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Construction procurement —

Part 1: Processes, methods and procedures

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Partie 1: Processus, méthodes et procédures

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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

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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**

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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.

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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

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— 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.

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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]

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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”.

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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

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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,

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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)

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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.

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