# Public Procurement of ICT, Challenges, Approaches and Changes a foot

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# Objective of Presentation

▶ What is Public Procurement ?

▶ What is  Does IT Public Procurement look like?

▶ What is about to change in Public Procurement ?

# The Simple Question

▶ # MAKE or BUY

▶ IF BUY then you "Public Procurement" comes into play

▶ If you MAKE will you need to Buy something ? Hence "Public Procurement"

# What is Public Procurement

▶ Public procurement is about how public authorities spend public money when buying goods, works or services. This can range from buying IT equipment or providing water, gas and electricity to building a hospital or a road. (http://ec.europa.eu/trade/policy/accessing-markets/public-procurement/)

▶ Scottish Government objective for Public Procurement

  ▶ efficiency and collaboration

  ▶ deliver savings and benefits (economic, social and environmental)

  ▶ improve access to public sector contracts, in particular, small to medium sized enterprises (SMEs)

  ▶ making sustainable procurement business as usual

  ▶ procurement capability

# Difference between Procurement and Purchasing

▶ Procurement is the act of putting a contract in place in line with legal requirements

▶ Purchasing is act of buying from the Contract which has been put in place by procurement process.

# Sources of Structure of Public Procurement

- Treaty and Functions of the European Union (TFEU)
  - Article 34 on Free movement of good
  - Article 56 on freedom to provided Services
  - Article 49 TFEU on freedom of establishment
- World Trade Organisation.
- Previous signed government treaties with other nations i.e.
  - Commonwealth countries.

# Principle of Public Procurement

- Equal Treatment (of all i.e. suppliers)
- Non discrimination (or all i.e. suppliers)
- Transparency (in process)
- Proportionality (to act in a proportionate way) (objectives of procurement)

- Open / Fair / Non Corrupted
- WTO – Carry Through.

# The Law

- The EU Directives

- The Public Contracts Regulations 2006 (Westminster)

- The Public Contracts (Scotland) Regulations 2012

- The Utilities and Remedies Acts.


- **Local Procurement Act (Horizontal Policy)**

- **Procurement Reform (Scotland) Act 2014**

- The Public Services (Social Value) Act 2012

# Horizontal  vs Vertical Policy

- Vertical
  - Value for Money
  - Buying the good or service
  - Delivery
- Horizontal
  - Social policy
    - X persons on apprenticeships
  - Environmental policy
    - Delivery of good will be done with low carbon truck

# Public Procurement Tender Processes

- How much are you spending over period x.
    - Usually 4 years total spend on good/service x
        - X in central government = €134k £111,676
        - X in other public (i.e. University) = €207k £172,514
- Example Software Support of Product X is £50k per year. Public body A has 4 year aggregation period in Financial Rules. So EU Tender as over above threshold (50k x 4 = 200k)
- Disaggregation no no. (The part of the whole can not be divided into smaller amounts to avoid the EU process)

# Procurement Procedures (EU)

▶ Open

▶ Restricted

▶ Competitive Dialogue

▶ DPS

▶ Negotiated (Can't be used until other procedures have been attempted)

▶ Accelerated (Open or Restricted under certain conditions)

# Open Procedure Steps

- Identify your have a need to buy.

- Develop Document Set to allow market responded to you need to buy

- Publish notice in OJEU to say you want to buy x

- At the time of Publish Notice publish document set

- Wait a period of time 52 Days

- Open Tenders evaluate

- Notify to all parties whom has been successful and whom not

- Wait 10 Days Standstill

- Award Contract if no challenges.

- Awaiting for Freedom of Information Requests from non successful parties

# Restrictive Procedure Steps

- Same as Open however spilt into two half's.
- Post Qualification Questionnaire 37 Days PQQ
- Invite to Tender. 40 Days ITT

Have to take a minimum of 5 into ITT.  Those eliminated from PQQ based upon responses.

Why use Restrictive if you get 100 responses to a Tender it easy to access a PQQ of 12 pages than a full response.

# How to consider this all

- They set an exam paper (ITT/PQQ)

- The public contracting authority(PCA) has to mark the paper.

- Use Balance Score Card. They have to publish how they will mark.

- Like an exam paper you can't change your answer once the exam is over.

- PCA are allowed to clarify responses.  They can not change responses.

- Marking is spilt over a number of persons.  Different section to different people.  Same question may be ask multiply times because it going to different markets.

# How to consider this all Part 2

- How do you mark and interview ? Is it material to product/good/service being brought.

- If your document set don't ask a question it can't be asked later. It would require a complete reset of the process.

- There is no further negation best and final offers at time of submission.

- If it in the tender it can be considered.

- It known that people that mark exam papers plaster over and seek key words in responses.  In other words if you write war and peace the marker will glaze over.

# Others procedure summary

▶ Competitive Dialogue allows for a process which interactive but can only be used for procurement which are complex and unique in nature.  For example M74 Extension.  Development of Software for example pay role doesn't meet the complex and unique.  If it been done before.

▶ Accelerated  - Short time scale for Open and Restrictive procedure. i.e. there is an urgent need for example flooding response.

▶ Negotiated – Can only be used once market tested via for example Open / Restrictive procedure.  Never used unless of last resort.

   ▶ Only recent example for Edinburgh Uni for quantum computer from IBM.

▶ DPS = Dynamic Purchasing System (Spot market i.e. Energy Gas/Electricity)

# Framework – What is it.

▶ Contract can be award to either a single supplier or to multi suppliers.

▶ A Framework is an award to multi suppliers.

▶ PCA are able to vary the award criteria in a Framework but further competition is required.

▶ If you take GCloud they have award to over 700 supplier different lots (type of provision i.e. Windows Server IAAS)

▶ The PCA has to undertake a mini-competition with the Framework and invite all suppliers on the Lot.

▶ Benefit to PCA is short time line and reduced suppliers to score.

# Notices And Locations

▶ Contract Notice

▶ Contract Award

▶ VEAT - Voluntary Ex-Ante Transparency Notices

▶ PIN – Prior Information Notice

Publication Portals.

▶ Public Contract Scotland http://www.publiccontractsscotland.gov.uk/

▶ TED http://ted.europa.eu/TED/main/HomePage.do

▶ Contact Finder (England)

# Example Notices And Documents

# Public Procurement Summary

▶ Bid vs Sales (you do not sale to public sector you bid.)

▶ Complete Approach required (your sitting an exam)

▶ Company require equivalent standards i.e. not naughty (no convictions), Solvent (you not been bankrupt and you are financial sound), what your approach to safety (do you have a H&S policy), how does your company treat all racist and creed (what is your approach to equality)

▶ Free Market / Competition

▶ PCA get it wrong back to the beginning of the process. (Full reset)

▶ You get feedback on why you didn't win (if you ask)

▶ Remedy you can but not worth if under £1m contract.

# IT Public Procurement.

- Change in approach to commercial sector

  You can not negotiate remember the exam principle

  Must plan before you engage in the process. Then plan again.

  You can not just walk up and buy X from supplier Y it goes against the public sector principles.

  So how do you buy stuff and get the rules to work for you.

# Hardware Procurement

▶ Example

▶ A Keyboard and Mouse.

  ▶ How many do you need to buy over 4 year period. Is it over £173k ?

  ▶ If so you need to do a EU Procurement process.

  ▶ So EU Process = 100 days time for Keyboard and Mouse.

  ▶ Or use a framework = 5 Days for keyboard and mouse.

Summary if commodity product like servers or desktop/laptop it likely a framework exists.   If it unique you may need to do the full EU Tender.  SG has framework which cover commoditised hardware.

# IT Software Project – Bespoke configuration requirements.

▶ Look at Frameworks.  Usually to expensive and not focus on you individual need.

▶ So EU Tender. – Likely Restrictive Processes.

▶ Time Line if straight line for procurement of 120 Days.

▶ However development of the document set in terms of technical specification, hosting environment, training needs etc. 180 days.

▶ So to get to Delivery you are looking at 300 Days.  220 Working days in a year. So in effect public sector 1 ½ years before development begins.

▶ Multi Source Vendor Offerings.  (i.e. hosting from company A, development of environment by company B, software licence from company C etc.)

# IT Software Project – Bespoke configuration requirements. (2)

- End of year spend rush.(SSE Capital Spend one year ahead)

- Do you known what you need in two years time.

- What is the life span of the project.

- Prince2 Project Methodology (Waterfall not Agile)

- Market Engagement with PIN Notice

- Run the Procurement as part of the project.  Put it at the heart of the project setup.  Look at it as a key process not an after thought.

- If you connect the project team to the procurement process is owned you can compress delivery of a project by 3-6 months.

- Procurement is usually look as a stand alone exercise.

- Make Sure there a rate card in the bid.  By doing so you have some flexibility

# Ongoing Support and Maintenance Procurement.

- You can't just keep using company A.
- Market Test is required.
- Does a market exist ?
  - Common moans and groans
    - We always used bob he knows the issues with the system.
    - They always do a good deal.  We known them etc.
  - Counter
    - The issues should be documented.  Is there quality that bad.
    - How do you known the deal good.
    - Are you afraid of change.

# Ongoing Support and Maintenance Procurement. 2

- If you look at common technology can various system S&M be linked.
- Can you get a good deal for larger lot.
- What level of support do you need 24x7x365 8x5x220 ?
- What components do you licence from different sources.
  - i.e. Microsoft licence from developer. (what there mark-up)
  - Is there the technology common. i.e. Microsoft Gold Partners for Dynamics there lots of them
- Can you work with another public sector body ?

# IT Public Procurement Summary

- ▶ TEFU Principles apply to all procurement

- ▶ You can not wheel and deal and stay legal

- ▶ Plan, Plan and Plan .

- ▶ Public IT Projects go wrong.  Is it a Procurement problem ?

- ▶ Create output based specification documents allow competition.

- ▶ Learn to write good quality exam (ITT) answers.

- ▶ Start you response not the night before.

- ▶ You can only be marked on what you answer.  If it not there it can be marked.

- ▶ Don't put marketing materials in.  They look shinny but usually don't answer the question asked.

# What is about to change with Public Procurement 2014 Regulation Changes

- ► SME Lotting, Turnover not allowed,

- ► Horizontal Policy awards i.e. Fair Trade

- ► PQQ – E-Certification one universal database.

- ► Pre-Market Engagement

- ► Allow Negotiation if advertised at begin of process i.e. specification discussions. (May or may not work due to legal procedure)

- ► Innovation Partnership new EU Procedure

- ► All Electronic no paper submission (unless drawing of building example)

- ► Life Cycle Cost Model

- ► Shorter Time Line.

# The Changes to the Regs.

- Make things simpler for suppliers

- My personnel option will not really change much

- Biggest challenge is Horizontal demand by political agenda.  The really question is procurement about best price or implantation of government policy ?

- May create a slightly more flexible environment if PCA understands how to use the tools.

- Many Procurement officers understand how to administrate a public procurement process but may not be Subject Matter Experts on commodity they buying.

# Questions and Thanks for listening.