



Stockholms
universitet

Procurement

-

a brief guide

Tekniska avdelningen

Procurement

Introduction

Stockholm University procures a wide variety of goods and services, either directly or under framework contracts. Such goods or services may be required on either a one-off or an ongoing basis over a protracted period of time. Such procurement may, for example, regard expert knowledge within IT support, information or strategic consultancy. Procurement is often managed by employees who are not normally involved in procurement as part of their duties. It is also common for goods and services to be directly procured, since the value may be low while the amounts are sufficiently high to make it worthwhile capitalising on market competition.

This guide is aimed at employees who are carrying out procurement either directly or under a framework agreement in accordance with Act (2007:1091) on public procurement.

You can find more information on Stockholm University's website under the heading *anställd/upphandling* (employee/procurement) or in the Rulebook, Book 3.

Stockholm, October 2009

The Procurement Function

Public procurement

The purpose of the procurement rules is to ensure that authorities intending to procure goods or services use the public funds that finance public procurements in the best possible way by seeking out and benefiting from the competition in the market concerned.

What is public procurement?

‘Public procurement’ means the measures that are taken by a procuring authority in order to award a contract or enter into a framework agreement regarding goods, services or construction contracts.

‘Framework agreement’ means an agreement that is established between one or more procuring authorities and one or more suppliers in order to establish the conditions for the subsequent awarding of a contract for a given period of time.

Who is covered by the law?

The law covers government and municipal authorities and decision-making bodies in municipal and county councils, certain publicly controlled organisations and associations of one or more procuring authorities or one or more publicly controlled bodies. Municipal and state limited companies are other examples of procuring authorities.

‘Publicly controlled bodies’ means companies, cooperatives, foundations and other entities that meet needs that are in the interest of the public, provided the need is not industrial or commercial in nature and provided the government, a municipal authority, county council or other procuring authority is financing or controlling the majority of the activity.

The procurement process

Public procurement is initiated by identifying a need and analysing how that need can be satisfied. After this the procurement must be planned, which involves calculating the contract’s total value. This calculation is intended to determine whether the value of the contract is above the ‘threshold value’ that determines which rules will apply.

The current threshold value can be found on the procurement function’s website.

In the case of procurement below the threshold value, there are three different possible procurement procedures: simplified procedure, selection procedure and direct procurement. Procuring authorities can choose freely between selection procedure and simplified procurement. Direct procurement may only be used in certain exceptional cases. The most commonly used procedure is simplified procedure.

For a more detailed description of the various procedures, see the Procurement Manual *Upphandlingsförfaranden* (Procurement Procedures).

In the case of procurements above the threshold value, there are three different procurement procedures: open procedure, selective procedure and negotiated procedure. Open procedure is the method normally used.

In the case of open procedure, the procuring authority invites suppliers to submit a tender through an announcement. All interested suppliers can request a copy of the tender documentation and submit a tender. After the tenders have been submitted, the procuring

authority will carry out a qualification of the suppliers and evaluate the tenders received. In the case of open procedure, the procuring authority is not permitted to negotiate with the tenderers.

For a more detailed description of the procedures, see the Procurement Manual *Upphandlingsförfaranden* (Procurement Procedures).

Information common to all public procurement

Tender documentation

The tender documentation forms the basis for tenders which a procuring authority provides to a supplier prior to a procurement. The tender documentation also includes any supplementary documents.

The most important purpose of the tender documentation is to set out the aim of the procurement, which must be stated precisely and comprehensibly. Well-formulated tender documentation that is clearly structured will not only better enable suppliers to prepare their tenders, but will also enable the authority to assess the tenders and formulate the agreement with the selected supplier more easily.

Tender documentation must consist of at least the following:

1. **Administrative provisions** for the procurement (e.g. the procurement procedure, deadline for receipt of tenders and the tender's period of validity)
2. **Requirements imposed on the supplier** (concerning the supplier's financial position and technical and professional capacities)
3. **Specification of requirements or scope of work**
4. **Awarding criteria** – the lowest price or the most economic tender (including the evaluation criteria, i.e. the factors that will be used to identify the most economic tender)
5. **Commercial conditions** which will apply during the contract period (e.g. payment and delivery terms and conditions)

A procuring authority may also impose special requirements concerning how the contract is to be fulfilled. Such requirements may, for example, concern social and/or environmental considerations.

For a more detailed description of the tender documentation, see the Procurement Manual *Förfrågningsunderlag* (Tender documentation).

Announcement

The law requires the procuring authority to consider suppliers in an equal and non-discriminatory manner and to carry out procurements openly. In connection with procurements, the principles of mutual recognition and proportionality must also be observed. This means that suppliers in all Member States must have equal opportunity to submit a tender. All procurements above the threshold value must be announced in the EU's database Tender Electronic Daily (TED). However, procurements below the threshold value need only be announced in a national publicly available database. Announcements must be formulated in accordance with a template and written in an official EU language (Swedish is permitted). For further details, see the Procurement Manual *Annonsering* (Announcement).

Tender deadline

In the case of simplified procedure, there are no specified deadlines for submitting a tender. However, tenderers must be given a reasonable period of time. If too short a tender deadline is set, there is a risk of not being able to fully utilise the market competition.

In the case of open procedure, the shortest deadline for submitting a tender is 52 days. This deadline may be shortened when the procurement has been pre-announced in a prescribed manner, if the announcement has been distributed electronically or if the tender documentation and all supplementary documents have been distributed electronically. For more information, see the Procurement Manual *Tidsfrister* (Deadlines).

Consideration of tenders

No application or tender that is received after the relevant deadline may be considered, even if the sender was not responsible for the delay.

The assessment phase covers a number of stages:

1. Certain grounds can lead to the **exclusion of a supplier**
2. **Checking of the supplier's suitability** (qualification)
3. **Awarding of contract** (evaluation of tenders)

For a more detailed description of the assessment phase, see the Procurement Manual *Anbudsprövning och anbudsutvärdering* (Tender assessment and tender evaluation).

Exclusion of suppliers

A procuring authority **must** exclude a supplier if the authority becomes aware that the supplier has been found guilty of financial crime according to a legal ruling.

Circumstances that **could** result in a supplier being excluded include the supplier becoming bankrupt, going into liquidation etc.

Checking of the supplier's suitability

The tenderer's suitability must be confirmed on the basis of the requirements that are set out in the tender documentation concerning the supplier's financial position and technical and professional capacities. A procuring authority may not impose arbitrary requirements on suppliers. The requirements must have a natural link to and be reasonable in relation to what is being procured.

Awarding of the contract

The procuring authority must award the contract in accordance with the specified basis for evaluation – either the tender that is most economic or has the lowest price.

In the case of simplified procedure, with regard to the evaluation criteria the authority must either state how these criteria will be weighted or specify them in descending order of priority.

In the case of open procedure, the evaluation criteria must generally be weighted with respect to each other. This weighting may be specified as an interval with an appropriate maximum permitted spread. If the procuring authority deems it impossible to specify the weighting of the various criteria, the criteria must be specified in descending order of priority.

Information on award decision

A procuring authority must notify the tender applicants and tenderers as soon as possible of the decisions that have been taken to establish a framework agreement or award a contract, and of the reasons for the decisions.

The purpose of this provision is to better enable the suppliers to exercise their right to appeal. For this reason, the procuring authority must formulate the information in a way that clearly explains the factors that determined the decision to accept a particular tender.

Documentation and archiving of documents

Procuring authorities must document the reasons for their decisions and any other factors of significance to the procurement procedure.

CHECKLIST

Preparations, prior to procurement

- Check whether an applicable agreement already exists. Check both agreements procured by Stockholm University and government framework agreements. If your procurement needs are recurrent over an extended period of time, check the duration of the agreement concerned, including all extensions.
- A market survey can be an important aspect of the preparatory work. Market surveys give an indication of what the market has to offer.
- It can be a good idea to establish a reference group for the work to prepare a basis for a specification of requirements. The reference group might, for example, consist of activity users and product, technical and procurement experts.
- Calculate the value of the procurement in order to determine the procurement procedure that should be used. The value of the procurement should normally be calculated for the entire duration of the agreement. Options and extension clauses should also be included on the assumption that they will be used. If the value of the procurement is close to the threshold value, it should be regarded as a procurement above the threshold value in order to be on the safe side. In the case of a B service, the simplified procedure must always be used.
- Make sure that the procurement is approved by an authorised person (delegation decision)
- Prepare a schedule for the procurement and plan the tasks that need to be carried out during the procurement period and the agreement period. Decide who is to be responsible for the procurement, who should prepare the requirements specification, who should answer questions during the tender period, who should evaluate the tenders, who should sign the agreement, who should be the supplier's contact during the contract period, etc.

Tender documentation

- Think about what content the tender documentation should have. Use the following basic structure as a basis:
Invitation to tender, which contains information concerning the procurement itself and how the tender should be submitted.
Tender documentation, which contains the requirements, i.e.:
 1. Requirements imposed on the supplier
 2. Specification of requirements
 3. Commercial requirements – Contractual conditionsThe invitation to tender and tender documentation can be prepared in two separate documents or combined in a single document.

Important considerations:

- How should the requirements be described in order to ensure that they are clear? (Specifying which requirements are obligatory and which are preferential.)

- How do we want the tenderer to demonstrate that the requirements have been met? I.e. what information and which documents should the tenderer attach to the tender?
- Consider how long the validity period should be. It must be sufficiently long to cover any appeal that is made.
- Check whether the requirements for co-determination negotiations apply and, if so, conclude these negotiations before the procurement is commenced.
- Make sure that an authorised person approves the tender documentation by signing it.

Requirements imposed on the supplier

- Formulate the requirements imposed on the supplier and any subcontractors the tenderer must comply with, and the way in which the tenderer should demonstrate that the requirements are met.

The requirements imposed on the supplier might include a requirement for the supplier to possess the technical resources necessary for the task, the expertise and experience required for the contract, a certain financial position in order to guarantee that the supplier can fulfil his undertakings, along with a requirement for the supplier to have fulfilled his legal registration obligations and not have any unpaid taxes and national insurance contributions.

Requirements imposed on the goods/service

- Formulate the requirements imposed on the goods/service that must be fulfilled by the tenderer.

The requirements can be of the following kinds:

- Functional and result-oriented requirements (specify the results that must be achieved but not how they should be achieved).
- Technical requirements
- Performance requirements
- Requirements concerning the application of technical standards, e.g. European standards.
- Requirements concerning safety levels.
- Requirements concerning quality levels.
- Requirements concerning how the undertaking should be carried out, e.g. as regards reporting, non-conformance management, contact paths etc.
- Requirements concerning operation and maintenance.

Commercial requirements/contractual conditions

- Formulate the commercial requirements – the contractual conditions – that must be met by the tenderer. These should be included in the tender documentation and must be accepted in the tender.

Tender evaluation

- Specify which of the two principles for tender evaluation is to be applied: the most economic tender or the tender with the lowest price.

If the principle of the lowest price is chosen, only obligatory requirements should be specified. No evaluation criteria need be specified.

In the case of the most economic tender, the factors – the evaluation criteria – that will form the basis for the evaluation must be presented in the tender documentation.

Things to consider:

- If questions are asked during the tender period, a request should be made for them to be submitted by e-mail, letter or fax. Save the questions in the procurement file.
- Always answer questions from prospective tenderers in writing by e-mail, letter or fax.

Evaluation of tenders

Stage 1 – Evaluation of the requirements imposed on the supplier

- Assess which tenderers fulfil the requirements imposed on the suppliers.
- Document the evaluation of the supplier requirements in the procurement report.

Tenderers must not be allowed to supplement an incomplete tender in whatever way they wish. To ensure equal treatment, supplements should normally be limited to matters that concern formal documents, e.g. registration certificates, corporate tax certificates etc., i.e. information over which the tenderer has no control.

A clarification is a request for further explanation of information that has already been submitted in the tender. A good question to ask yourself in such a situation is whether such action would result in a particular tenderer being treated differently from other tenderers. If the answer to this question is yes, the tenderer should not be permitted to supplement the tender.

Stage 2 – Evaluation of the requirements imposed on the goods/services

- Review each tender and check that the requirements are met.
- Document in the procurement report which tenders fulfil all requirements and which do not fulfil the requirements. Always clearly document the reason why a tenderer does not fulfil all obligatory requirements. Always give an account of which requirements in the tender documentation are not met.

Stage 3 – Evaluation of the goods/services

- Only evaluate the tenders which, following the evaluations in Stages 1 and 2, have been shown to fulfil the supplier requirements and all requirements imposed on goods/services.
- Carry out the evaluation in accordance with the model that was specified in the invitation to tender – the lowest price or the most economic tender.
- Document the tender evaluation of all criteria.
- Conclude the procurement report with a recommended decision.

Award decision

- The decision must be signed by someone who has the right to make decisions regarding tenders. The procurement decision can be included as the final section of the procurement report.
- Send written notification of the decision to all tenderers informing them about the decision that has been made.
- Agreements may not be signed until **at least ten days** after Stockholm University distributed the decision notifications to all tenderers (from the day after the notifications were dispatched). Suppliers are entitled to request a review of the procurement decision by the county administrative court up until the agreement has actually been signed.