



DUSHTHA SHASTHYA KENDRA

PROCUREMENT POLICY AND MANUAL

Head Office

House-741, Road-9, Baitul Aman Housing Society, Adabor, Mohammadpur
Dhaka-1207, Bangladesh.

Tel: 8802-9128520, 8122861, 8159656, and 8120965

Email: dskinfo@dskbangladesh.org, Website: www.dskbangladesh.org

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ABBREVIATIONS

| | |
|------|---|
| BDT | Currency in Bangladeshi Taka (Tk.) |
| DSK | Dushtha Shasthya Kendra |
| ECHO | European Commission for Humanitarian Aid and Civil Protection |
| GTC | General Terms and Conditions |
| HPC | Humanitarian Procurement Centre |
| RFP | Request for Proposal |
| RFQ | Request for Quotation |
| ToR | Terms of Reference |
| VFM | Value For Money |

THRESHOLDS AND PROCEDURE OVERVIEW

| SUPPLIES | |
|---------------------|-----------------------|
| Threshold (BDT) | Procurement Procedure |
| Up to 15,000 | Simple Procedure |
| 15,001 to 10,00,000 | Negotiated Procedure |
| Above 10,00,000 | Open tender procedure |

| SERVICES | |
|---------------------|-----------------------|
| Threshold (BDT) | Procurement Procedure |
| Up to 15,000 | Simple Procedure |
| 15,001 to 10,00,000 | Negotiated Procedure |
| Above 10,00,000 | Open tender procedure |

| WORKS | |
|---------------------|-----------------------|
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| Up to 15,000 | Simple Procedure |
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1. INTRODUCTION

Dushtha Shasthya Kendra (DSK) is a development Non-Governmental Organization (NGO) registered with the Social Welfare Ministry, Micro Credit Authority (MRA) and NGO Affairs Bureau in Bangladesh. DSK is committed to address various social, right and justice and economic problems of the financially depressed and vulnerable groups in general and especially extreme poor to up-lift from poverty.

The long-term development program now includes education, health, microfinance, agriculture, economic empowerment, water supply and sanitation, disaster management and human resource empowerment. All these works are aimed at supporting disadvantaged poor people targeting to eliminate poverty situation.

The Procurement Manual will create an enabling framework that consciously supports such change, affecting the “who, what, when, where, and how” of everything we do.

2. OBJECTIVE

To maximize the Value for Money (VFM) in the acquisition of goods, services and works through fair, open and transparent purchasing practices which comply with all applicable legislation and trade agreements, resulting in the highest quality service delivery.

The aim of the internal control system for the purchasing of goods, services and works is to ensure orders are handled by individuals having skills in evaluating what purchases are required from suppliers offering the best deals, to ensure purchases made do not exceed the budget provided and to ensure purchased goods and services conform with the quantity and price specified in the order.

3. APPLICABILITY

The Procurement Policy applies to all DSK operations whether implemented by a DSK employee or by DSK Procurement Committee. If stricter procurement procedures are stipulated by a donor, the donor’s procedures shall prevail. If less strict procedures are stipulated by a donor the procedures described in this Manual shall prevail. Donor’s suggested procedure will become part of this manual and be applicable for that particular donor funded project - not in general.

4. EXCEPTIONS

Any exceptions to these policies require written justification and the approval of the competent authority.

Example:

We may select a preferred supplier directly where the service required:

- is highly specialized and we cannot identify potential alternative suppliers/sources
- is highly commercially confidential and we do not wish to release information about our need for the service to the market
- extends or relies on knowledge from a relevant previous collaboration with one particular supplier there are only one supplier.

5. PRINCIPLES

The following principles should be adhered to in the procurement of goods, services and works:

5.1. Code of conduct.

No employee, officer, or agent shall participate in the selection, award, or administration of a contract if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award. The officers, employees, and agents of the Organization shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to sub-agreements except for where the financial interest is not substantial or the gift is an unsolicited item of nominal value. Competent authority of the Organization shall comply with all relevant fiduciary duties, including those governing conflicts of interest, when they vote upon matters related to procurement contracts in which they have a direct or indirect financial or personal interest. Officers, employees, directors, and agents of the Organization shall be subject to disciplinary actions for violations of these standards.

5.2. Conflict of Interest

Situations of conflict of interest with the business of the organization should be declared to the organization in accordance with the code of conduct of the organization.

5.3. Fair Competition

Organization should treat all bidders with fairness and ensure that they are given the same level of information when preparing quotations or tenders.

5.4. Value for Money (VFM)

Quotations and tenders should be evaluated on the basis of Value for Money (VFM).

Value for money (VFM) means obtaining the maximum benefit from goods and services acquired and provided, within available resources. It involves economy, efficiency and effectiveness. VFM measures cost, quality, fitness for purpose, timeliness and convenience.

5.5. Transparency

To ensure transparency, tender documents should provide all the necessary information to facilitate submission of appropriate and competitive tenders (Annex Form-Tender).

5.6. Public Accountability

Organization shall be held accountable to the related government authority and the public for any procurement involving the use of public fund.

5.7. Anti-corruption

DSK defines corruption as the misuse of entrusted power for private gain. Corruption occurs on various levels and in different forms. What always characterizes corrupt practices is that they involve conflicts of interest and negatively influence impartiality and objectivity in e.g. the selection process or in the contract execution. The abuse of power, extortion, fraud, embezzlement and bribery is always prohibited and illegal.

6. METHODOLOGY

Purchase committee shall follow certain methods. Use of competitive bidding shall be a priority practice. The first criterion in choosing a supplier/contractor/service provider shall be the lowest bid based on required quality of goods/services. However, if a supplier does not provide the required level of service or an adequate guarantee, then other criteria (VFM method) shall also be considered. Purchase committee shall specify in the comparative statement where recommendation is made by purchase committee for approval and in the purchase file, the reasons the lowest bid was not chosen.

7. PURCHASE REQUISITIONS

Purchase requisitions may be either manual or electronic, provided that they are approved and are in compliance with these procedures. A Purchase Requisition (Annex Form-PR) is required to initiate a request for quotation (RFQ) and must be based on a budget estimate. It must, at a minimum, contain the following:

- Accounting Codes and Account Ledger Names;
- Shipping address;
- Quantity required and unit of measure (i.e. kg, litter, pack, pc, each etc.);
- A complete description of the goods and/or services required including complete technical specifications (as appropriate to the complexity of the sourcing event);
- Delivery date and place required;
- Budget Amount.

In the case of single/sole source transactions, the Purchase Requisition must be supported with a completed, signed and approved Single/Sole Source form.

8. PROCUREMENT COMMITTEE

A Procurement Committee shall be established before any procurement activities are initiated. The Procurement Committee shall consist of at least three persons and preferably an odd number (such as – one from admin, one from purchase and one from consuming department).

The main responsibilities of the Procurement Committee are to:

- Ensure that a procurement plan is drafted and that it corresponds to the activity plan.
- Ensure that all procurement requirements are planned for at the required time.
- Ensure that procurement activities are initiated on time.
- Ensure the collection of quotations and issue purchase orders/contracts.
- Ensure that ethical risks are considered and addressed in the procurement process.
- Ensure that the procurement fulfills donor requirements.
- Ensure sufficient cash flow.
- Evaluate quotes/proposals.
- Recommend for approval to the approving authority (CEO or ED or EC – which is applicable).

The Procurement Committee is responsible for the evaluation of quotes. It is not a requirement to form an independent evaluation committee for evaluation purposes. For the evaluation of high value tenders it is especially important that the committee possess the necessary technical and administrative expertise to perform the tender evaluation. If the members of the Procurement Committee do not possess the required qualifications, internal or external experts shall be appointed (for the same project the Procurement Committee may use different experts for evaluation of the individual lots depending on the contract category). The procurement officer/responsible person shall always be a member of the Procurement Committee and shall act as member secretary of the committee.

8.1. The Three Main Objectives/Responsibilities of the Procurement Committee

- Ensure that procurement planning is considered and included in the project planning and cycle and that key project staff understand how the timeframe for procurement will affect the project.
- Ensure that all procurement is carried out objectively in a fair and transparent manner and to prevent conflict of interests and corruption. As a rule procurement and payment may not be done by the same person. Person in procurement department or admin department will arrange procurement up to issue of work order while the accounts department will arrange payment collecting and on the basis of documents required for lawful payment.
- Ensure that the best quality and value for money (VFM) is obtained.

9. PROCUREMENT PROCEDURES

Procurement procedures are the rules and actions that apply to the purchase of a given resource dependent on the contract category and the value of the purchase. Put in a simple way – they are the rules for “how to buy”. Overall this chapter provides an introduction to which procurement procedure to apply according to contract category and value.

In order to select an appropriate procurement procedure for each activity in the Procurement Plan, the Procurement Committee shall first of all consider which contract category the resources belong to and the value of the contracts accordingly. The following two sections provide a short description of the various contract categories, the procurement procedures and thresholds respectively.

10. CONTRACT CATEGORIES

The resources to be procured are divided into the following contract categories:

10.1. Supplies

Supply Contracts cover the purchase, operational leasing, and rental or hire of various kinds of products (including rent of vehicles with or without option to buy). The delivery of products may in addition include siting, installation and maintenance. Note that whenever rental of venues for meetings, conferences etc. is a direct project cost, it is categorized as a supply.

10.2. Service

A Service Contract is a contract for the provision of a defined service. It covers all intellectual and non-intellectual services other than those covered by Supply Contracts, Works Contracts and Property Contracts, Service Contracts also comprise the following contract forms:

- A Study Contract is a contract which includes studies for the identification and preparation of projects, feasibility studies, technical studies and audits.
- A Technical Assistance Contract is a contract in which the contractor is called on to play an advisory role, to manage or supervise a project or to provide the consultants specified in the contract.
- Freight Contracts are contracts covering transport of goods from one site to another (unless the freight is included in the Supply Contract).

Rent of a vehicle with a driver is also a Service Contract.

When rental of equipment and venues are direct projects costs it is not considered a Service Contract, but a Supply Contract (e.g., rent of vehicle or conference room). Be aware that some services such as repair of machinery, cleaning services or small scale catering might be considered “running costs” and therefore not subject to procurement procedure.

NOTE: A Service Contract and an Employment Contract are two different contracts. An Employment Contract involves recruitment, fixed salary, regulations on leave, resignation restrictions etc. These obligations are hence for the Contracting Authority as an employer, rather than merely a party to a contract for the provision of a service. Employment Contracts are not covered by this Policy and are not considered procurement.

10.3. Works

'Works' means the outcome of building or civil engineering taken as a whole and sufficient to fulfill an economic or technical function. Works Contracts cover either the execution, or both execution and design, of works or the realization, of a work corresponding to the requirements specified by the Contracting Authority. It is a Works Contract when an entrepreneur or construction company has the obligation of delivering works and is responsible for hiring and/or buying the necessary resources to fulfill this obligation (i.e. the entrepreneur hires the labor, brings the equipment and buys the construction materials and supplies). Examples of Works Contracts are construction, reconstruction, demolition, repair or renovation of a building, structure or works, such as site preparation, excavation, erection, building, drilling, etc.

10.4. Hybrid Contracts

A Hybrid Contract is a combined contract covering supplies, services and/or works. The procurement procedure shall be determined by the part which represents the highest value. E.g. a contract covering supplies and works shall be considered a Supply Contract whenever the value of the supplies in question exceeds that of the works included in the contract and vice versa.

11. THRESHOLDS AND THE AFFILIATED PROCUREMENT PROCEDURES

The contract category and value of a contract defines the applicable procurement procedure for a particular purchase. The rules and procedures to be followed get stricter the higher the value of the Contract. The contract value is determined by the estimated costs of a lot including any additional service or options covered by the Contract. If the Contract establishes a running relationship, for example a service agreement or a Framework Contract, the contract value covers the entire contract period and includes all related payments. This section describes each of the three procurement procedures applicable to procurement carried out by DSK.

NOTE: If donor rules are stricter than the procedures outlined in this Manual, the donor rules shall prevail.

| SUPPLIES | |
|---------------------|-----------------------|
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11.1. Simple Procedure

The Simple Procedure is the simplest procurement procedure. Simple Procedure may be called as “Cash Purchase”. This procedure is, as a general rule, applicable when thresholds are of the value BDT Tk.1 to Tk. 15,000.

The Simple Procedure does not require that more than one supplier/candidate is invited to submit a quotation/proposal. However it is important to stress that the price shall correspond with the present market price or lower. This shall always be justified and filed in the procurement file. To prove that the price corresponds with the market price you can e.g. search the internet, refer to recent contracts, or obtain at least three written or non-written quotations. Please ensure that all non-written quotations are put down in writing and filed in the procurement file.

NOTE: Make sure always to check donor rules.

11.2. Negotiated Procedure

The Negotiated Procedure is more formal than the Simple Procedure and is applicable when contracts are of the value BDT Tk.15,001 to Tk.10,00,000.

The Negotiated Procedure requires that a minimum of three suppliers/candidates are invited simultaneously to submit a quotation based on a RFQ. The Contract shall be awarded the most compliant supplier/candidate and for contracts above BDT Tk.10,00,000 an award notice is required to be published on the DSK website. Letters to all unsuccessful suppliers/candidates shall be submitted. The Negotiated Procedure is less formal than an Open Tender Procedure and gives the opportunity to negotiate the terms of the Contract.

11.3. Open Tender Procedure

The Open Tender Procedure (from here on named Open Tender) is more extensive and elaborate than the Negotiated Procedure. Open Tender is applicable for all purchases above BDT Tk.10,00,000.

The procedure requires a public advertisement of a tender notice in newspapers, online procurement media, DSK website etc. with a bid flow of at least 21 days. An Open Tender shall provide eligible suppliers/candidates within the country of operation with the same business opportunities. A specified tender dossier shall be drafted and forwarded to interested suppliers/candidates who then have the opportunity to make a tender request. After the deadline of receiving tenders they shall be opened and announced in the presence of all interested tenderers. Evaluation of the Tenders is fulfilled by the members of the Procurement Committee on the basis of a clearly predefined evaluation grid. The outcome of each member’s evaluation is compared and the best compliant Tender is awarded the Contract. An award notice is required to be published on the DSK website and letters to all unsuccessful suppliers/candidates shall be submitted.

12. PROCUREMENT PLAN

Thorough and timely procurement planning works and services are required to carry out the project which procurement procedure shall be followed for each contract waste of funds and serious delays in implementation. The Procurement Plan shall answer the questions of what to buy, when to buy, how to buy and estimated price.

Overview of the General Procurement and Planning Process:

Project planning stage

- Establish the Procurement Committee
- Prepare the Procurement Plan
- Identify required supplies/services/works
- Conduct market survey
- General procurement considerations
- Group supplies, services and works into lots
- Draft technical specifications/ToR
- Request for derogation(s) – if needed

Implementation stage

- Post the Advertisement of Business Opportunities
- Complete technical specifications/TOR
- Procurement of supplies, services and works through procurement procedures
- Update procurement plan
- Identify needs for next procurement period

Finalization

- Final procurement plan
- Finalize procurement documentation
- Fill in procurement documentation template

12.1. Step 1: Identify Required Resources and Costs

First it shall be established which resources are required (supplies, services, works) and what to buy. At this stage it is important to determine the minimum technical specifications. Moreover considerations regarding the use of e.g. HPCs, community involved procurement, Framework Contracts, vouchers etc. shall be integrated in the procurement plan.

When preparing the budget considerations for logistics such as local transport, clearance, import costs, insurance, warehousing and distributions, is also required.

For products with a limited shelf-life it may be necessary to plan for partial deliveries which will increase the freight costs.

For Works Contracts an engineer may be required to supervise the works of the contractor and include the costs in the budget.

For Service Contracts the field of expertise required shall be determined.

Any ethical risks related to the specific product or service, or related to the specific sector shall be considered.

12.2. Step 2: Local Market Survey

Once the required resources have been identified a thorough market survey shall be carried out to establish:

- The local availability of the required supplies, services and/or works. The market survey shall answer basic question regarding prices, trade customs, availability of resources and the quality of the local supplies. At this stage possible contractors shall be mapped and registered.
- The availability of local suppliers and contractors and their record and reputation.
- The existing import regulations and restrictions. Once it has been established which supplies need to be imported, the local customs authority and a clearing agent shall be contacted to investigate the procedures for importing supplies and if the required supplies require import license or other related documentation. To avoid delays it is important that import regulations and restrictions are carefully investigated for all types of supplies. This is particularly important when procuring pharmaceutical products, medical equipment, radio and satellite communication equipment, mine detectors, plastic explosives, food, etc.
- The need for local transport and storage and costs for customs clearing.
- The social, labor and environmental risks related to the supplies, service or works to be procured? The obtained information helps identify; high risk sectors, suppliers; the necessity to seek alternative procurement options; if special requirements to ethical standards are to be included in the selection criteria (e.g. certifications); need for dialogue with suppliers; and if it is necessary to exclude some suppliers for ethical reasons (e.g. use of child labor), etc.

- The need for derogations from procurement procedures. Once all the above mentioned information has been collected it shall be determined which derogations may be needed. Be aware of the time constraints and resources involved.

12.3. Step 3: Grouping of Lots

Preparing lots is the process of grouping similar items which can be purchased from one supplier in order to obtain the best prices for the supplies, services and works required for a project. Start out by dividing the resources into the three categories of supplies, services, and works, and further group the goods into lots and sub-lots. The grouping of lots has several advantages: It enables the suppliers to quote lower prices; it reduces efforts and costs of preparing the purchasing process; it is time saving; it reduces overhead costs (frequent advertising, bookkeeping, logistics etc.); and it is cost saving for the Contracting Authority.

Grouping of lots does though have some disadvantages also which shall be taken into account at the project planning stage and the related costs shall be included in budget and the Procurement Plan. The disadvantages are: increased demand for storage facilities, increased demand for liquidity, and the requirement of careful planning.

NOTE: Artificial splitting of lots to avoid a stricter procedure is not allowed.

Example: The Grouping of Lots

SUPPLY:

Lot 1) Field equipment:

Camp beds, sleeping bags, mosquito nets, tents, chairs, lamps.

Lot 2) Computer equipment:

Laptop, printer, toner, UPS, router, keyboard.

Lot 3) Workshop materials:

Pen, pencils, flip chart, file folders.

Lot 4) Medical equipment:

Stretcher, oxygen tank, stethoscope, sterilizer.

Lot 5) Generator:

Five generators including delivery to site, installation, spare part package and after sales service for two years.

SERVICE:

Lot 6) Engineer:

Service Contract for supervision of the works (lot 7).

WORKS:

Lot 7) Tube wells:

Works Contract for the construction and delivery of tube wells with pumps.

Sub lots

For a lot with e.g. construction material it may be pertinent to make sub lots in the RFQ/Tender Dossier and specify herein that the supplier can quote for one or all lots and the Contracting Authority reserves the right to award the contract(s) by lot. Only one RFQ/Tender Dossier is issued, but several suppliers may be contracted. The advantage is cost saving since some suppliers may only be able to quote for some of the lots. The supplier quoting the lowest price per lot can thus be contracted, instead of the supplier with the overall lowest price. The disadvantage is the administration of more than one contract.

12.4. Step 4: Procurement Procedure

The applicable procurement procedure is determined by the contract category and the total value of each purchase.

12.5. Step 5: Timeframe Considerations

For the overall duration of the project, the timeframe for carrying out each procurement procedure shall be taken into account i.e. time for advertising, preparing technical specifications/Terms of Reference (ToR), issuing Request for Quotation (RFQ) or Request for Proposal (RFP), evaluation etc. Note that procurement time constraints are too often underestimated.

Timely and thorough planning can help prevent the placement of last minute contracts or changes to existing contracts which may influence the contractors' ability to comply with the ethical principles and standards outlined in the Code of Conduct for Contractors.

The following table shows the overall timeframe for the different procurement procedures.

| Procurement Procedure | Bid flow | Total timeframe for procedure | Supplier's delivery time to site |
|-----------------------|---------------------|-------------------------------|----------------------------------|
| Simple Procedure | NA | 1 - 2 weeks | Shall be added |
| Negotiated Procedure | Recommended 14 days | 3 - 8 weeks | Shall be added |
| Open Tender Procedure | Minimum 21 days | 10 - 14 weeks | Shall be added |

12.6. Step 6: Specific Donor Requirements

For each project it is important to investigate the specific donor requirements for procurement. This Manual represents the DSK minimum procurement requirements which shall be followed. If stricter procurement procedures are stipulated by a donor, then the donor requirements shall prevail. E.g. a donor may have specific requirements in respect to the country of origin of supplies, or have a lower threshold for Open Tender Procedures. If the donor has less strict requirements for procurement, then the procedures described in this Manual shall prevail.

12.7. Step 7: Request for Derogations

Based on all the information collected (step 1-6), it may be necessary to request derogations from the DSK Procurement Manual and/or from donor requirements.

13. GENERAL CONSIDERATIONS

- For each project activity, clearly identify the required supplies, services and works.
- For hybrid contracts (mix of supplies, services and/or works), determine which component has the highest value in order to determine the procurement procedure. For hybrid contracts you shall also take into consideration which type of contract, i.e. Works, Service or Supply Contract that will best meet your requirements.
- Investigate and map availability and prices for the required supplies and availability of required consultants and contractors.
- Investigate the ethical risks that exist for the procurement of the required supplies, services or works and integrate the findings in the procurement process.
- Establish whether it is beneficial to use Framework Contracts for some of the supplies/services.
- Investigate local import rules and regulations for the required supplies and take into account the time required to obtain all necessary approvals and licenses.
- For works, consider carefully all legal aspects.

- Understand the procurement procedures presented in this Manual and consider the time required to carry out the procurement.
- Prepare a procurement plan.
- Determine the applicable procurement procedure according to contract category and contract value. The Procurement Committee shall take notice if stricter procurement procedures are stipulated by the donor than the ones outlined in this Manual.
- Carefully consider the logistics e.g. can all the goods be delivered in one go to the project site? Is security for theft in place or is it necessary to arrange for warehousing facilities with guards? Remember to include all such costs in the budget.
- Is a procurement consultant required?
- Conduct an assessment of the procurement capacity by answering the questions of following checklist:

| A. General | Yes | No |
|---|------------|-----------|
| a.1 Does the organisation have tax exemption and is it able to present an official letter to that fact? | | |
| a.2 Does the organisation have a proper and reliable communication system? I.e. is it possible to contact the responsible procurement person by telephone during all business hours? | | |
| a.3 Does the organisation have a procurement person who has prior experience with procurement procedures and is capable of carrying out procurement in accordance with the described procurement procedures in the DSK Procurement Manual: - Open Tender - Negotiated Procedure - Simple Procedure | | |
| B. Procurement of supplies/stock handling/distribution | | |
| b.1 Does the Procurement/Logistic Officer have experience with import regulations and custom clearance? | | |
| b.2 Does the Procurement/logistic Officer have experience in dealing with damaged goods (insurance claims, claims to supplier, to keep haulers responsible etc.?) | | |
| b.3 Does the organisation have a warehouse suited for the relevant goods? | | |
| b.4 Does the organisation have an adequate stock management system? | | |
| b.5 Does the organisation have an adequate security system for goods stored at the warehouse e.g. explosives, medicines, food items etc.? | | |
| C. Procurement of services | | |
| c.1 Does the organisation have a specialist to draft the Terms of Reference | | |
| D. Procurement of works | | |
| d.1 Does the organisation have a specialist (engineer or project manager with experience within construction) to draft technical specifications and drawings | | |

- Identify capacity building needs and include these as expense items in the project proposal e.g. consulting services from a procurement expert, an accountant or a bookkeeper for a certain number of days per year, training expenses for the procurement and financial management staff etc.

14. COMMUNITY INVOLVEMENT

Community involved procurement is defined as the participation of beneficiaries in the procurement process and is governed by the procurement procedures laid down in this Manual as well as donor requirements.

14.1. Use of Community Involved Procurement

Community involvement is not limited to products found in the rural and urban areas, also referred to as local procurement. Community involvement in procurement is often used where the community has access to the market and can provide meaningful inputs on what to buy and from where to buy it. Typical items are: such as bamboo, paddy seeds, indigenous variety of seeds, sand, bricks, boats, nets, livestock, fish-lings and perishable goods etc. If the community is the user or consumer then their involvements are very much important. In that case member from community may be coopted in purchase committee.

14.2. Organizing Community Involved Procurement

Community involvement can be organized in several ways and with varying complexity. Some common approaches are:

- Community participation in identifying material needs and providing input to the Procurement Committee on technical specifications.
- Community participation in identifying material needs, formulating technical specifications and in addition identifying suppliers and collecting quotations in the market in collaboration with the Procurement Committee.
- Communities participating in identifying material needs, formulating technical specifications, identifying suppliers, collecting quotations and in addition negotiating the price and making a decision on what to procure.

This requires membership by the beneficiaries of the Procurement Committee.

14.3. Planning of Community Involved Procurement

Planning of community involved procurement is an integrated part of preparing a procurement plan. A project may involve one or several activities that include community involvement in the procurement process. Before including an element of community involvement, please thoroughly consider the suitability and how to organize and manage this activity.

Please address:

- a) If more suitable alternatives exist such as cash grants, sub grants or vouchers which could facilitate the same without a DSK procurement procedure?
- b) If a project activity requires beneficiaries to contribute with e.g. sand or bricks from their land, it is paramount to include a detailed description in the project proposal. This will allow the donor to preapprove the approach and the items will not be subject to the DSK procurement procedures.
- c) Is there a market to meet the principle of competition?
- d) The need for capacity building of community participants in terms of the technical requirements of procurement procedures and record keeping.
- e) The substantial time needed to collect information from the community by the community or to organize the procurement through the creation of procurement committees etc.
- f) How to avoid conflicts of interest e.g. preventing procurement committee members from purchasing from family and friends and from becoming suppliers themselves?

Please observe that beneficiaries shall not or can use own cash subsidies to purchase a more expensive livestock or item than the one selected through a procurement procedure. A different livestock or item from the selection in the procurement procedure will be deemed ineligible.

The DSK Procurement and Logistics Unit may be consulted for further guidance and advice on community involvement in procurement.

15. DEROGATIONS

To request for derogation means to ask for an exemption from a rule or request to waive a rule. Any derogation from the rules and procedures established in this Manual is subject to written approval from the competent authority (CEO or ED or EC).

For EuropeAid funded projects derogation can only be granted by the European Commission or the local EU Delegation. A written request shall be drafted and shall be submitted to the Commission or the local EU Delegation.

Whenever possible the request for derogation shall be included in the project application.

Derogations from procurement procedures can be granted on the basis of:

- Security reasons.
- Operational reasons.
- Technical reasons (e.g. only one supplier due to patent).
- Quality reasons.
- Ethical reasons.
- Shortfall or unavailability of the supplies on the market.
- Cost or delays due to transport.
- Local legislation.

NOTE: Make sure always to check donor rules.

15.1. Automatic Derogation to Apply the Simple Procedure

In special cases automatic derogation is granted to apply the Simple Procedure for contracts above BDT Tk.15,000 irrespective of the contract value. A prior approval from DSK is not required.

These special cases are restricted to and reserved for:

- a. Urgent operations. Urgent operations are those intended to meet immediate and unforeseeable humanitarian requirements generated by sudden natural or man-made disasters, such as floods, earthquakes and outbreaks of fighting or comparable situations.
- a. The concept of urgency also includes any situation, duly justified, in which the implementation of the humanitarian aid operation has to start immediately and the delay incurred by putting procurement contracts out to tender would put lives at risk.
- b. The concept of urgency cannot be based on circumstances that can be attributed to the Contracting Authority.
- c. The Procurement Plan shall always present the urgency in operations and reasons that prevented a larger consultation. If more restrictive procurement procedures are stipulated by a donor for urgent operations they shall prevail.
- d. Please be aware that for ECHO funded projects an urgent action shall be identified as such in the Grant Agreement. If not, automatic derogation is not granted.
- b. Whenever no tenders or no suitable tenders/proposals/quotes have been submitted in response to a Negotiated or Open Tender Procedure after the initial procedure has been completed, provided that the original terms of the Contract are not substantially altered.
- c. Whenever, for technical or operational reasons or for reasons connected with the protection of exclusive rights, the Contract can be awarded only to a particular economic operator.
- d. For additional Contracts consisting of the repetition/renewal of services, works or supplies entrusted to a contractor awarded an earlier contract in the same region, provided that the terms of the original Contract are not substantially altered. The period elapsed from the award of the first Contract shall not be longer than one year. As a maximum contracts can be renewed twice on these grounds.
- e. For additional supplies, works and services not included in the initial Contract which, due to unforeseen circumstances, have become necessary for the performance of the humanitarian operation, provided that the aggregate amount of additional supplies, works or services does not exceed 50% of the value of the initial Contract.
- f. For Property Contracts (renting of property only), after prospecting the local market.
- g. Contracts in respect of purchases on particularly advantageous terms, either from a supplier who is definitely winding up its business activities or from the receivers or liquidators of a bankruptcy, an arrangement with creditors, or a similar procedure.
- h. For individual purchase orders based on a Framework Contract.
- i. Purchases from Humanitarian Procurement Centers.

The decision to use the Simple Procedure in these special cases shall be based on strong and convincing justifications. These justifications shall be documented and filed in the procurement file.

16. RUNNING COSTS

In general running costs are defined as recurring purchases/costs e.g. each week or month and are often related to office procurement. For running costs no procurement procedure applies and purchases are not to be included in the Procurement Plan. Sound financial management shall however be applied and the market shall be checked to ensure the principle of best quality and price. Proper documentation shall be filed at all times.

16.1. Running Cost (No Procurement Procedures Apply)

E.g.: rent of office buildings, coffee/tea/water, representation gifts, fuel, maintenance of existing vehicles/ motorbikes/premises, repair of machinery, cleaning articles, electricity, newspapers/magazines/books, postage/ packing, stationeries (each purchase below BDT Tk.15,000), insurance on e.g. warehousing, financial services (transfer charges, bank guarantees, consultancy etc.), accommodation, catering, internet connections, phone subscriptions, cleaning services, repeated small amounts of medicine etc.

For running costs of higher value it is recommended to follow procurement procedures in order to get the best quality and value.

16.2. Not a Running Cost (Procurement Procedures Apply)

E.g.: phones/mobile phones, computers, vehicles, copy machinery, vacuum cleaner, washing machine, furniture, copy paper, malaria medicine etc.

NOTE: These are DSK guidelines - if donor rules are stricter those shall prevail.

17. ADVERTISEMENT AND SOURCING

The obtainment of a broad methodology to source new suppliers and contractors is essential to create transparency, equal opportunity and ensure that the best quality and price is obtained for a given Supply, Service or Works Contract.

17.1. Advertisement

At the beginning of a project the Procurement Committee shall always ensure that a general Advertisement of Business Opportunities is published to inform the community and potential suppliers and contractors about the business opportunities offered in the project. This is mandatory irrespective of the different applicable procurement procedures. Advertising will help the Procurement Committee to source new suppliers and contractors.

The purpose of the advertisement is to:

- Inform everyone about the business opportunities available.
- Promote transparency and accountability.
- Generate competition to obtain the best quality and price.
- Provide the program with new potential suppliers and contractors.

Advertisement shall be made in the relevant local or regional newspapers (which normally have such advertisements). If newspapers, or other printed media, are not available or do not provide the best advertisement platform, an advertisement can also be posted on the internet, on a notice board in front of the local office, at the local market or in other relevant public places. The local radio station can also be contacted to make an advertisement.

17.2. Visibility of the General Terms and Conditions and Code of Conduct for Contractors

In order to make future suppliers and contractors aware of the General Terms and Conditions (GTC) and Code of Conduct for Contractors it is recommended that these documents are made visible.

17.3. Sourcing

In addition to the mandatory Advertisement of Business Opportunities the following list gives examples of common methods to source new suppliers and contractors.

17.4. Internet

Local suppliers can also be found through the Internet, on portals like www.bikroy.com, www.cellbzar.com, www.olx.com, www.bdplace.com, www.clickbd.com, www.google.com etc.

17.5. Chamber of Commerce

Often the Chamber of Commerce will have a website with information of their members. Alternatively contact the local Chamber of Commerce and ask for a list of suppliers of the required type of product.

17.6. Trade Organizations

Search the market for trade organizations. Posting the Advertisement of Business Opportunities and Tender Notices in trade magazines/journals is an effective way of sourcing qualified suppliers and contractors. Contact the embassy or representative. They will most likely have some useful information on trade organizations.

17.7. References from other Organizations or Companies

Contact other organizations such as NGO's, NGO networking bodies and other local/international companies and learn more about where they procure supplies, services and works.

17.8. Yellow Pages

Look at the local Yellow Pages or similar directories online as well as printed.

17.9. Trade Fairs or Exhibitions

Visit relevant trade fairs.

17.10. Databases

At some organizations a supplier and contractor database is available from which suppliers and contractors can be identified. Also the DSK database administrator will be able to provide information on suppliers.

17.11. Ethical Considerations

When sourcing new suppliers and contractors it is recommended to obtain general information on sector specific risks in order to identify which ethical issues could be of concern. The Procurement Committee shall ensure that a small scale risk analysis on the candidates' ethical business performance, health policy, ISO certifications etc. is carried out. The findings shall be documented and integrated in the selection of suppliers and candidates.

18. TECHNICAL SPECIFICATIONS AND TERMS OF REFERENCE

Technical specifications and Terms of Reference (ToR) define the characteristics required of a product, service or works taking into consideration the purpose for which they are intended. Thorough preparation of the Technical Specifications for supplies and works or ToR for services is extremely important for the ultimate success of the project.

Poorly drafted Technical Specifications or ToRs may result in inefficient repetition of procurement procedures which will delay implementation. It may also result in the receipt of inadequate or incorrect equipment or services which can reduce the quality of the projects.

In the process of preparing the Technical Specifications and ToRs it is advisable to consult all relevant parties involved in the project proposal as well as ensure the necessary assistance from the required technical experts.

18.1. Technical Specifications

Precise and clear technical specifications are prerequisite for suppliers to respond realistically and competitively to the requirements of the Contracting Authority. Clear technical specifications also help the supplier to plan ahead and comment on the Contracting Authority's requirements. In addition this may have a positive effect on suppliers' ability to comply with the ethical principles and standards.

Technical specifications, including the characteristics and requirements related to a product or works includes requirements of:

- Quality levels.
- Environmental or social requirements e.g. certifications.
- Design for all requirements.
- Levels and procedures of conformity assessment.
- Fitness for use, durability and validity.
- Safety.
- Other dimensions, e.g. for supplies; the sales name and user instructions, and, for all contracts; terminology, symbols, testing and test methods, packaging, marking and labeling, production procedures and methods.

Care shall be taken when drafting technical specifications to ensure that they are not restrictive to a specific brand. In technical specifications for materials, equipment, workmanship and other supplies, international standards shall be used as much as possible. Where e.g. a national standard is referred to, the Technical Specifications shall state that other standards with a quality equal to the standard mentioned will also be acceptable.

For Works Contracts the Procurement Committee shall use an engineer or staff member with a technical background and experience in the field to draft the Technical Specifications. If an external engineer shall supervise the works, the Technical Specifications shall be drawn up in cooperation with him/her.

Examples: Technical Specifications

PROCUREMENT OF CEMENT

For a project the following technical specifications were applied and information requested from interested suppliers.

- Description: Cement in 50kg bags for use in foundation, production of concrete blocks and construction of housing
- Please state type/material of bag/packing.
- Quality in accordance with Standard SLS 107 or equivalent standard. A copy of the certification shall be submitted with the offer.
- A technical data sheet shall be submitted with the offer.
- Specify quality certificates held by the company.
- Please state name of manufacturer.
- Please state brand name.
- Please state country of origin.
- Stock available upon submission of bid and location of stock (a separate document can be attached).

18.2. Terms of Reference (ToR)

It is important to incorporate all requirements related to the acquired service in the ToR in order to receive proposals which are able to fulfill the tasks and provide the best price and quality.

The following basic content of a ToR for services has been drawn up in accordance with the principles for project cycle management. The aim is to ensure that all issues are covered systematically and that key factors related to clarity of objectives and sustainability are thoroughly examined.

18.3. Content of ToR:

- Background information.
- Contract purpose and expected results.
- Assumptions and risks.
- Scope of the services activities.
- Timing, logistics and facilities.
- Key experts and other personnel.
- Subcontracting (if any).
- Reporting.
- Environmental or social requirements (e.g. certifications)

The Request for Proposal (RFP) or Request for Quotation (RFQ) and the Tender Dossier for Service Contracts contain a template for ToR which indicates the minimum details to be provided. The ToR shall be adjusted to the specific task.

19. PROCUREMENT DOCUMENTATION

Ensuring that the procurement documentation is compiled, filed and in order is a crucial part of the procurement process. Incomplete procurement documentation may result in repayment of funds.

Sound management of procurement documentation begins at project start in order to ensure that all procurement is documented in detail throughout the project period.

The Procurement Committee is responsible for compiling and keeping procurement documents in proper order as per the below instructions. Procurement documentation shall be kept for at least seven years after receiving final payment. Moreover the Procurement Committee shall decide upon the location of the procurement files during the project period and after receipt of the final payment keeping in mind the accessibility and safety of the files in case of an audit. (Sample Procurement Document: Annex Form-PD).

20. CONTRACTUAL DOCUMENTS

The different types of contracts are comprised of a series of documents including special conditions, GTC, Code of Conduct for Contractors, ToR, technical specifications and other relevant documents which shall be listed in the clause "Order of Precedence of Contract Documents" in the Contract. When doing so, documents shall generally be listed in the order from specific to more general. In case of later dispute about interpretation of contradicting provisions, the most specific obligation takes precedence over the general one.

Only the draft Contract and different respective annexes can be amended and filled in. Note that the text of the GTC and Code of Conduct for Contractors shall never be amended. However, that does not mean that there cannot be derogation(s) to some of their provisions. The GTC contain a list of rights and obligations which shall always apply in contracts entered into with DSK, unless it is specifically indicated otherwise in the Contract.

21. VALIDITY PERIOD OF THE QUOTE, PROPOSAL AND TENDER

When replying to a Tender Dossier, RFQ or RFP the invited company binds itself for the duration of the "validity period" which runs from the date of submission of its offer and a chosen date (the duration shall be chosen carefully). The company legally obliged to enter the Contract with the Contracting Authority, under the conditions of its quote/proposal/tender. If it is foreseen that a given procurement procedure is going to be particularly burdensome and there is a risk that an invited company, in spite of this legal obligation, withdraws its offer or

refuses to enter into the Contract, the option of a tender guarantee shall be retained when preparing the Tender Dossier.

If it is foreseen that the evaluation process or the negotiations are taking more time than expected and the Contract cannot be awarded before the expiry of the validity period, the invited suppliers/candidates shall be requested to confirm in writing that they grant an extension of the validity of their quote/proposal/tender until a new specified date.

22. APPLICABLE LAW

The standard contractual documents proposed in this Manual strive at removing the unpredictability in the supply/service/works relationship by providing a contractual framework setting out as far as possible the rights and obligations of the parties. However, owing to the diversity of applicable laws and fundamental conceptual differences existing between the different systems of laws prevailing of operation, it cannot be ensured that all provisions of the GTC can be found legally binding, and that no mandatory rules of the country of execution of the Contract will override the standard provisions. Since most legal systems recognize freedom of contract, it is nevertheless expected that, in case of dispute, a contractor will first refer to the provisions of the Contract (GTC and other contractual documents), and that if he refers the case to a local court, this court will recognize the validity of the contractual provisions.

23. SETTLEMENT OF DISPUTES

Despite the high complexity of the legal issues, it shall be noted that for DSK related projects, amicable/diplomatic settlement of disputes is preferred and it is highly improbable that DSK undertake a costly litigation in case of a breach of a contract. If problems and disputes arise with a supplier/contractor, assistance from DSK. In addition, Provision for arbitration taking third party arbitrator may be applied in case if any dispute with substantial monetary value arise with contractor/supplier/service provider.

24. AUDITS

All projects are subject to immediate audit by donors or DSK. It is therefore important to keep the procurement files up-to-date at any given time. The standard terms and conditions of the three types of contracts provide for the Contracting Authority's right to check and audit all documents related to the Contract, and give the same right to the funding agency. Audits can also be added as a condition in the Purchase Order/Contract as a special clause.

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