for, and other considerations that can help improve your win chances at this point.
- ◆ **Win when you lose** looks at the things you can do if you believe that the contract award decision is going against you.
- ◆ **The conclusions** draw together the key points of this book into a quick reference.

TIP !

Many key points are highlighted in boxes embedded in the text.

Throughout the book key points of information are highlighted in boxes embedded in the text, for easy reference. Text used from another source, and example text, is put in italic font to highlight it.

## Office of Government Commerce

A final note of caution. Like all systems, processes and cultures, public sector procurement is constantly evolving. Many of the approaches and thinking in this book remain valid after many years of use, but care is needed to ensure that since this book was published there have been no material changes in the procurement processes, or in the laws that underpin them.

This book is concerned primarily with the public sector marketplace in the UK and Northern Ireland. Most of the conclusions and recommendations are equally applicable to any European Union (EU) procurement, but national differences can occur, and any potential supplier will need to test its approaches with its own national public sector procurement authority.

In the UK the national public sector procurement authority is the **Office of Government Commerce (OGC)**. This is an independent office of HM Treasury, established to help the UK government deliver best value from its spending. The OGC works with central government departments and other public sector organisations to:

- ◆ deliver value for money from third-party spend
- ◆ deliver projects to time, quality and cost, realising benefits
- ◆ get the best from the government's estate
- ◆ improve the sustainability of the government estate and operations
- ◆ help achieve delivery of further government policy goals, including innovation, equality, and support for small and medium enterprises (SMEs)
- ◆ drive forward the improvement of central government capability in procurement, project and programme management through the development of people skills, processes and tools.

The OGC website at <http://www.ogc.gov.uk/> provides a wealth of information for anyone bidding for public sector business, which you can't afford to overlook. The OGC also has an easy-to-contact helpline staffed by procurement professionals, who can (and do) provide real help.

Also on the OGC website you'll find the Public Contracts Regulations 2006 and the Public Contracts and Utilities Contracts (Amendment) Regulations 2007. Throughout this book we have referred to these as the **Procurement Act**, to mean the legislation and the subsequent modifying legislation on which our public sector buying processes are based. A printed copy of these documents on your desk will put you well ahead of many people running a procurement competition in the public sector, and allow you to press any challenges you have with confidence.



## 2 The buying environment

**Y**ou can find descriptions of how the government procurement processes work in many places, but to put the rest of this book in context, and to provide a top-level reference, the relevant elements are covered here.

### The Official Journal of the European Union (OJEU)

Throughout the European Union, public sector organisations need to purchase goods and services for a huge range of activities. In the main, this involves national, regional and local public authorities purchasing works, supplies and services. Contracts valued over a specified amount must be advertised all over Europe. For many purchases the amount is of the order of £150,000, but the figure varies for the type of buying organisation, for the nature of the product or service required, and as a result of the biannual revision of this trigger level. Collectively such contracts are estimated to be valued at around £750 billion a year (2009 figures), which represents approximately 15% of the EU's gross national product.

The **Official Journal of the European Union** (OJEU) is published every working day in the 20 official languages of the member states. According to EU legislation, all contracts from the public sector that are valued above certain thresholds, depending upon the nature of the products and services required and the purchasing organisation involved, must be published in the OJEU. Around 2,500 new notices are advertised every week, of which around 10–15% are published from UK public sector organisations.

As far as the government procurement community is concerned, there are two main series of the OJEU:

- ◆ the **L series**, which contains EU legislation, including EU regulations and EU directives, decisions, recommendations and opinions
- ◆ the **S series**, which contains invitations to tender.

The name 'Journal' is misleading, because production of the hard copy version ceased in 1997. The OJEU can now be accessed in electronic form, free of charge, via the Internet at <http://www.ojeu.eu>

The EU Procurement Rules apply to all central government departments and local authorities across all the member states of the European Union. They also apply to the utilities sector, which includes water, energy, transport and telecommunications. In addition, in this era of increased public–private partnerships, private sector companies involved in public contracts are sometimes also subject to the rules, for example if they act as agents for a public body in the letting of a public contract.

## Principles of public sector buying

EU public procurement is based on the system of a single market, with rules that are intended to create competitive markets across Europe, opening up the choice of potential suppliers to all public sector bodies. The prime objective is value for money: the main aim is to ensure reduced costs. The rules are also aimed at opening up potential markets for companies, with fair and open competition through the advertising of contracts, and using consistent criteria in tendering and contract award procedures.

The European Community Treaty covers all public-sector procurement contracts in the UK, regardless of their value. The Treaty establishes five fundamental principles that govern public procurement.

**NON-DISCRIMINATION** The principle of non-discrimination requires that there will be no discrimination on the grounds of nationality, religion, age, sex, political leaning, etc. For example, this principle would be breached if a supplier was rejected – or selected – on the basis of nationality, or religious or ethnic background.

**EQUAL TREATMENT** The principle of equal treatment requires that all suppliers be treated equally, and with the utmost fairness, at every stage of the contract award procedure. The selection of candidates to tender, the receipt of tenders, and the treatment of tenders must all be scrupulously fair. All suppliers must be given the same information. To give all tenderers the same opportunity to submit tenders, the contract documents must be clear and unambiguous, and contain all the requirements for the proposed procurement.

This principle would be breached if, for example, one supplier was given access to information that was not offered to all other suppliers.

**TRANSPARENCY** The principle of transparency requires that information on forthcoming contracts, and on the rules to be applied, be readily available to all interested candidates. Candidates must be informed of the rules that will be applied in assessing their applications for tender lists, and of the criteria used in evaluating tenders. Without this information, a properly competitive tendering process would not be possible.

In the UK this means that if the National Audit Office was to visit the procurement team and re-evaluate the tender documentation, it should come up with the same result. Hence this principle is sometimes known as the 'auditability' principle.

This principle would be breached if, for example, a contract was awarded with limited publicity or even no publicity at all, or if the award criteria were not available to all tenderers.

**PROPORTIONALITY** The principle of proportionality requires that the demands placed upon suppliers be both relevant and directly related to the contract being awarded. For example, suppliers should be required to provide information about their company and their products only when such information is necessary for commercial decisions to be taken by buyers.

This principle would be breached if excessive conditions were placed upon prospective suppliers – for example, if a buyer insisted on a minimum turnover of £10 million when awarding a contract for only £100,000.

**MUTUAL RECOGNITION** The principle of mutual recognition requires that the standards, specifications and qualifications in use throughout the EU receive equal recognition, provided the products or services are suitable for their intended purpose.

This principle would be breached if, for example, a product was suitable for the specified purpose, and complied with the relevant standards in the supplier's country, but was disqualified because the supplier couldn't demonstrate compliance with the specific national standard quoted in the tender.

### Challenging the process

If you feel that some element of the procurement process has gone wrong, or that someone isn't playing by the rules, then you should test your concerns against these principles, and use them as the basis of your challenge. If you can show that one or more of them has been breached, your likelihood of getting the situation corrected will be greatly increased.

TIP !

If you're challenging the process, you're most likely to get a result if you know the procurement principles.

It's best to challenge the process as early as possible, as it's more likely that a simple corrective measure can be taken then, to put the procurement back on course. In the first instance, take the challenge up with the procurement team and, wherever possible, quote the Procurement Act. But be prepared to escalate your challenge to more senior staff if you don't rapidly get a satisfactory response.

New penalties relating to government departments have been introduced recently. The new penalty of **ineffectiveness** enables the courts to strike down contracts that have been awarded in serious breach of the procurement rules. However, it affects only unperformed contractual obligations. Obligations that have been performed by any contractor don't need to be undone.

The new penalties also include civil financial penalties and contract shortening, which the court can use as an alternative to ineffectiveness if it considers there are good reasons why the contract should continue. A civil financial penalty will also always be required to accompany an ineffectiveness ruling. There is also a mandatory new requirement for contracting authorities to suspend a procurement exercise whenever legal proceedings are brought in respect of a contract award decision.

All this means that there are a range of increasingly powerful remedies available to a potential supplier who has not been treated in accordance with the Procurement Act, and any challenge will be taken very seriously.

## How the procurement processes work

Public sector procurement is based on four formal procedures, a modifying half-procedure, and four procurement systems.

### Procedures

The four procedures are:

- ◆ open
- ◆ restricted
- ◆ negotiated
- ◆ competitive dialogue

The modifier is the accelerated procedure.

**OPEN PROCEDURE** This is a one-stage procedure in which the public sector advertises its requirement, asking for tenders to be returned by a given date. All interested parties may tender.

The open procedure is easy for suppliers to engage with, and is probably the closest match to normal commercial bidding practice. However, the procurement team will be worried that they will be snowed under with bids that all have to be fully evaluated – or, even worse, that they will receive no bids at all. If they receive only a single response, though, they are allowed to proceed to contract.

**RESTRICTED PROCEDURE** This is a two-stage procedure that involves separate selection and award stages. The first stage is based on a **pre-qualification questionnaire (PQQ)**; in the second stage companies that have succeeded in being shortlisted receive an **invitation to tender (ITT)**. Only shortlisted organisations may submit tenders.

TIP !

Beware the procurement officer who approaches you with an 'ideal' opportunity; it may only be to get them sufficient responses to legitimise the competition.

This procedure allows the procurement team to manage their workload, but it may stop some potential suppliers from bidding because they see it as overly bureaucratic, slow and complicated.

To make the procurement valid, a minimum number of bids must be received. So beware the worried procurement officer who approaches you with an opportunity that 'seems just right for your company'. It may be that you're needed only to legitimise the competition.

**NEGOTIATED PROCEDURE** This is available only in very limited circumstances. Like the restricted procedure it has two stages. The second stage allows procuring departments to enter into substantive negotiations with tenderers. An advertisement in the OJEU is usually required, but in certain circumstances the contract doesn't have to be advertised. This might occur, for example, when only a particular person could carry out the contract – perhaps for technical or artistic reasons, or because of the protection of exclusive rights.

The failure rate of negotiated procedures is high, because both sides enter the negotiations with expectations that, often, don't overlap. Despite protracted negotiations the suppliers may believe that they can dictate the price and conditions, because the public sector can't get what it wants anywhere else. And the public sector negotiators have their expectations of the commercial world confirmed by the 'evil' suppliers who want to 'stitch them up'. So there is no meeting of minds, and the two sides depart, counting the cost and time spent in fruitless negotiations.

Nevertheless, many large contracts are still placed through this procedure, which shows that it has its place in the list.

**COMPETITIVE DIALOGUE PROCEDURE** This is used for more complex procurements, where the procuring authority develops the scope and detail of the solution with appropriate companies. A small number of companies are invited to go through successive rounds of refinement or development of the specification. As the details of the specification emerge, companies may drop out, and the refinement process continues until either there is only one competitor left, or there is sufficient detail for the remaining competitors to generate a competitive ITT response.

The competitive dialogue procedure is the only one with a built-in mechanism that allows potential suppliers to be paid for the costs of bidding. This comes into effect when competitors have to incur major expenditure – for example, producing a prototype aircraft for evaluation to decide the contract winner. It is not normally used for lesser contracts where the risks are low enough to attract bidders without payment.

The use of competitive dialogue procedures is getting more common, because it effectively provides the procurement team with free consultancy in developing the bid specification. They can get to know the supplier well, and use information about the cultural match in their evaluation. But many potential suppliers are put off by what they see as exploitation of the public sector's buying power to get commercial innovation and ideas for nothing.

**ACCELERATED PROCEDURE** This is a modifier that applies only to the restricted or negotiated procedures, to shorten timescales. It applies in very limited circumstances, where a case can be made that longer procurement timescales would be detrimental.

## Systems

The prospective supplier has to engage with one of four systems:

- ◆ tenders
- ◆ frameworks
- ◆ e-auctions
- ◆ dynamic purchasing systems.

**TENDERS** Tenders are written proposals competing for a described opportunity to contract for a government sector procurement opportunity. They usually (but not exclusively) contain:

- ◆ a description of what is to be provided and how that provision will take place
- ◆ a price, with matching terms and conditions of supply
- ◆ a demonstration that the contract requirements are understood
- ◆ proof of the company's ability to deliver

**FRAMEWORKS** These types of contract are the same as tenders, in that they are written proposals competing for a described opportunity to supply to a government procurement opportunity. However, in this case there is no commitment to buy by the public sector organisation. The framework binds the suppliers contractually on how they will operate, but doesn't guarantee them any level of spend. It also sets up abbreviated buying processes for the public sector community who want whatever it is that the framework contract covers. This allows them fast, simple and low-cost access to predefined and costed goods and services without having to go through a 'full' procurement process.

In essence, a framework contract is:

- ◆ a purchasing arrangement that makes it easier for buyers to buy and (contracted) sellers to sell
- ◆ a significant competitive hurdle to non-participants
- ◆ limited and controlled competition
- ◆ valueless unless the companies on the framework contract actively sell their goods and services following selection for the framework.

Don't confuse a framework contract with a call-off contract. In a call-off contract a specific quantity of the deliverable is contracted for; the drawdown on that deliverable is not fixed, but is called off as needed until the contract limits are met. A framework contract guarantees no minimum level of business whatsoever. It's up to the supplier to sell within the framework contract to get its income.

**E-AUCTIONS** An electronic reverse auction (now universally known as an e-auction) is a procurement tool that allows suppliers to bid against each other, in real time, to supply an identified requirement, using standard bidding software and the Internet.

The OGC has recently claimed that public sector procurement is 'getting better values from goods and services bought by government. An example of this is e-auctions, which are saving on average 41% each time they are used.' In essence, an e-auction is a reverse auction event (in which the bid price continues to drop until no one underbids it) that:

- ◆ is conducted on-line
- ◆ uses predetermined and published award criteria
- ◆ can be on any combination of criteria, converted to a 'price equivalent'
- ◆ allows bidders to introduce new or improved value to their bid during the auction
- ◆ will have a starting value that suppliers will bid against until the competition is won.

TIP !

The lowest bidder in an e-auction gets the contract in only about a third of all competitions.

Although a reverse auction establishes a price, the exercise is not about price alone, and all other good procurement practice still has to be followed, mostly outside the auction environment. This includes supplier selection and qualification (including the OJEU, if appropriate), establishing quality and service criteria, and agreeing terms and conditions. An accurate and unambiguous specification is critical at an early stage, to ensure that all the bidders are bidding for the exactly same thing.

The OGC believes that suppliers, after some initial scepticism, have generally warmed to the idea of e-auctions when bidding for government business. Suppliers needed to be convinced that the public sector was not going back to the 'lowest-price mentality' of the past. The OGC claims that suppliers generally value the greater transparency that auctions offer: they see them as an open and fair process, which allows for the opportunity to react instantly to competition, and to have more than one bite at the cherry. They also see auctions as a means of shortening the negotiation cycle; there will normally be an award decision within a few days of the auction.

Anecdotal evidence, though, suggests that the supplier community may not all agree. Some see e-auctions as a brutal method of forcing the price down, to the extent that they refuse to take part. So when e-auctions are held, the public sector may not be getting a full range of options to evaluate, and therefore may not be getting the best value for money. If your business strategy encompasses e-auctions, you may be able to capitalise on the fact that some of your competitors don't want to get involved.

Recent research has shown some interesting and counterintuitive results from e-auctions. Only about a third of the lowest bidders in e-auction events eventually proceed to contract; two thirds of contracts are awarded to either the second or third place in such competitions. The message is clear: if you prove yourself close enough in an e-auction, but don't come first, you still have a high chance of winning the contract.

**DYNAMIC PURCHASING SYSTEMS** Dynamic purchasing systems (DPS) are like framework agreements, but without the constraint of a single competition to select the framework providers at the outset. They are a completely electronic process for making commonly used purchases. Like a framework, a DPS allows purchasers to reduce the timescales for procurements made within it.

In essence, a DPS is an electronic framework agreement in which:

- ◆ indicative bids to enter the framework can be made at any time
- ◆ each call-off within the DPS is subject to competitive tender from the DPS suppliers
- ◆ the open procedure is used to invite suppliers to bid to join the system
- ◆ indicative bids may be submitted or improved at any time throughout the life of the system, provided they remain compliant.

Suppliers who want to be admitted to the system must meet the selection criteria, and then submit an indicative tender. Qualified suppliers can join or leave at any stage during the life of the system.

Once the system is established, the contracting authority runs a competition (open to those who have qualified onto the system) each time a purchase is made. A DPS is generally limited in duration to a maximum of 4 years.

## How the evaluation process works

In the public sector, adherence to the process is generally more important than getting the best outcome. This is because of the radically different approach and people involved with the buying decision. A clear understanding of these differences is key to submitting successful proposals.

### Differences from commercial buying processes

The most fundamental difference between commercial and public sector buying processes stems from the groups involved in the decision-making. In the public sector there are three different groups, each with its own agenda, who have to reach mutual agreement before a commitment to buy can be made. They are:

- ◆ **The department with the requirement.** This will have made the case for the purchase, and will have argued it through the various internal stages of approval. However, it doesn't have any money it can spend; nor can it agree a contract.
- ◆ **The department with the money.** This is normally the financial department. It has control of the money, but doesn't usually have any interest in the products or services that are going to be purchased. Moreover, it has no ability to actually spend the money.
- ◆ **The procurement department.** This has no money of its own to spend, and probably won't use the products and services that are going to be bought. However, it can sign a contract. The procurement department is the interface between the users, the money controllers and the external suppliers, and will try to control all information flows between them, by strict application of the process.

#### TIP !

Those who want it,  
can't buy it.

Those with the  
money can't spend it.

The ones who buy it  
have no money, and  
aren't interested in  
what they purchase.

Unless all three of these groups can be brought into line and agree, there will be no contract.

If a commercial organisation has a strong relationship with one or two of these groups, it can't trade on the relationships in the same way as it would with a commercial organisation. If these groups existed in a commercial company's buying process, their internal agendas would be much more likely to be in harmony. In the public sector, these agendas can be far apart.

If you know the approach that the evaluators will take when deciding who will win the competition, you can make sure that your element of the bid engages with this approach, and thus be more likely to attract the best response from the evaluators. They will read every word you write and try to understand what it means, so that they can give it a score. If they don't understand it, or if they find your text ambiguous, they won't spend a lot of time trying to work it out; they will just ascribe a lower score. You might have the best solution, but you can still lose the contract if your description doesn't score as well as it might.

### Evaluation processes

During the process of creating the ITT, the public sector procurement team will set up the process for evaluating the bid, as part of the document set. This evaluation process will consist of four main elements:

- ◆ setting the evaluation scheme
- ◆ evaluating the scores
- ◆ calculating the rankings
- ◆ calculating value for money.

**SETTING THE EVALUATION SCHEME** Part of the contract documentation will specify whether the decision is going to be made on **price** or on **value for money** (VFM), sometimes termed **most economically advantageous tender** (MEAT). If the evaluation is on price, the winning bid will be the one that meets the specification and has the lowest price. For complex bids a VFM approach is normally used, and this is the approach the procurement team has chosen to evaluate the bid in the example below.

The procurement office will set up the bid evaluation process as listed in **Table 2**.

Step	Decision
Is the bid affordable?	If no, the bid is rejected.
Are all the mandatory criteria met?	If any aren't met, the bid is rejected.
How good is the response when measured against a set of predetermined points?	Each element of the bid is sent to an 'expert' team, who evaluate and score your responses from their specialist viewpoint. Wide variations from the norm may allow the bid to be rejected.
What VFM is achieved by the bid?	The scores are multiplied by a weighting factor, and the total of the weighted scores is calculated. This total is used to divide the price, giving a VFM ranking for the competition. All but the top few remaining bids will be rejected.
Is the ranking correct?	A process of bid refinement (including presentations, demonstrations and negotiations) will be conducted to tune the weighted scores and prices. This final step will decide the winner.

**TABLE 2**  
The bid evaluation process

**EVALUATING THE SCORES** The procurement team will evaluate the competing bids using a scoring scheme set up during the creation of the bid documents. This includes weightings for each area of the contract. Several methods may be used, but most of them rely upon each specialist looking at his or her area in each response, and awarding points. By having a single person (or, in the biggest bids, a single team) for each specialist area, variations in scoring should be minimised: that is, the bias should be equal across all bids. The approach also means that the results can be audited at a later date, because a different expert team re-evaluating the bids should come up with the same relative scores.

The evaluators will score each element of your response in accordance with the points scheme. The criteria on which they will award points are laid down and given to them as guidance before they start their marking. However, they also have some latitude to award discretionary points.

TIP !

**Remember: all evaluators have some discretion when allocating scores.**

If a bid is on the boundary between two scores, for example between a 6 and a 7, the scorers' decision may be influenced by factors beyond the mere technical content of the response. They might base it on how closely the solution meets their

own personal preferences, or even just how easy they find it to navigate the document. Some scoring schemes include a section for the 'soft' aspects of the response, such as ease of evaluation and general presentation, but the evaluator usually still has some manoeuvring room.

Scoring can be a multi-stage process. The first stage is usually a desk exercise, in which the tender document is read in detail, and each point it makes is considered. Subsequent stages can include meetings, presentations or demonstrations, all of which will be evaluated and scored (or the initial scores adjusted).

**CALCULATING THE RANKING** Once bids have been scored, the raw scores are passed back to the client's procurement team, who calculate an overall score for the bid by multiplying the score achieved in each area by the weighting given to that area. The total of all these weighted scores is calculated to give an overall score for each bid. Provided there are no other factors that affect the bid, these weighted scores are used to calculate a VFM score.

At this stage a financial calculation will be made to get an indicative price. If this price is above the budget, the bid can be rejected.

**CALCULATING VFM** To calculate VFM, an indicative price is created by using each supplier's financial data and feeding it into a model, such as a spreadsheet, that will combine all the data to create a single nominal 'price' for the proposal. This allows the procurement team to compare the prices of each competing bid. This modelled price is calculated only for the purposes of the comparison; it may not be the actual price that the client expects to pay.

In some cases the modelled price is given a score and a high weighting. For more complex bids, often the modelled price for each competing bid is divided by the weighted score for the bid, and this gives the procurement team a ranking of how much they must pay in this competition for a nominal point of 'value'. So long as the overall price is affordable, the procurement team will normally recommend to the decision-makers that they accept the proposal with the lowest cost per point of 'value'.

So the overall calculation process is:

- ◆ Model the pricing to get a single representative cost for each bid.
- ◆ Score each of the weighted elements of the bid response.
- ◆ Multiply each score by its attributed weighting, and sum the scores.
- ◆ If the price has not been scored, divide the cost by the weighted total score.
- ◆ Rank the bids from lowest divided costs (best) to highest (worst).

The resulting list is then passed to the decision-makers to decide the next steps.

If the evaluation is based upon MEAT, this decision-making technique will be used. However, there may be additional factors added into the evaluation.

**MEAT** The OGC defines MEAT as the optimum combination of whole-life costs and benefits assessed against predetermined evaluation award criteria, which might include:

- ◆ quality of service and customer-focused approach
- ◆ operational risk
- ◆ administrative procedures
- ◆ flexibility and responsiveness
- ◆ proactive focus
- ◆ environmental and sustainability aspects
- ◆ competitive payment terms

- ◆ contractual risk, terms and conditions
- ◆ industry experience
- ◆ technical compliance.

The current provisions for MEAT award criteria stipulate that they must be listed in the contract notice or in the contract documents, where possible, in descending order of the importance attached to them by the contracting authority. Note the 'where possible': this is the key difference between VFM and MEAT. For VFM all the criteria will have been specified and weighted.

TIP !

If the pricing model is not supplied, ask for it.

The Procurement Act requires the contract notice or tender documents to state the relative weighting of each award criterion. This is intended to ensure transparency of decision-making so that it can be taken into account during the preparation of bids. The Procurement Act also makes it explicit that MEAT is to be judged 'from the point of view of the contracting authority'.

It has been usual in recent years for the scoring and weighting criteria to be supplied with the PQQ or ITT documents, but the pricing model is rarely supplied. Would it help you if you had the model that was going to be used to calculate the nominal cost of your bid? In most instances it's worth asking for it.

### Implications of the bid response

There are several things to take account of when you respond to an evaluation process of this type:

- ◆ Obviously, you must respond with a solution capable of achieving the client's objectives, including meeting their budget constraints.
- ◆ You must explicitly meet every mandatory requirement you are set, or you must re-evaluate your reasons for bidding.
- ◆ You must address every point that is listed as being scored and weighted as comprehensively as possible, in a manner that is the most attractive to the person or persons who will be scoring your answers.
- ◆ If you have resource constraints, you must give priority to allocating your bid resources to the issues that are most highly weighted by the client.

TIP !

Use the scoring and weighting information to drive your bid.

You must also seek to improve your scores at every opportunity. The rest of this book sets out the approach you should take to achieve this.

**EVALUATION** Evaluation of the received tenders is a formal and controlled process. The tender documents are opened and registered, and then split into sections, depending on the size and complexity of the submissions.

The pricing information is usually separated out and sent to a financial modelling team. This is why it is often requested as a separately enveloped document, which will not be seen by any of the other evaluators before they have looked at their own elements of the responses. This ensures that their evaluation is not biased by what they perceive the price may be. The rest of the tender documents are sent to the various specialists who will examine and mark the areas where they have expertise.

Already you have a couple of hints on how to improve the marks you can get. First, if a particular expert is going to look only at his or her area of specialisation, imagine how frustrating it must be for them to have to turn to other areas of a complex document because the author has put a statement in the text that refers to another part of the submission. In the older computer languages this was called a 'GOTO' statement, and it was a main reason why it was so difficult to maintain these old programs; you could easily get lost flipping back and forth between different areas of the program. In these days of word processors it costs nothing to replicate the relevant text in each part of a submission where it is required; there is nothing to be

gained by putting it only in one place and then referring to it throughout the rest of the document.

Second, if you can identify where a specialist is going to be part of the evaluation team, then try to put all their relevant information in a single part of your response, so it can be easily identified and marked.

**TIP !**

Try to bring all the information each evaluator will need into one part of your bid.

You can identify the number of specialist groups who will evaluate parts of the bids by looking at the scoring and weighting criteria. Each scored area will be reviewed by one specialist team (or individual).

While the individual sections of the bids are being scored, the evaluation team are also going to weigh up the eventual risk of contracting the work to you by assessing:

- ◆ Is your company a financial risk?
- ◆ Does your company have the capacity to deliver the specified project?
- ◆ Are you big enough?
- ◆ Have you carried out similar types of work in terms of specification, size, duration and scope?
- ◆ Are your internal competencies and skills sufficient?

Ultimately it's the people in your organisation who will deliver the project. So the decision-makers will look for evidence that those people have sufficient experience and capability to provide the deliverables. However, the fundamental question asked by the decision-makers is 'Will I be exposed by including this organisation in the next round?'

In essence, the process reduces all tenders to cost comparables. However, lowest price is often not the decider. MEAT allows (limited) interpretation of decision factors, and usually adherence to the process by the evaluators is more important than the outcome.

**USING THE SCORING MATRIX** PQQ and ITT responses are scored to meet the requirement for transparency. By this means the National Audit Office could, in theory, take the paperwork after procurement has finished, re-evaluate the submissions, and arrive at exactly the same result.

In 2005 it became mandatory for the scoring scheme to be released to the tenderers. An example of the evaluation matrix is given in **Figure 1**. Here the scores from each supplier are listed under each evaluation criterion. These scores are then multiplied by the weighting factor and added to give a total weighted score. In the simplest procurements, if all costs fall within budget, the highest score wins.

Supplier	Objectives:/Criteria							Total Weighted Score	Rank
	Ease of use	Flexibility	Features	Efficiency	Support	Maintenance	Etc. etc.		
Relative importance of attribute	0.20	0.05	0.10	0.15	0.25	0.35	?		
Supplier A									
Supplier B									
Supplier A									
.....									

**FIG. 1**  
Sample evaluation matrix

Sometimes the calculated cost is divided by the score to give a VFM index. Here the lowest cost per point of value would win.

**EVALUATION PROCESS** The evaluation process builds upon the VFM calculation process outlined above. The procurement team will normally:

- ◆ Model the prices by putting the numbers you have supplied into a model that outputs a representative cost for the bid, as above.
- ◆ Reject any over-budget costs.
- ◆ Calculate the scores by the specialists scoring the bid elements, as above.
- ◆ Reject 'abnormal' bids, such as any bids they don't want to carry forward to the next step because their scores or costs are a long way away from the norm. Interestingly, it is not clear what latitude exists to declare a bid abnormal.
- ◆ Calculate VFM by summing the weighted scores and dividing the representative cost by the sum, as above.
- ◆ Eliminate any bids below the cut-off, which is often 10% below the best VFM score, or a level that may be adjusted to keep the short list of suppliers manageable.

**THE 'OTHER' TESTS** Before any further action is taken to select a winner, the procurement officer is still looking for ways to reduce the number of tenders that go into the final rounds. To do this the following points, which may not have been formally assessed in the scoring and weighting, will be checked to see if there are any grounds for rejection:

- ◆ Has the process been followed?
- ◆ Is the supplier credible?
- ◆ Where has it been done before?
- ◆ How can I justify my decision to others?
- ◆ If it all goes wrong later, will I be exposed?

...which leads nicely into the next chapter.