Procurement in Action

Session 4: Procurement Methods & Procedures and Supply Contracts

Presented by: Procurement Policy Development Department

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OPR
THE OFFICE OF PROCUREMENT REGULATION

AGENDA

1. Procurement Methods & Procedures
2. Procurement Techniques
3. Supply Contracts
4. Case Study and Review
5. Quiz
6. Question & Answer
7. Feedback Survey

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1. Procurement Methods & Procedures

Procurement Method vs Procurement Procedures

Procurement Methods	Procurement Procedures
Are **prescribed processes** in which a Procuring Entity purchases goods, works and services.	A sequence of **steps** to be followed for each Procurement Method.

Choosing a Procurement Method

The selection of a procurement method is based not on whether it is goods, works or services that are procured, but rather in order to accommodate the circumstances of the given procurement and to maximize competition to the extent practicable.

Example #1:

Off-the-shelf Item

Complex Item

Example #2: Laptops

Company X (Qty. 1)

Vs

Company Y (Qty. 300)

Types of Procurement Methods

OPEN BIDDING
Two Stage Bidding

LIMITED BIDDING
Single Source Procurement
Sole Source Procurement
Request for Quotations
Competitive Negotiations

OPEN & LIMITED BIDDING
Request for proposals (RFP) without negotiation
Request for proposals (RFP) with dialogue
Request for proposals (RFP) with consecutive negotiations

Open Bidding

Definition:

Open bidding is a procurement method that is based on an invitation to bid that is advertised publicly either nationally, or in appropriate cases regionally or internationally. Open bidding procedures support the achievement of the objects of the Act, including transparency, value for money and public confidence.

Conditions of Use:

- To maximise the potential pool of suppliers and contractors in order to achieve the highest levels of transparency, value for money and public confidence.

- Due to the nature and complexity of the subject of the procurement.

EXAMPLE:
Construction of a Highway

Open Bidding Procedures

Step 1	• Draft the Procurement Notice
Step 2	• Publish the Advertisement
Step 3	• Issue Procurement Documents Upon Request
Step 4	• Receive and Evaluate Bids
Step 5	• Obtain Internal Approvals
Step 6	• Award of Contract (implement standstill period if applicable)

Limited Bidding

Definition:

A procuring entity engages in limited bidding when it does not publicly advertise the procurement opportunity, as in the case of open bidding. In this regard, invitations to bid are issued directly to a selected number of bidders, either through market research, the Procurement Depository.

Conditions of Use:

a) The goods, works or services, by reason of their highly complex or specialised nature, are available only from a limited number of suppliers or contractors.

b) The time and cost required to examine and evaluate a large number of bids would be disproportionate to the value of the goods, works or services to be procured.

EXAMPLE:
Catering Services for 10 Employees

Limited Bidding Procedures

Step 1	• The solicitation documents shall be issued directly to the selected bidders.
Step 2	• Receive and evaluate bids
Step 3	• Prohibition of negotiation with suppliers or contractors.
Step 4	• Award of contract (implement standstill period if applicable)

Request for Quotations

Definition:

A means by which the procuring entity seeks to solicit prices, and basic terms and conditions such as delivery timeframe and payment terms from providers of basic standard goods, simple services or works.

Conditions of Use:

RFQs are appropriate for the procurement of readily available, relatively low priced, goods or services that are not specially produced or provided to the particular description of the procuring entity and for which there is an established market.

EXAMPLE:
Temperature Scanner

Request for Quotation Procedures

Step 1	• Quotations should be requested in writing
Step 2	• Clear statement of requirements
Step 3	• Bidders should be given adequate time, no fewer than five (5) working days
Step 4	• Award to lowest-priced quotation meeting the needs of the procuring entity

Recap

PROCUREMENT PROCEDURE	APPLICATION	METHOD OF INVITATION	SOLICITATION DOCUMENT	SELECTION CRITERIA
OPEN BIDDING (Default if pre-qual listing is deficient, or if other method is justifiably more appropriate)	1. Large-scale, and high value projects for goods, works or non-consultancy services, 2. insufficient number of pre-qualified suppliers or contractors on record	Public Notice	- ITB - RFP	- Lowest price - MEAT
RESTRICTED OR LIMITED BIDDING	1. Low value, simple procurement 2. Highly specialized or complex goods, works or services are only available from a limited number of suppliers/contractors. 3. Bid time and cost outweighs the actual value of goods, works or services being procured	Direct solicitation	- RFQ - ITB - RFP	- Lowest price - MEAT
REQUEST FOR QUOTATIONS (RFQ)	1. Off the shelf, routine items 2. Established market	Direct solicitation	RFQ	Lowest price

Single Source Procurement

Definition:

A non-competitive method of procurement whereby a procuring entity engages one supplier or contractor for a procurement even though other suppliers or contractors are available.

Conditions of Use:

- where the subject of the procurement is to be delivered or carried out by a supplier or contractor who is in possession of relevant information and data;
- where the subject of the procurement is a good which is a spare or replacement part for equipment in use by the procuring entity;

EXAMPLE:

Replacement part for laptops under warranty by a procuring entity

Refer: Public Procurement and Disposal of Public Property (Procurement Methods and Procedures) Regulations, 2021

Single Source Procedure

Step 1	• Gain approval, sufficiently detailing the justification of the need
Step 2	• Request proposal or contract price
Step 3	• Engage in negotiations

Sole Source Procurement

Definition:

A method of procurement to be utilized where only one supplier or contractor is capable of providing the subject of a procurement.

Conditions of Use:

1. a procuring entity engaged in an open bidding or restricted bidding method and there were no successful submissions
2. reasons of extreme urgency
3. provision of additional goods or services by the supplier who provided the initial goods or services
4. provision of services which consist of the repetition of similar services which conform to a basic project

EXAMPLE:

The provision of a specific Database for which additional features may be required

Refer: Public Procurement and Disposal of Public Property (Procurement Methods and Procedures) Regulations, 2021

Sole Source Procedure

Step 1	• Bidding document shall include the required quantities, technical specifications and standard terms and conditions.
Step 2	• Review the submission it receives for conformity
Step 3	• Submission is reviewed to determine whether the price is fair
Step 4	• If offer price exceeds budget negotiation may take place

Competitive Negotiations

Definition:

The procuring entity engages in negotiations with a sufficient number of qualified suppliers or contractors to ensure effective competition.

Conditions of Use:

There is an urgent need for the goods, works or services, and engaging in any other competitive method of procurement, because of the time involved in using those methods, would therefore be impractical, provided that the circumstances giving rise to the urgency were neither foreseeable nor the result of delaying tactics on its part.

EXAMPLE:
The Construction of a Road Way (Collapse of the Manzanilla/Mayaro Main Road due to flooding)

Competitive Negotiations Procedures

Step 1	• Engage in negotiations with a sufficient number of suppliers/contractors
Step 2	• Information must be communicate to all suppliers/contractors at the same time and equal basis
Step 3	• Request all bidders to submit BAFO
Step 4	• No negotiations with bidders wrt BAFO
Step 5	• Award of Contract to bidder that best meets needs

Recap

Procurement Procedure	Application	Method Of Invitation	Solicitation Document	Selection Criteria
Competitive Negotiations	Solution for requirement involves negotiations to adequately satisfy the procurement need	Public notice Direct solicitation	- ITB - RFP	MEAT
Single-source procurement	only one supplier or contractor even though there are other suppliers or contractors providing that g/w/s in the following but not limited to circumstances: • To maintain standardisation • No advantage gained from other procurement method • It is more cost effective • In emergency cases	Public notice Direct solicitation	- ITB - RFQ - RFP	MEAT
Sole Source Procurement	Only one supplier or contractor capable of providing the g/w/s To maintain standardisation In emergency cases Procurement of prototype, bespoke product or service for research, Purchase of products in commodity market	Public notice Direct solicitation	- ITB - RFQ - RFP	

Request for Proposals

A RFPs is a formal invitation from a procuring entity to a supplier or contractor to propose a solution to resolve a stated problem. It is a process whereby the evaluators base the award decision not solely on price, but on a variety of factors such as qualifications of the firm and its key personnel, methodology and approach, and prior experience.

Request for Proposals without Negotiations

Definition:

A formal invitation from a procuring entity to a supplier or contractor to propose a specific solution (methodology and workplan) to fulfilling a specific requirement. The award decision in this process is based on price and non-price factors (qualifications, past experience, methodology).

Conditions of Use:

1. when the commercial aspects of proposals are considered separately and only after completion of examination and evaluation of the technical, quality and performance characteristics of the proposals; and

2. where the subject matter of the procurement is of a relatively standard nature, where all aspects of the proposals can be evaluated without resort to discussions, dialogue or negotiations with contractors, suppliers or consultants.

EXAMPLE:

Procurement of an Accounting and Payroll Software

Request for for Proposals without Negotiations Procedures

Step 1- . Invite Proposals

- Publishing the RFP Publicly
- Directly to prequalified or preselected bidders

Step 2 - Manage the Solicitation Process

- Host pre-submission meeting and/ or site visit
- Respond to requests for clarification & issue addenda

Step 3 - Receive and Open Proposals

- Open technical proposals only
- Store unopened commercial proposals

Step 4 - Evaluation of Bids and Award of Contract

- Evaluate and rank the technical proposals
- Non-responsive bids shall be rejected
- Responsive bidders invited to opening of commercial proposals
- Award the contract to the bidder with the highest combined score

Request for Proposals with Dialogue

Definition:

This is a process in which bidders assist in defining the statement of needs to obtain the most satisfactory solution to its procurement activity, resulting in a **Best and Final Offer ("BAFO").**

Conditions of Use:

a) It is **not feasible** to formulate a **detailed** description of the goods, works or services and **dialogue** with suppliers or contractors is required to obtain the most satisfactory solution to its procurement needs.

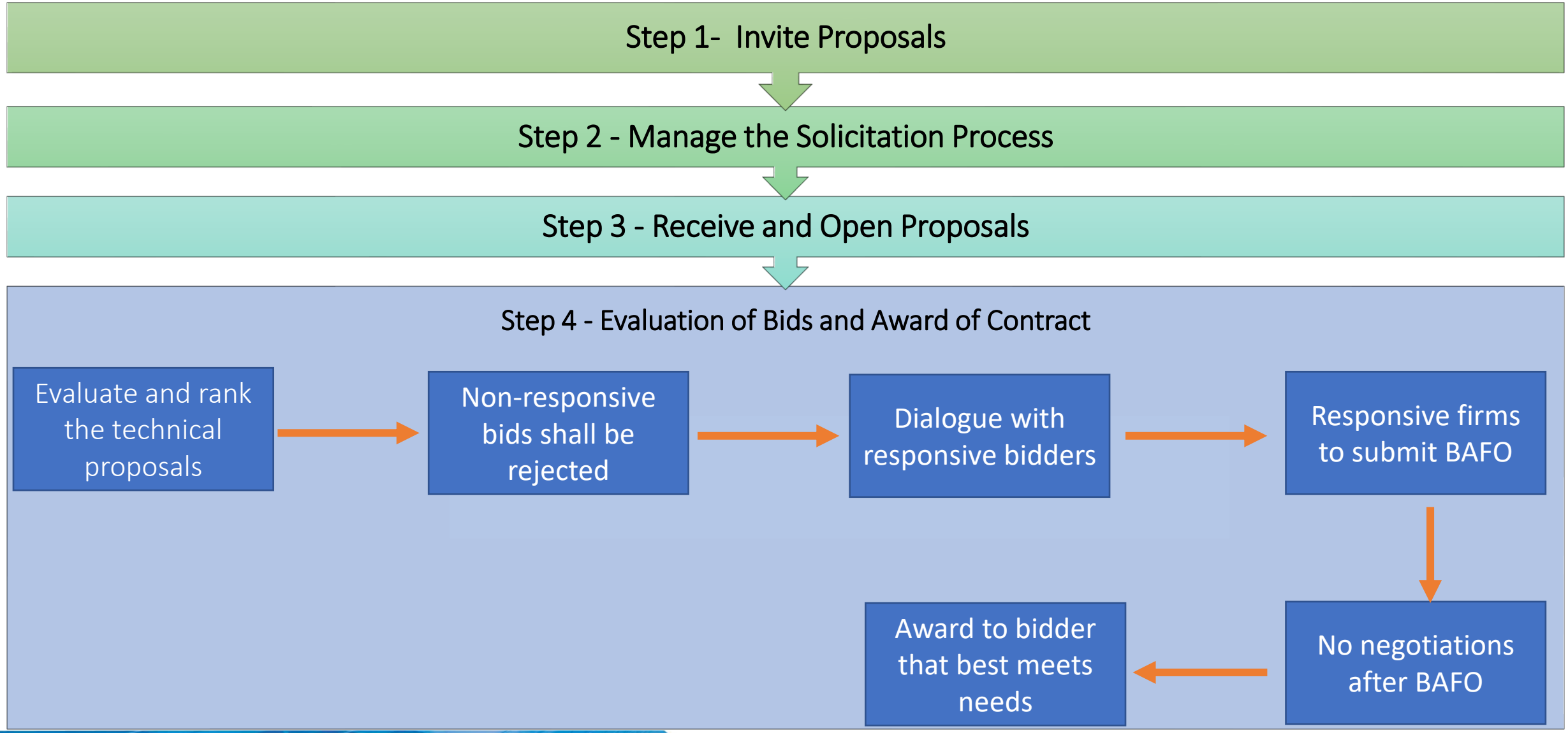
b) A contract is sought for the purpose of research, experiment, study or development.

c) Open bidding was engaged in, but no bids were submitted, or the procurement was cancelled. Additionally, engaging in new open-bidding proceedings or limited bidding, RFQs and RFPs without negotiation would unlikely result in a procurement contract.

EXAMPLE:

Provision for Developing Training Module for and Conducting Training on Policy Review

Request for for Proposals with Dialogue Procedures



Request for Proposals with Consecutive Negotiations

Definition:

A two (2) envelope system known as **"rank and run"** where consecutive negotiations with responsive bidders are required in order to ensure that the **commercial terms and conditions** of the procurement are acceptable.

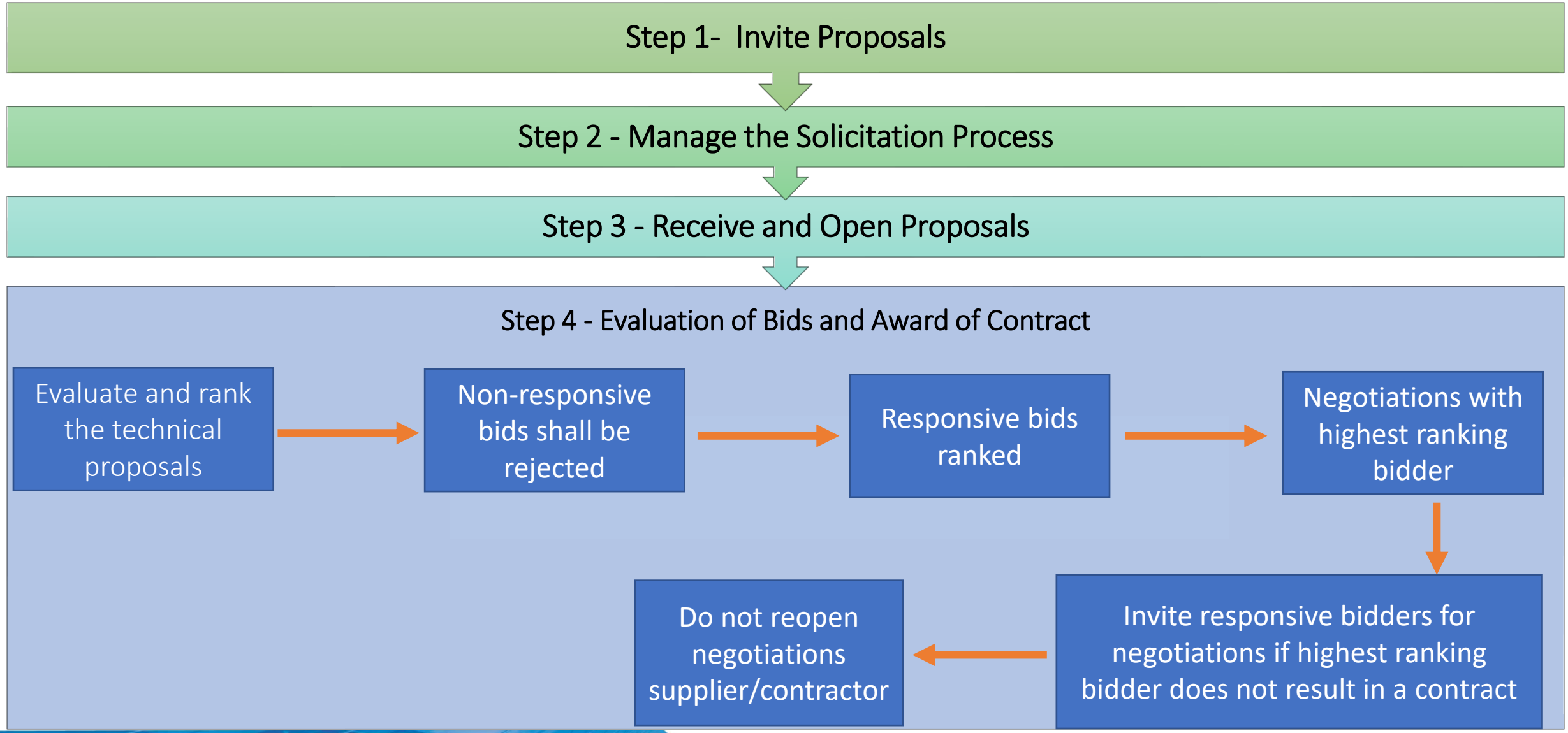
Conditions of Use:

Where consideration of the commercial proposals is done separately and only after evaluation of the technical proposals, and consecutive negotiations with responsive bidders are required in order to ensure that the **commercial terms and conditions** of the procurement are acceptable.

EXAMPLE:

Provision of Design Build Services

Request for for Proposals with Consecutive Negotiations Procedures



What is Negotiations

Negotiation is ‘coming to an agreement’.

In a procurement context, negotiation is a process of arriving at an agreement on the conditions of a contract, through discussions between procuring entity and the supplier/contractor.

Negotiation is a bargaining process between two or more parties, each with its own viewpoints and objectives, seeking to reach a mutually satisfactory agreement on, or settlement of, a matter of common concern”

Two Stage Bidding

Definition:

A phased process in which responsive bidders are engaged in refining the statement of needs to obtain the most satisfactory solution to the procuring entity's activity. The first stage invites prospective bidders to have discussions to refine the statement of needs and at the second stage, issue an RFP against one revised specification.

Conditions of Use:

1. It may be **impractical** to prepare **complete** technical specifications in advance of the procurement.
2. Discussions with suppliers or contractors are required to **refine** the TOR/ technical specification to obtain the most satisfactory solution to its procurement needs.

EXAMPLE:
Construction of an Overpass

Expression of Interest

An Expression of Interest (EOI) is therefore part of the qualification process to receive a tender document. The procuring entity requests the supplier/contractors to express an interest in providing goods and services for a project, such as a construction job.

Two Stage Bidding – Procedure #1

First stage

Invite prospective bidders to submit technical proposals on partially developed technical specifications

Evaluate and score, inviting highest ranked bidder to agree on a proposed solution

Second Stage

invite the highest ranked technical proposal to submit a commercial offer

Two Stage Bidding – Procedure #2

First stage

1. Invite prospective bidders to submit technical proposals on partially developed specifications

2. Evaluate technical proposals and invite all responsive bidders to clarification and discussion

Second Stage

1. Responsive bidders submit technical and commercial proposals

2. Evaluate technical proposals first

3. Firms with minimum technical score are invited to open commercial proposals

4. Firms with highest combined score invited to negotiations

Recap

Procurement Procedure	Application	Method Of Invitation	Negotiation	Selection Criteria
Request for Proposals (RFP) without negotiations	- Standard procurement requiring no negotiation - Specific solution for specific requirement which does not require discussion/negotiation	Public notice Direct solicitation	None	Lowest price MEAT
Request for Proposals (RFP) with dialogue	- Dialogue needed to determine satisfactory procurement solution - Contract is for research, experiment, study or development purposes - Open bidding was engaged in, but no bids were submitted, or the procurement was cancelled. - Engaging in new open-bidding proceedings or limited bidding, RFQs and RFPs without negotiation would unlikely result in a procurement contract	Public notice Direct solicitation	None after Best and Final Offer (BAFO)	MEAT
Request for Proposals (RFP) with consecutive negotiation	Solution for requirement involves negotiations to adequately satisfy the procurement need	Public notice Direct solicitation	Yes	MEAT
Two-Stage Bidding	Solution for requirement requires discussion	Public notice	Yes	MEAT

2. Procurement Techniques

Electronic Reverse Auction

Definition:

An **online real-time purchasing technique** utilised by the procuring entity to select the successful submission, which involves presentation by suppliers or contractors of successively lowered bids during a scheduled period of time and the automatic evaluation of bids.

Conditions of Use:

- An electronic reverse auction shall only be utilized for the procurement of goods.
- it is feasible to formulate a detailed description of the subject matter of the procurement;
- it is anticipated that there is a competitive market of qualified suppliers to participate in the electronic reverse auction to ensure effective competition; or
- the criterion to be used to determine a successful submission is quantifiable and can be expressed in monetary terms.

Electronic Reverse Auction Procedure

Where a procuring entity decides to engage in an electronic reverse auction it shall utilize the open bidding method up to the final stage preceding the award of the procurement contract and then engage in the electronic reverse auction to determine the lowest price.

EXAMPLE:
Purchase of Printing Paper

Framework Agreements

Definition:

This is an agreement or other arrangement between one or more procuring entities and one or more contractors or suppliers which establishes the terms, in particular the terms as to price and, where appropriate, quantity, under which the contractor or supplier will enter into one or more contracts with the procuring entity during the period in which the framework agreement or arrangement applies.

Conditions of Use:

- the need for the goods, works or services, is expected to arise on a repetitive basis during a given period of time;
- the need for goods, works or services, due to their nature, may arise on an urgent basis during a given period of time.

EXAMPLE:

Stationery Items (Pens, Folders, Pencils)

Framework Agreements

Type of Framework Agreement	General description and characteristics
Single vendor	One vendor supplying the total requirements for a given type of goods/services.
Multiple vendors without secondary competition	Two or more vendors supplying the same requirements with clear differentiation or established criteria for using each vendor.
Multiple vendors with secondary competition	Two or more vendors supplying the same requirements. Placement of orders is determined through a secondary competition.

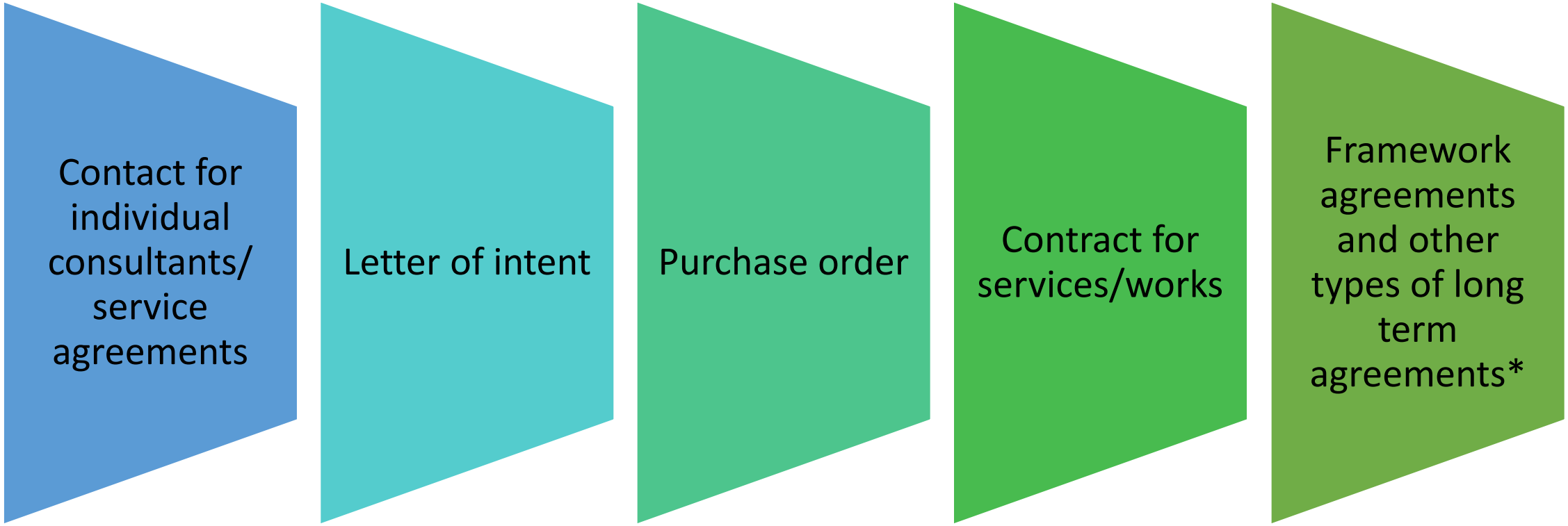
3. Supply Contracts

What is a Contract?

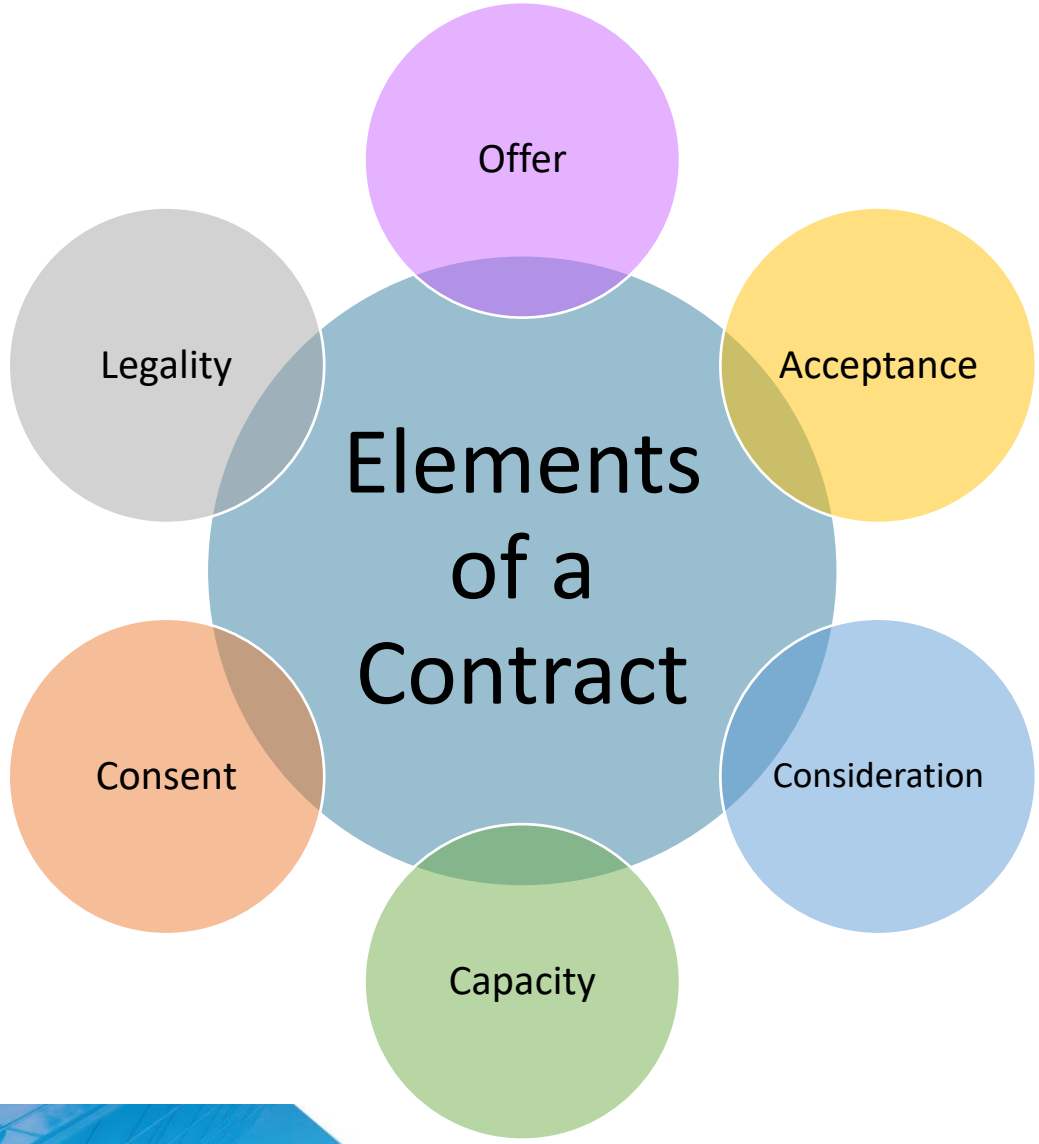
A contract is a legally binding agreement between two or more parties.

Contract Instruments

The contract instrument is the legal document that creates an agreement between the procuring entity and the supplier or contractor.



What makes a contract enforceable?



What is a Supply Contract?

Supply Contract:

- ✓ A written contract used to formalise the supply agreement and to establish the terms and conditions, including the rights, obligations and liabilities of the procuring entity and the supplier or contractor.

- ✓ General and specific terms and conditions provide legally enforceable provisions for securing the satisfactory performance of the supplier and the client.

Selecting the Supply Contract

Why?

- Determines the buyer's relationship with the supplier
- Risk allocation
- Contract management
- Supplier Management
- Stimulate suppliers' interest in bidding /competing

When?

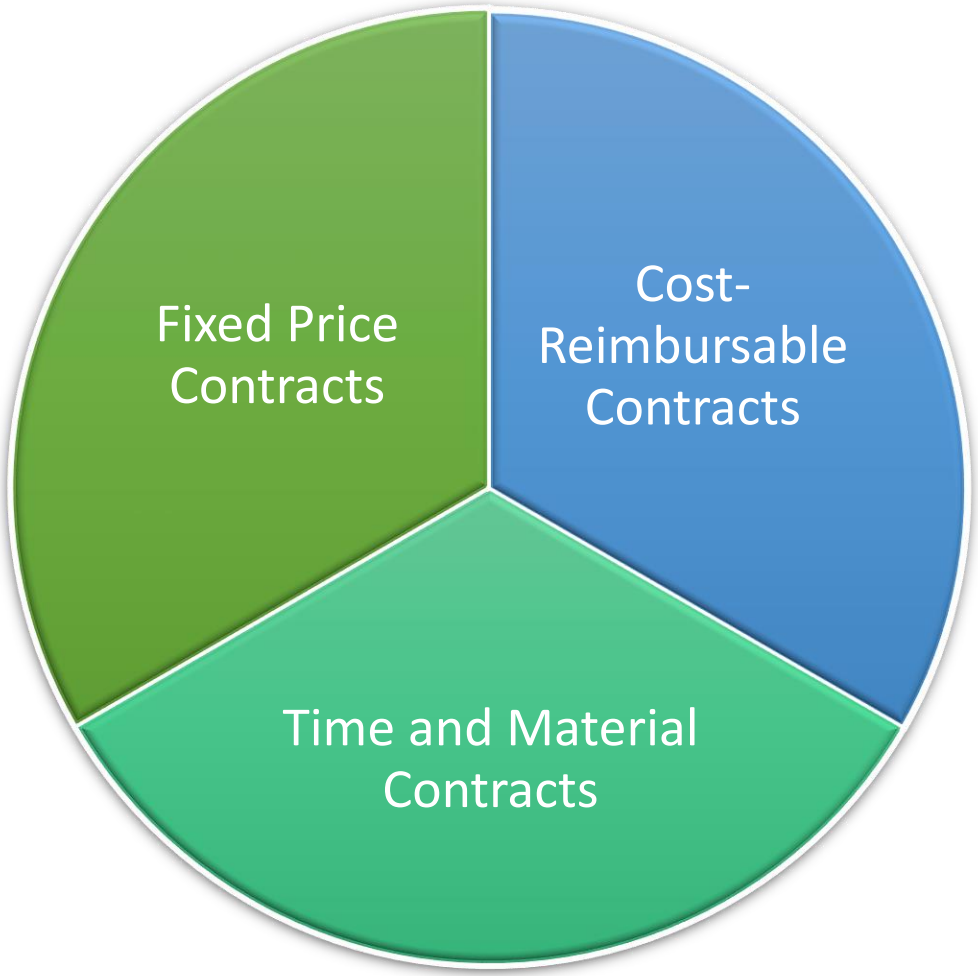
Procurement Planning Phase

- ❑ Annual Schedule of Planned Procurement Activities (ASPPA)
- ❑ Identifying Requirements
- ❑ Developing Specifications
- ❑ Market Research & Analysis
- ❑ Risk Mitigation

Who?

- ✓ Procurement Officers
- ✓ Public Officers responsible for administering and/or monitoring and reporting on contract performance
- ✓ Contract Officers
- ✓ Legal Officers

Supply Contracts



Fixed Price Contracts

A fixed-price contract is also known as a lump-sum contract.

Fixed-price contracts are suitable when:-

- ✓ both parties understand the scope of the requirements and design their ways of working to properly scope the project to provide for the delivery of the goods,
- ✓ the completion of the works or provision of services as stipulated in the contract.

Fixed Price Contracts - Variations

Firm-Fixed Price (FFP) Contract

- ✓ Adequate price competition exists;
- ✓ Reasonable price comparisons can be done supported by valid certified cost or pricing data;
- ✓ Realistic estimates of the probable costs of performance can be determined; or
- ✓ Performance uncertainties can be identified, reasonable estimates of their cost impact can be made.

Fixed-Price Plus Incentive Fee (FPPI) Contract

- ✓ A firm-fixed-price contract is not suitable;
- ✓ The nature of the supplies or services being acquired are such that the supplier's assumption of a degree of cost responsibility will provide a positive profit incentive for effective cost control and performance; and
- ✓ The incentives on technical performance and/or delivery, provide a reasonable opportunity for the incentives to have a meaningful impact on the contractor's management of the work.

Fixed-Price with Economic Price Adjustments (FPEPA) Contract

- ✓ There is serious doubt concerning the stability of market or labour conditions that will exist during an extended period of contract performance;
- ✓ The procuring entity and supplier are looking at establishing a long-term relationship and both parties would like to be protected from unstable financial conditions;
- ✓ Contingencies that would otherwise be included in the contract price can be identified and covered separately in the contract.

Cost-Reimbursable Contracts

A cost-reimbursable contract is a variant of a contract that involves the procuring entity making a payment to the supplier or contractor in reimbursement for the supplier's or contractor's actual costs.

In all cost-reimbursement contracts, the seller can charge for all legitimate expenses related to delivering the product or service. Added to that is a fee that represents the supplier's or contractor's profit. It allows the supplier or contractor to protect its profits and assets with minimum hassle.

The purpose of the contract is to allow the supplier or contractor to either stop working after available funds have been spent, or if necessary, to receive additional funding to continue the project.

Cost-Reimbursable Contracts - Variations

Cost Plus Fixed Fee (CPFF) contracts

- Circumstances do not allow the procuring entity to define its requirements sufficiently to allow for a fixed-price type contract
- Uncertainties involved in contract performance do not permit costs to be estimated with sufficient accuracy

Cost Plus Award Fee (CPAF) contracts

- to offer incentives based on achieving certain contract objectives,
- elements of performance cannot be objectively or quantitatively measured and areas of the procuring entity's interest or concern may change over the course of the contract.

Cost Plus Incentive Fee (CPIF) contracts

- circumstances do not allow the procuring entity to define its requirements sufficiently to allow for a fixed-price type contract or uncertainties involved in contract performance do not permit costs to be estimated with sufficient accuracy to use any type of fixed-price contract.
- A target cost and a fee adjustment formula can be negotiated that are likely to motivate the contractor to manage the project in question effectively.

Time and Material Contracts

A time-and-material contract provides for acquiring supplies or services on the basis of:

- Direct labour hours at specified fixed hourly rates that include wages, overhead, general expenses, and profit
- Actual cost for materials, including:
  - Direct materials,
  - Subcontracts for supplies and incidental services for which there is not a labour category specified in the contract,
  - Other direct costs (travel, computer usage, etc.),
  - Applicable indirect costs. Material handling costs shall include only costs clearly excluded from the labour-hour rate.

Factors to Consider in Selecting Contract Types

- Price Competition
- Cost Analysis
- Price Analysis
- Type and Complexity of the Requirement

Factors to Consider in Selecting Contract Types

Combining contract types

Period of Performance or Length of Production Run

Urgency of the requirement

Supplier's or contractor's technical capability and financial responsibility

Factors to Consider in Selecting Contract Types

Adequacy of the Supplier's/Contractor's Accounting System

Extent and nature of proposed subcontracting

Concurrent contracts

Acquisition history

Selecting the Right Contract Type

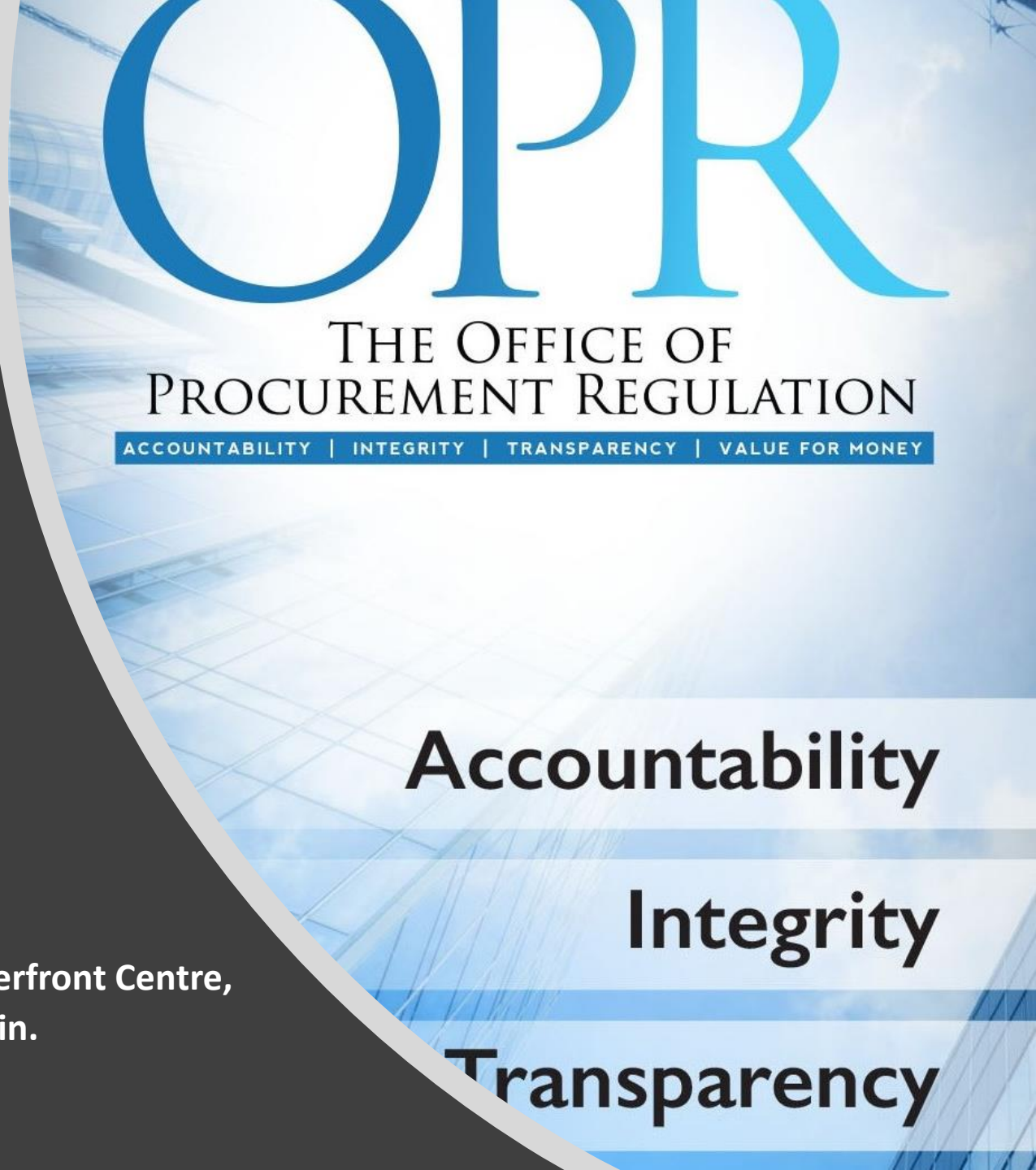
Price competition	Price analysis	Type and complexity of the requirement	Cost analysis
Combining contract types	Urgency of the requirement	Period of performance or length of production run	Supplier’s or contractor’s technical capability and financial responsibility
Adequacy of the supplier’s or contractor's accounting system	Concurrent contracts	Extent and nature of proposed subcontracting	Acquisition history

Case Study Assignment

Procurement Activity	Procurement Method	Justification for Procurement Method	Contract Type	Justification of Contract Type
Installation of office furniture (workstations, chairs, credenzas, bookcases, conference tables, filing cabinets) TT3M;				
Computer hardware and peripherals TT1.3M;				
Telephone TT500k,				
Data TT175k and				
Audio-visual equipment TT225k;				
Small appliances TT100k.				

Thank you for your kind attention!

We would be happy to answer any questions.



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