



# Unit 7

## Managing Competitive Bids

### Learning Outcomes

**By the end of this unit the learner will be able to:**

- ✓ Apply the steps needed for managing a competitive bid process, from the request for proposals or qualifications through to negotiating the contract
- ✓ Know what it takes to set up a competitive bid for a contract

## Unit 7

# Managing Competitive Bids

## Purchasing through RFP's and Tenders

### RFP's and RFQ's

When you are looking for a new supplier, it is a good idea to entertain proposals from multiple suppliers to see who can provide the best service to your company. In some industries, a very formal process is used in order to eliminate problems like bribery and nepotism (or even the perception of those issues).

Many governments, large organizations, and not-for-profit groups use the process outlined below. It's also a good practice for smaller businesses who are able to tolerate the costs and have time to manage it.

### **Request for Qualification (RFQ)**

If you are not certain the marketplace can provide you with the qualified people/services that you need, you can do a preliminary investigation by advertising that you are looking for specific skills and knowledge using a Request for Qualification (RFQ). Respondents who feel they are positioned well to meet your requirements will submit a report outlining the qualifications and skills of each person they employ. (If they are a really large company, they will outline the skills and knowledge that are available in each department.) If you receive several bids like this, you can then proceed to the next step.

### **Request for Proposal (RFP)/Tendering/Bidding**

Once you know that the services you need are available, your organization will issue a public document that is known as a Request for Proposals (RFP) or Call for Tenders. This request can be restricted to companies that have already been pre-qualified.

This is a very specific request where you outline everything that you need in terms of service, delivery, manufacturing, and/or service (short of revealing trade secrets, of course). Potential suppliers will submit a detailed proposal of how they can meet your needs, including proposed costs and delivery standards.

### Bidding vs. Negotiation

Depending on your needs, you may elect to use competitive bidding and/or negotiation as the foundation for your selection.

When competitive bidding is used in private industry, the requests for proposals or bids is typically sent to several (no more than eight) potential suppliers, each chosen depending on a potential fit. In government and not-for-profit organizations, they typically use an open RFP process where bids are published on a website. As a result, they may have to entertain hundreds of proposals, but the process is more open.

### Prerequisites

Using a proposal or bidding process often takes up significant time and money for both the buyer and purchaser as

they work their way through this process. If the purchase amount is small, a buyer runs the risk of not getting many bidders because a small supplier won't have the resources necessary to chase after small contracts.

We can use five criteria to help us decide if competitive bidding is the best way to approach a particular purchase:

- The **monetary value** of the purchase(s) must be significant enough to justify this method of evaluation.
- The descriptions of the item or service must be **explicitly written** and understood by the buyer and the seller so that both parties can prepare accurate forecasts.
- The marketplace needs **enough sellers** to make this bid competitive.
- The sellers within the market have to be qualified. They must actually want the contract and be willing to work within a competitive field in order to get it.
- There has to be enough time to get through the entire process.

## Making a Choice

### Using Weighted Analysis

Once you receive the proposals, you should review them all using a weighted analysis. If you have one prospective supplier that is clearly outstanding among the competition, your choice is pretty easy to make. Otherwise, a numerical weighting analysis can simplify things. As well, the weighted analysis takes away any guesswork, including a halo effect.

### The Halo Effect

A **halo effect** is where you receive a proposal from a company you know and like, so you give them a higher evaluation because you already like the people there. However, the "halo" you surround them with will prevent you from considering other equally suitable (or perhaps even more suitable) partners in your supply chain. It will also prevent you from looking critically at their ability to do the job at the standard you want.

### Using a Selection Committee

You've probably heard the expression that two heads are better than one, and contract consideration is no exception. We strongly recommend that you use a **committee** as you proceed through the contract selection process.

### Elements of the Analysis

Your weighted analysis will include four activities.

#### **Develop the Evaluation Criteria**

This will help you decide upon the weight that each element will be assigned during the decision-making process. You will want to consider technical, financial, operations, management, and capability factors.

#### **Develop Performance Factors**

Performance factors also require a weighted analysis. This includes things like anticipated delivery time, the ability to work overtime or on a short-notice basis, and other weights that you require adjusted to the importance of each factor. For example, if technology is a more essential factor than delivery time, technology would be given a higher weight.

### **Develop a Scoring Scale**

Now it's time to define your rating framework. Three-point or five-point scales are common. For example, a zero might mean the supplier cannot meet the need, three means that they can usually meet the need, and five means that can always meet the need.

If it's more straightforward to work in terms of percentages, then make sure all of your scoring adds up to 100 and that each sub-factor has an appropriate weight.

### **Scoring the Supplier**

This last step is where you conduct the actual analysis. The analysis should be conducted based on the collective assessment of the evaluators after they have had the opportunity to study all the information provided by each of the potential suppliers, as well as the information obtained in on-site visits and interviews.

## Creating a Contract

### Gathering Resources

The first piece of advice about creating a contract is to stop yourself from always starting things anew. If you are just entering the procurement field, and you are working at a company that has been around for any time at all, they most likely have a standard contract that they use in all of their procurement activities.

Check with your mentor and ask if there are examples of current contracts available. If you are in a position where you are working on a valuable or critical contract, it will be important that the contract protects the company you are representing. If you come out of the gate recommending a different contract, or you write your own contract and it is missing essential elements that the company has already worked hard to include in all of their contracts, you are putting unnecessary risk into your job.

If you're like most people and you don't have a mentor at your job, then check with the head of your accounting department, your own manager, and/or the operations manager. Any or all of them will probably have experience with contract management, and have access to approved contracts that have been used within the company already.

### Key Elements

If you really are in a situation where you are creating a brand-new contract, there are several considerations.

#### **Preventing Litigation**

The very best way to avoid a legal dispute is to avoid it from happening in the first place. Be professional and act with integrity at all times. While litigation is not a common occurrence for the procurement leader, the work you do is subject to two areas of the law: the law of agency and the law of contracts.

One of your basic responsibilities is to conduct the company's supply management as efficiently and effectively as possible. Purchasing policies and practices are based on business requirements and business judgment, rather than legalities. From a business perspective, contract disputes can normally be resolved through discussion and negotiation, rather than a lawsuit.

### Legally Binding Elements

To be considered legally binding on both parties, a contract needs to contain four basic elements:

- **Agreement between two parties:** This can be as simple as the submission of a purchase order, or as complex as having gone through a proposal submission/bid process.
- **Consideration or mutual obligation:** Both parties agree to do something they would not have otherwise been obligated to do, in exchange for something (usually money).
- **Competent participants:** Don't sign contracts if you are not legally permitted (e.g. an underage minor), you are intoxicated, or you are not legally competent.
- **Lawful purpose:** A contract has to be created around a legal purpose. If the primary purpose of the contract is legal, but there are terms within it that are not legal, then some terms may be legal and enforceable and others will not be. This can occur when a supplier is providing a finished product, but some components are not legal in the country where the product is being sold.

## Ethical Considerations

### Defining Ethics

For our purposes here, our definition of **ethics** can be stated as the guidelines or rules of conduct that we live and work by. Organizations often have stated ethical standards which may be contained in their codes of conduct and policies. The reputation of an organization is important to employees, managers, and everyone who does business with them.

As a procurement leader you will have to make yourself aware of potential conflicts of interest when selecting suppliers, as well as when you are developing relationships with potential suppliers.

### Conflicts of Interest

A **conflict of interest** exists when the procurement leader feels they are dividing their loyalty between their own company and another company. In terms of supply management, this situation can come up when a procurement manager is a stockholder in a supplier's company, or when that procurement manager makes a purchase from close friends or family. (We've seen this in business and government purchases too many times.)

As a professional, the procurement manager must separate themselves from any unethical activities when it comes to choosing suppliers. You are also obligated to advise your company stakeholders when this could take place; for example, when you have a friend in a company that is submitting a proposal. It's not that you don't necessarily want to do business with people you are friends with; it's simply a matter of being transparent and open about those relationships, and making sure that you or your friend aren't at liberty to make an unreasonable profit because of the relationship.

On the one hand, if your supplier is a friend, they might be quite willing to treat you as a very important client and

provide you with top-notch service. On the other hand, procurement managers might not want to discipline friends who do not meet performance objectives in the same way that they would with other suppliers.

## The Importance of Ethics

Ethical conduct is a bigger issue today than it was several decades ago, although it's also true that ethical conduct is not a universal view. There are still a lot of individuals and their companies who are willing to sacrifice values for short-term gain achieved through unethical activities. Part of the reason that you, as a procurement leader, need to make sure that you are conducting yourself ethically is to protect the reputation of the company you are working with. You will be faced with this at some time or another, so it's important to discuss the issues with the stakeholders in your company.

## Ethical Standards

The Institute for Supply Management does a good job in addressing the issue of ethics within the procurement rule. The principles listed in the ethical standards are:

- **Integrity** in your decisions and actions
- **Value** for your employer
- **Loyalty** to your profession

The standards of supply management practice, which are taken directly from the principles listed above, are as follows.

### **Perceived Impropriety**

This is an interesting area of study, because perceptions over time can change. There is a popular expression that says, "Perception is reality." We have to always consider this and act appropriately. If the situation is felt to be inappropriate, even if the intent was never inappropriate in any way, the consequences can be very real.

### **Conflict of Interest**

Make sure that any of your personal, business, or recreational activities do not interfere with the lawful and commercial interests of your employer.

### **Issues of Influence**

Avoid behaviors or actions that can negatively influence, or even have the appearance to influence, procurement decisions.

## Ethical Dilemmas

### Introduction

Moving into the global marketplace can expose managers and company leaders to unfamiliar cultural rules and practices. Although trade agreements and legal systems set boundaries for lawful behavior, they don't help much when it comes to ethical dilemmas or issues involving social responsibility.

## Definitions

- **Ethics:** A moral obligation to determine right from wrong.
- **Ethical behavior:** Personal behavior that follows principles of good conduct and morality.
- **Ethical dilemma:** A situation where moral ideals and imperatives are in conflict. Often described as having no right or wrong answer, but instead the solution is the **most ethically defensible decision**.

## Ethical Dilemmas

One of the issues we must face is that of the **ethical dilemma**. Ethical dilemmas can arise in a myriad of circumstances, often where someone is faced with two clear choices, neither of which resolves a situation in a satisfactory way. The decision maker must review the options in view of all the available information, including facts, values, principles, and moral issues.

There is no clear formula or model for resolving an ethical dilemma, although there are guidelines that can be applied. And, of course, an issue may be an ethical dilemma to some people and not to others. (The reality of child labor is one place that this arises.)

Questions to ask as you work through an ethical dilemma include:

- Is the proposed issue a legal one?
- Is the decision fair and balanced to all stakeholders involved?
- Does the proposed solution justify actions that must be taken?
- How will the proposed decision make me feel?
- What is the most ethically defensible decision I can put forward?
- How will I feel about the proposed decision when I discuss it with my family, company, and community?

Can we really be faced with ethical dilemmas on a regular basis in our work within supply chain management? The simple answer is yes! Here are some real examples.

- When your job requires that you accept shipments for a local port authority and a foreign customs agent asks for a “tip” before releasing a shipment, you are being invited to participate in bribery and corruption.
- You are importing goods for a clothing company, and you hear that workers at the overseas manufacturer report unsafe work conditions, pay that is below minimum wage, 20-hour work days, and abuse by their supervisors.
- You work with a company that publishes textbooks for university students in multiple languages. You visit a university in a developing country, and discover that students are carrying around photocopies of your best-selling textbooks. When you speak with students, you discover that if they have to pay the \$100 cost per textbook, they could not afford university, but you know that citizens must be educated in order for this economy to flourish.

In addition to the examples already listed, ethical dilemmas can arise when a company finds itself dealing with partners who are involved with organized crime. Because organized crime can infiltrate operations at any level, and large crime operations are present all over the world, this is not unexpected and can have massive ramifications on

the business.

### Further Reading:

- ✓ Rogers, Stephen C. 2009. *The Supply-Based Advantage: How to Link Suppliers to Your Organization's Corporate Strategy*. AMACOM.
- ✓ Semanik, John, and Fred Sollish. 2012. *The Procurement and Supply Manager's Desk Reference (2nd Edition)*. Wiley.
- ✓ Tate, Wendy L., and Council of Supply Chain Management Professionals. 2014. *The Definitive Guide to Supply Management and Procurement: Principles and Strategies for Establishing Efficient, Effective, and Sustainable Supply Management Operations*. Council of Supply Chain Management Professionals.