TENDERING OVER £100,000

Overview
If you have a requirement for goods and/or services with a total value of £100k or over (excluding VAT) for the period of the contract, then Procurement must be involved. If the total value (including whole-life costings, such as post warranty maintenance etc., but excluding VAT) exceeds £173,934, then the Public Contracts Regulations require a contract notice to be advertised in the Official Journal of the European Union.

This process is likely to take around 100/120 days, so please allow sufficient time.

In existing legislation the University of Aberdeen is considered a public contracting authority and this brings with it a number of duties and responsibilities; we strongly recommend early Procurement involvement. We have to comply with international/European legislation and University Regulations and be able to demonstrate that we are obtaining best value for public money. This is a guide through the normal stages for a high value procurement of goods or services. It is recommended that tender exercises over £100k in value involve a Project Team which might include: a representative of the Client, School or Section and their Line Manager; the Accountant for their College or Section; someone from Procurement and possibly a Technical Adviser (such as a representative from DIT for a software purchase).

Tender Stages

- **Research the Requirement**
- **Budget Prices** including an estimate of running costs (and there may be an additional stage here when funds are sought from a research or funding body
- **Specification of Requirements**
- **Contract Notices** Advertise a Contract Notice and request applications to tender; *N.B. from here, Commercial Confidentiality applies; all communications are to be formal.*
- **Considering the Applications**
- **Issue Invitations to Tender**
- **Receive and Review Offers**
- **Select the Winning Tender**
- **Notice of Selection** Issue the notice of selection to the firm chosen and to the rejected Tenderers
- **Tender Clarification** Tender clarification (and possibly full and final quote if required) and agreement on applicable terms
- **Award Letter and Agreement**

This is a straightforward procedure but it must be followed methodically and be fully recorded in order to deal with legal challenges and information requests, and provide an audit trail. Each of these stages is expanded below with a description of best practice at every step of the process.
As most of our requirements are for goods and equipment, the guide is designed primarily for those rather than services. Although the process is generally the same, service contracts may be more complex and involve issues such as TUPE legislation, so please involve Procurement at the earliest opportunity in order to develop an acquisition strategy for these.

**Research the Requirement**

**What do you want to buy?**

Can you satisfy your requirement by sharing, borrowing or using second-hand equipment, or purchasing jointly with another user?

Can the product or service be obtained from an existing collaborative agreement? (see [www.gem.ac.uk](http://www.gem.ac.uk) for a portal displaying all HE contracts.)

If new equipment is required, develop a generic description that explains what you want and please do research the market to discover what is available, identify suppliers which might have a suitable product, and it is also useful to establish supplier contact details.

**Budget Prices**

**What will the estimated cost be?**

Please ask firms for budget prices, but don’t settle on a particular item or supplier or get into detailed discussions with your favourite firm. For acquisitions over £100k you will have to go to tender anyway and all quotations received before this will have to be set aside: it is also likely that the quotes received will be out-of-date by the time funding becomes available.

At this stage it is reasonable also to request a general statement of the approximate running costs of the equipment over its expected life (this is dealt with in more detail in the section on Specification of Requirements that follows).

The information received from this stage should be sufficient for applications to funding bodies.

**Specification of Requirements**

**What to include in the description of your requirement**

When funding has become available we have to make a more formal approach to the market. A model Specification will include a brief overview of the University of Aberdeen and its activities; a section on the background to the requirement; a description of the present range of equipment or services used, then a detailed description of what is needed.

The specification should also include your award criteria and the weightings of the criteria. These will be the things which are important to you and which will allow you to make your final decision. They might include price, proposed maintenance and technical support, experience, references and delivery lead time.

There are two main elements to the specification: a brand-less, generic statement of need accompanied by a request for a “whole-life costing” for equipment offered.

3.1 The Specification should describe what is important to you and might express your requirement in terms of:
- The application: where and how the equipment will be used and what for;
- Minimum required performance: volumes, speed, magnification, data to be produced etc.;
- Inputs and outputs;
- Results expected;
- Quality requirements;
- Ease of use;
- Operator requirement;
- Upgradeability;
- Physical limitations: weight and dimensions, mobility, access, floor strength, building requirements (such as for room modifications or shielding);
- Compliance with prescribed standards;
- An opportunity for the tenderer to include an alternative offer which might include joint research, use of the University as a reference site, a novel approach, application of new technology or ex-demonstration equipment etc..

3.2 The “Whole-Life Costing” will reveal the true cost of ownership and provide a proper basis for comparison between competitive quotations; it is not unknown for a supplier to quote a low capital cost to secure the business, then uplift the cost of maintenance services to increase their margin.

Consideration should be given to:
- Capital purchase price;
- Delivery date (does this meet your timescale?)
- Delivery to site and insurances;
- Rigging into position;
- Installation;
- Testing;
- Training for operation and local maintenance (both on and off-site);
- Number of operators required;
- Expected life of the equipment in a normal working environment;
- Anticipated running costs over the expected life, including an estimate of annual costs for utilities in a similar operation and cost of replacements and wearing parts (with a guarantee that these will remain available);
• Product life and upgradeability – when will the model offered cease to be produced and what is the approach to upgrading?

• Warranties and extended warranties;

• Post-warranty service and maintenance proposals for the life of the equipment (if this is not known then request that details for a five-year period be included);

• WEEE: Waste electrical and electronic equipment legislation requires manufacturers to participate in a scheme for removal at end of economic life. Request costs associated with the supplier/manufacturer meeting their responsibilities within the regulations;

• End of life replacement or disposal: what options are available when the equipment is no longer required, and what are the costs involved?

Contract Notices

How will you let suppliers know there is a requirement?

As a minimum, all University of Aberdeen tenders of £100k and over will have contract notices published on a public information service (Public Contracts Scotland) to ensure that they receive appropriate visibility and give potential suppliers access to our tender processes. It is also mandatory that all tenders over £173,934 are advertised in the supplement to the Official Journal of the European Union. Once the notices are in the public domain it is permitted to alert any firm you wish to be included (you may have noted their contact details at the “Research the Requirement” stage) to the details contained in the notices.

The Public Contracts (Scotland) Regulations prescribe the tendering procedures that we have to follow for tenders over £174k, and the most commonly used of these is the Restricted Procedure. This is described in detail below, and the general approach requiring suppliers to qualify to tender is one that may also be used as a “best practice” for below-threshold tenders.

The procedure is as follows:

4.1 Contact is to be made with Procurement and a meeting arranged to discuss the procurement strategy and establish whether the tender might exceed the EU Threshold of £173,934. If so, then information needs to be gathered to enable us to place an advert/contract notice in the Official Journal of the European Union.

4.2 The information required for the advert:

• Title of the notice – this is a short statement of the goods and/or services required.

• A more detailed description is also required (usually just a few lines) to provide a general summary of what you wish to purchase.

• The place where the goods and/or services will be delivered/Performed.

• Estimated value of the contract over the whole contract period excluding VAT (this should include whole-life costings such as post-warranty servicing etc).

• The required start date/delivery date.

• Period of contract – more relevant for services.
• Qualification Criteria (criteria for short-listing through to the next stage).

• Interested parties will be asked to provide some financial, economic, legal and technical information as standard (i.e. last 3 years audited accounts, details of their main business over the last 3 years etc). However, the client department may have additional requirements that will help them to select suitable firms to tender, e.g. the tenderer’s approach to sustainability, or policies on diversity and equality, corporate responsibility and health and safety, experience of HE Sector, references, particular accreditations, membership of professional organisations etc..

The request for information is normally in the form of a Pre-qualification Questionnaire (PQQ) which is made available electronically to interested firms. Procurement has a standard template which they will modify to suit your particular area of interest.

4.3 Once this information has been provided to Procurement then an OJEU notice will be placed. After publication all communications are to be formal, and via Procurement. General details from internal meetings, the number of participants, how the exercise is progressing etc. are all Commercially Confidential and not to be shared with third parties.

The Restricted procedure is a two-stage process; suppliers apply to tender, then we invite those we feel are qualified to submit tenders. The first stage is to request applications to tender from interested suppliers along with any supporting information such as audited accounts etc. We have to allow a period of at least 37 days from the date the advert is placed for suppliers to provide their qualification information. During this period, if the client department hasn’t already done so, then they should prepare a full specification of requirements. This has to go out to the suppliers at the next stage of the process.

Considering the Applications

How do we decide who to invite to tender?

5.1 After the minimum 37 day period, Procurement should have received the applications and supporting information from the suppliers interested in participating. A member of the Procurement team will open them and record the information provided against a checklist (for completeness of response) for each supplier. A copy of the checklists and the applications will then be provided to the client department for consideration (the technical evaluation) and to identify which suppliers might be short-listed through to the next stage.

5.2 The client department should review the applications for details of experience and technical capacity, and if references have been requested then these should be followed up and the responses documented. It is important to record which of the suppliers have been rejected and the reasoning behind this, and which will go forward to the next stage of the process.

5.3 The applications, accompanied by a supporting narrative explaining the reasons for the decisions, should then be passed back to Procurement. The public sector legislation currently in place facilitates supplier challenges to decisions made, even at this stage, so care has to be taken with the rejection process.

5.4 Procurement will request that a University Accountant checks the short-listed suppliers’ audited accounts to establish their financial stability (financial evaluation). Each set of accounts will take approximately two hours for the accountant to review and report on,
and their findings will be reported back to the Project Team before Invitations to Tender are issued to the selected suppliers.

It’s difficult to estimate how long this particular part of the process will take because it depends on the number of applications received, how many suppliers are short-listed and the availability of the client department, project team and the accountants to undertake this work. However, we recommend that you allow **around 2 to 3 weeks**.

**Issue Invitations to Tender**

**Invitations and time allowed**

The Procurement Office will then issue the Invitations to Tender along with all of the tender documentation, including the specification of requirements, and this will include a date for receipt of tenders which must not be less than **forty (40) days** from despatch of the invitations. Rejection letters will also be issued to those suppliers who have not been short listed.

Within the Regulations it is possible to reduce the process times by using electronic means to publish our contract notices and make our documents available. Procurement has access to systems to do this and the schedule may be brought down to **thirty (30) days** for the notice to be advertised and **thirty-five (35) days** for the Tenderers to submit.

**Receive and Review Offers**

**Tender Opening Ceremony**

After the forty (40) day minimum period the tender submissions should have been received in Procurement and a representative from the client department should attend to witness the formal opening of them, and prepare a Record of Tenders. The tenders will then be carefully reviewed and scored against the award criteria by the Project Team.

**Select the Winning Tender**

**Fairness and Transparency**

It is important for the Project Team to decide as a group how the selection will proceed: they may mark the tenders individually, then discuss and agree the final scoring, or they may jointly allocate scores to each tender. Decisions and reasoning must be recorded.

The simplest way to assess each of the tenders is to rate them against the weightings allocated to the selection criteria (see Specification of Requirements). As an example, if “Equipment Performance” carried a total weighting of 40%, then the firm which offered the best option in terms of the performance specification should receive a score equal or close to the maximum for this, with the firm in second place receiving a lower score dependent on how their performance was rated in relation to the spec. By methodically working through the criteria for each tender submitted, the end result should be a set of total scores for the suppliers expressed as percentages, leading to a logical and transparent selection. When it comes to prices Procurement use a standard formula to allocate scores.

**Note:**

*We may not use any reason that was not detailed within the selection criteria to either make an award or reject any submission.*

The scores allocated by the Project Team are to be recorded along with narrative detailing the reasoning behind the decisions, and the results are to be forwarded to Procurement.
Notice of Selection

Final Hurdle

We have a legal obligation to inform all of the Tenderers of the decisions made and give them full details of how they were reached (i.e. their overall score, ranking, the name of the successful supplier and other relevant information).

A letter of our intention to award is accordingly issued by Procurement; the unsuccessful firms are afforded an opportunity to challenge any award made, and are allowed fifteen (15) days (the “mandatory standstill period”) following announcement of selection (reduced to ten (10) days if this is sent electronically). It is very common to receive requests for further information at this stage, and we must do our best to accommodate them: the alternative might be that these will be received as Freedom of Information Requests, or even legal challenges, so provided the information is not considered commercially confidential (and in the public sector very little is) details should generally be released, but this must always be treated as a formal matter, and all communications should be through Procurement.

After this period is over, and as long as we don’t receive any challenges, we can begin discussing and agreeing the terms and conditions of contract with the successful supplier.

Tender Clarification

How to Conclude the Agreement

Once tenders are in we are not permitted to enter into further negotiations with the firm selected, and until the agreement is in place we must continue to communicate formally with the supplier. We may however work with them to clarify or refine the final content of their offer. If there are a number of communications with minor changes, one clear way of concluding matters is for Procurement to obtain a final confirmation of the requirement from the client department, then request a Full and Final Offer from the supplier containing all of the minor revisions to the specification.

In parallel with this Procurement will be negotiating the contract terms and conditions that will apply to the deal with the supplier. As a general rule we should never accept a supplier’s terms as the basis for agreement, and it is normal for them to receive a draft contract along with the Invitation to Tender documents.

Award Letter and Agreement

When the agreement is in draft, Procurement will send a copy to the client department for comment. When the terms are finally agreed with the supplier, Procurement will confirm that funding is in place before sending the contract documentation out. The Client, School or Section will normally raise a purchase order using the nominated budget code (note that they may have to be set up as a new supplier, if so a Supplier Set-up Form must be sent to them for completion and return) just to get the financial commitment into the system, but the order copy will not be sent to the supplier chosen, as the contract will effectively replace the purchase order.

The contract will be printed as two originals and they must both be authorised at an appropriate level within the University before being sent to the winning firm.