



BSI Standards Publication

Construction procurement

Part 1: Processes, methods and procedures

National foreword

This British Standard is the UK implementation of ISO 10845-1:2020. It supersedes BS ISO 10845-1:2010, which is withdrawn.

The UK participation in its preparation was entrusted to Technical Committee CB/-/8, ISO/TC 59 Input Coordination.

A list of organizations represented on this committee can be obtained on request to its committee manager.

This publication does not purport to include all the necessary provisions of a contract. Users are responsible for its correct application.

© The British Standards Institution 2021

Published by BSI Standards Limited 2021

ISBN 978 0 539 03989 4

ICS 91.010.20

Compliance with a British Standard cannot confer immunity from legal obligations.

This British Standard was published under the authority of the Standards Policy and Strategy Committee on 31 January 2021.

Amendments/corrigenda issued since publication

Date	Text affected
------	---------------

Construction procurement —
Part 1:
Processes, methods and procedures

Marchés de construction —

Partie 1: Processus, méthodes et procédures



Reference number
ISO 10845-1:2020(E)

Documents
Document Sharing Hub
© ISO 2020



COPYRIGHT PROTECTED DOCUMENT

© ISO 2020

All rights reserved. Unless otherwise specified, or required in the context of its implementation, no part of this publication may be reproduced or utilized otherwise in any form or by any means, electronic or mechanical, including photocopying, or posting on the internet or an intranet, without prior written permission. Permission can be requested from either ISO at the address below or ISO's member body in the country of the requester.

ISO copyright office
CP 401 • Ch. de Blandonnet 8
CH-1214 Vernier, Geneva
Phone: +41 22 749 01 11
Email: copyright@iso.org
Website: www.iso.org

Published in Switzerland

Contents

Page

Foreword	v
Introduction	vi
1 Scope	1
2 Normative references	1
3 Terms and definitions	1
4 Establishing a procurement system	6
4.1 General	6
4.1.1 Developing and documenting the system	6
4.1.2 Responding to decisions taken	6
4.2 Conduct of employees, agents and contractors	7
4.2.1 Code of conduct	7
4.2.2 Disciplinary action	7
4.3 Procurement policy	8
4.4 Secondary procurement policy	10
4.4.1 General requirements	10
4.4.2 Requirements relating to the granting of evaluation points	11
4.4.3 Requirements relating to accelerated rotations in electronic databases	12
4.5 Rotating electronic databases	13
4.5.1 Operating principles	13
4.5.2 Software requirements	13
4.5.3 Conduct of those admitted to the database	15
4.6 Means of communication	15
4.7 Devices relating to the electronic receipt of submissions	15
5 Preparing for procurement	16
5.1 Preparation for a procurement other than a disposal	16
5.1.1 Initial considerations	16
5.1.2 Readiness to solicit tender offers	16
5.1.3 Records	17
5.2 Preparation for a disposal	17
5.2.1 Initial considerations	17
5.2.2 Readiness to proceed	17
5.2.3 Records	17
6 Procurement methods and procedures	17
6.1 General	17
6.2 Procurement documentation	18
6.2.1 General requirements	18
6.2.2 Basic terms and conditions	18
6.2.3 Submission data	19
6.2.4 Tender data	19
6.2.5 Eligibility criteria	19
6.2.6 Evaluation criteria	20
6.2.7 Scope of work	20
6.2.8 Cost reimbursement and cost plus contracts	20
6.2.9 Delivery periods	21
6.2.10 Preferencing	21
6.2.11 Quality	21
6.3 Solicitation of tender offers	24
6.3.1 General	24
6.3.2 Competitive selection procedures	24
6.3.3 Negotiated procedure	27
6.3.4 Competitive negotiation procedures	27
6.3.5 Disposal procedures	28

6.3.6	Electronic auction procedure.....	29
6.4	Framework agreements.....	30
6.4.1	General.....	30
6.4.2	Issuing of orders.....	31
6.5	Design competitions.....	31
6.6	Advertisements.....	32
6.6.1	General.....	32
6.6.2	Minimum information to be conveyed in advertisements for tenders.....	32
6.6.3	Minimum information to be conveyed in advertisements for expressions of interest.....	32
6.7	Tender process and procedures.....	32
6.7.1	General.....	32
6.7.2	Tender deposits.....	33
6.7.3	Contacting of tenderers before the close of tenders.....	33
6.7.4	Receipt of tender submissions.....	33
6.7.5	Return of unopened submissions.....	34
6.7.6	Opening of tender submissions.....	34
6.7.7	Evaluation of tender submissions.....	34
6.8	Award of contracts.....	38
6.8.1	General.....	38
6.8.2	Records.....	39
6.8.3	Notification of unsuccessful tenderers.....	39
6.9	Contract administration.....	40
6.10	Resolution of disputes arising from a contract.....	40
6.11	Unsolicited proposals.....	40
6.12	Departures from established methods and procedures.....	40
Annex A (informative) Commentary.....		41
Annex B (informative) Differences between categories of procurement.....		57
Annex C (informative) Sustainable procurement in construction works contracts.....		60
Annex D (informative) Generic procurement processes.....		66
Annex E (informative) Establishing a procurement system and managing procurement processes.....		71
Annex F (informative) Standard selection methods.....		81
Annex G (informative) Targeted procurement procedures.....		88
Annex H (informative) Auction data.....		108
Bibliography.....		111

Foreword

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

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

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

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

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

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

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

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

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

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

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

Introduction

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

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

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

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

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

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

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

Standardization, apart from removing technical barriers to trade, enables

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

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

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

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

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

Construction procurement —

Part 1: Processes, methods and procedures

1 Scope

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

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

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

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

2 Normative references

There are no normative references in this document.

3 Terms and definitions

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

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

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

3.1

acceptance

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

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

3.2

agent

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

3.3

bill of quantities

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

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

3.4

bond

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

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

3.5

conditions of contract

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

3.6

conflict of interest

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

3.7

contract

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

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

3.8

contract data

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

3.9

contractor

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

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

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

3.10**corrupt practice**

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

3.11**cost plus contract**

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

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

3.12**cost reimbursement contract**

contract (3.7) based on costs expended

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

3.13**electronic auction**

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

3.14**eligibility criteria**

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

3.15**employer**

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

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

3.16**expression of interest**

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

3.17**framework agreement**

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

3.18**fraudulent practice**

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

3.19

joint venture

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

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

3.20

order

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

3.21

organization

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

3.22

price adjustment

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

3.23

principal

owner, partner, director or office bearer

3.24

procurement

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

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

3.25

procurement document

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

3.26

project

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

3.27

quality

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

3.28

respondent

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

3.29

scope of work

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

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

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

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

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

3.30

secondary procurement policy

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

3.31

selection method

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

3.32

submission data

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

3.33

suitable

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

3.34

sustainability

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

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

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

3.35

target cost contract

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

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

3.36

targeted procurement procedure

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

3.37

tender data

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

3.38

tender offer

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

3.39

tenderer

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

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

3.40

value for money

optimal use of resources to achieve intended outcomes

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

4 Establishing a procurement system

4.1 General

4.1.1 Developing and documenting the system

An employer shall develop and document its procurement system

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

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

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

4.1.2 Responding to decisions taken

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

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

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

4.2 Conduct of employees, agents and contractors

4.2.1 Code of conduct

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

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

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

Table 1 — Basic procurement system requirements

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

4.2.2 Disciplinary action

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

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

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

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

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

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

4.3 Procurement policy

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

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

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

Table 2 — Standard selection methods

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

Table 2 (continued)

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

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

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

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

4.4 Secondary procurement policy

4.4.1 General requirements

4.4.1.1 Minimum requirements

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

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

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

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

4.4.1.2 Contract-specific goals

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

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

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

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

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

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

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

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

4.4.1.3 Break-out procurement

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

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

4.4.2 Requirements relating to the granting of evaluation points

4.4.2.1 General

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

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

4.4.2.2 Evaluating contract-specific goals

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

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

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

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

4.4.2.3 Formulating contract-specific goals

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

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

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

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

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

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

4.4.3 Requirements relating to accelerated rotations in electronic databases

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

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

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

4.5 Rotating electronic databases

4.5.1 Operating principles

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

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

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

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

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

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

4.5.2 Software requirements

4.5.2.1 Minimum requirements

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

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

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

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

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

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

4.5.2.2 Publicly accessible information

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

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

The following information relating to transactions and award of contracts:

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

4.5.3 Conduct of those admitted to the database

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

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

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

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

4.6 Means of communication

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

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

4.7 Devices relating to the electronic receipt of submissions

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

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

5 Preparing for procurement

5.1 Preparation for a procurement other than a disposal

5.1.1 Initial considerations

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

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

5.1.2 Readiness to solicit tender offers

Tender offers should not be solicited unless and until

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

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

5.1.3 Records

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

5.2 Preparation for a disposal

5.2.1 Initial considerations

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

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

5.2.2 Readiness to proceed

A disposal should not be proceeded with unless and until

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

5.2.3 Records

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

6 Procurement methods and procedures

6.1 General

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

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

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

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

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

6.2 Procurement documentation

6.2.1 General requirements

Procurement documents shall, as relevant,

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

NOTE ISO 10845-2 establishes

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

6.2.2 Basic terms and conditions

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

Procurement documents should contain provisions for

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

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

6.2.3 Submission data

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

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

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

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

6.2.4 Tender data

Tender data associated with a tender shall

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

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

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

6.2.5 Eligibility criteria

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

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

6.2.6 Evaluation criteria

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

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

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

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

6.2.7 Scope of work

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

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

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

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

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

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

6.2.8 Cost reimbursement and cost plus contracts

Cost reimbursement and cost plus contracts should be structured such that

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

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

6.2.9 Delivery periods

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

6.2.10 Preferencing

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

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

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

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

6.2.11 Quality

6.2.11.1 General

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

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

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

6.2.11.2 Evaluation of quality in tender submissions

6.2.11.2.1 General

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

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

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

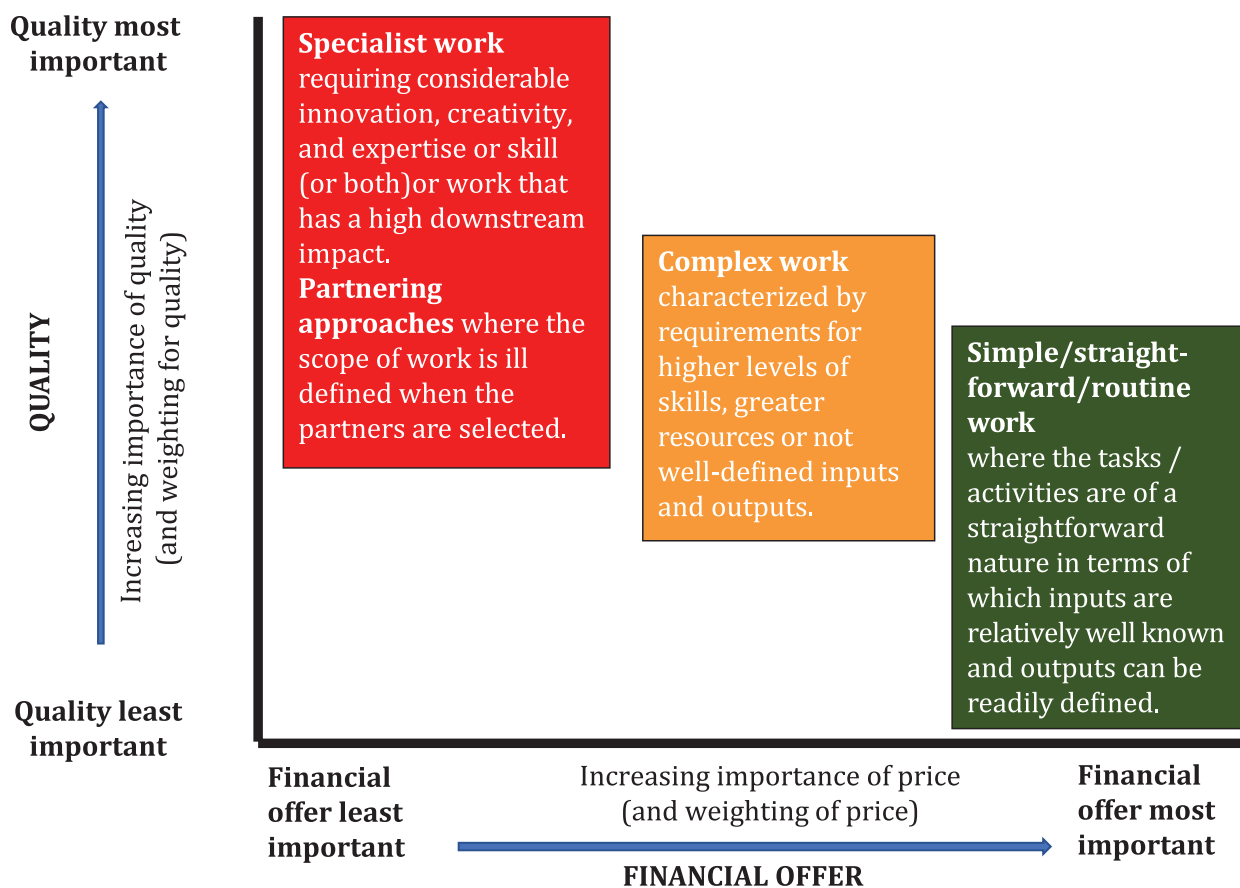


Figure 1 — Quality considerations and approaches to the evaluation of quality in tender submissions

6.2.11.2.2 Formulation of quality criteria

Quality criteria may be framed around criteria such as

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

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

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

6.2.11.2.3 Scoring of quality

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

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

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

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

6.3 Solicitation of tender offers

6.3.1 General

6.3.1.1 Basic procedures

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

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

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

6.3.1.2 Reduction of time frames

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

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

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

6.3.2 Competitive selection procedures

6.3.2.1 General

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

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

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

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

6.3.2.2 Nominated procedure

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

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

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

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

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

6.3.2.3 Open procedure

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

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

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

6.3.2.4 Qualified procedure

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

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

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

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

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

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

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

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

6.3.2.5 Quotation procedure

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

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

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

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

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

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

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

6.3.2.6 Proposal procedure using the two-envelope system

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

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

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

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

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

6.3.2.7 Proposal procedure using the two-stage tendering system

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

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

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

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

The contract shall be awarded in accordance with the provisions of [6.6](#) following any negotiations, if any.

6.3.2.8 Confined market procedure

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

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

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

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

6.3.2.9 Shopping procedure

Three written or verbal offers for goods shall be solicited.

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

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

6.3.3 Negotiated procedure

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

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

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

6.3.4 Competitive negotiation procedures

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

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

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

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

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

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

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

6.3.5 Disposal procedures

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

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

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