INFORMATION AND COMMUNICATIONS TECHNOLOGY PROCUREMENT

BEST PRACTICES GUIDE FOR CUSTOMS ADMINISTRATIONS

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Figure 2-1. Procurement Decision Tree
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This guide describes the basic process for procuring information and communication technology (ICT) and is intended to be used as a reference for customs administrations procuring ICT.\(^1\) It was developed in conjunction with a survey undertaken by USAID and the World Bank Group that inventoried available options for using ICT to facilitate trading across borders. The survey resulted in an online mapping tool that, when used with this guide, allows countries and users to make informed policy and procurement decisions.\(^2\) Using that tool and this guide, customs administrations can identify ICT systems that best fit their automation needs and procure the systems efficiently and transparently. As the online tool indicates, a wide variety of ICT systems can support the mandate of a customs administration; each administration must find the system that meets its unique needs and follows standards defined in the Revised Kyoto Convention and other references for modern customs practice. Administrations should interpret the guidance provided herein in the context of their own procurement procedures.

**PROCUREMENT OBJECTIVES**

Public procurement is normally done in a framework that determines how contracts for goods and services are competed for and awarded. That framework covers a system’s life cycle, from initial concept to the end of the system’s useful life or the end of a contract. The elements of a procurement include

- Procurement strategy
- Funding
- Detailed requirements and schedules

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1 In this guide *information and communications technology* pertains to communication devices and applications, including radio, television, cellular phones, computer and network hardware and software, satellite systems, and the services and applications associated with them, such as videoconferencing and distance learning. In the United States, the term *electronic and information technology* (EIT) may also be used, although this usage is less common. U.S. Federal Acquisition Regulations define EIT to include “any equipment or interconnected system or subsystem of equipment that is used in the creation, conversion, or duplication of data or information.” EIT also includes “telecommunication products (such as telephones), information kiosks and transaction machines, worldwide websites, multimedia, and office equipment such as copiers and fax machines.”

• Bidding documents
• Management of bidding and bid evaluation
• Negotiation and award of contract

**CONTRACT MANAGEMENT**

Many customs administrations invest heavily in ICT and should keep the trading community informed about their investment objectives. Procurement policies, therefore, should support well-planned and managed procurement that leads to good business outcomes, minimizes the transaction costs of ICT procurement, and ensures that the contractual basis for procurement is consistent, clear to all parties, and accounts for risk.

**PROCUREMENT STANDARDS**

Global standards for ICT procurement are being developed, but national standards in many places, such as Australia, the European Union, the United Kingdom, and the United States apply to tenders and contracts involving procurement of ICT goods or services or both. ICT procurement standards include those for intellectual property rights in software, liability clauses, and tendering documentation. The following principles underlie public procurement policies:

• **Equality of opportunity.** Ensure that interested and qualified vendors have access to the bidding process by communicating government requests for goods and services widely.

• **Transparency.** Ensure accountability in public procurement by institutionalizing transparent and ethical processes

• **Value for money.** Maximize benefits by recognizing that lowest price does not always equal best value.

• **Sustainability.** Take into account the long- and short-term and direct and indirect effects of a procurement on the environment, society, and the economy, especially when effects may be irreversible or uncertain.

Getting value for money in ICT requires understanding the costs of ownership and full life-cycle costs (e.g., solution provider fees, hardware maintenance, hardware replacement schedules). Value can be added by having associated products or services included in the purchase price or by soliciting offers of postsales service at no or minimal cost. Sustainability in ICT procurement requires understanding the impact of purchases (e.g., the energy that new computers consume, the labor conditions of manufacture), and is viewed as integral to getting value for money. The box on the next page presents other principles governing customs procurement in many countries.

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5 The U.S. Federal Acquisition Regulations include requirements for federal agencies to make EIT accessible to people with disabilities (see [https://www.acquisition.gov/FAR/](https://www.acquisition.gov/FAR/)).
ICT PROCUREMENT CHALLENGES AND PLANNING REQUIREMENTS

ICT procurement is challenging for a number of reasons:

• Technical content is diverse and difficult to define.
• ICT components are dependent on an organization’s business processes.
• ICT and associated methodologies change rapidly.
• ICT contracts usually entail a substantial mix of professional and intellectual services as well as hardware and software.
• Successful procurement usually entails organizational change management.
• ICT costs do not start and end with the cost of a personal computer, but include hardware and infrastructure, software, Internet access, training, and other support and consumables—and eventual replacement of the same.

For these and other reasons, administrations must plan and execute ICT procurement with care and must commit to supervising the installation, integration, and operation of the procured system over the long term. Here, having well thought-out procurement procedures and an ICT strategy as part of a larger strategic plan is essential.

After a need is recognized, ICT procurement should be managed like any other project. The steps for this process are laid out in the following chapters. In Section 2, we present details on procurement strategy, planning, and initiation. Section 3 covers the solicitation process. Section 4 discusses cost structure and payment, issues that will arise in nearly all stages of procurement. Section 5 covers contract issuance and management, and Section 6 the launch, implementation, and closeout of the ICT project.

**PROCUREMENT PRINCIPLES**

**Accountability.** Have in place mechanisms to enable customs officers and managers, and their counterparts in other public bodies, to discharge their responsibilities for procurement risk and expenditure.

**Competitive Supply.** Procure in a competitive environment unless there are good reasons for not doing so.

**Consistency.** Apply the same procurement policy across the public sector so vendors know what to expect.

**Efficiency.** Carry out procurement as cost-effectively as possible.

**Fair-dealing.** Treat vendors fairly and without discrimination, protecting commercial confidentiality where required. Do not burden or constrain suppliers or potential suppliers unnecessarily.

**Integration.** Ensure that procurement policy pays due regard to the Executive’s other economic and social policies, and does not run counter to them.

**Integrity.** Do not permit corruption or collusion with suppliers or others.

**Informed decision making.** Base decisions on accurate information and monitor contracts to ensure requirements are met.

**Legality.** Meet national and other legal requirements.

**Responsiveness.** Endeavor to meet the aspirations, expectations, and needs of the community served by the procurement.
2. PROCUREMENT STRATEGY, PLANNING, AND INITIATION

An effective procurement begins well before a request for tenders is released. The procurement life cycle begins with strategic planning and continues through procurement and on into the planned obsolescence of both hardware and software. Why planned obsolescence? Because even as an ICT system is being rolled out it has probably already been surpassed by new technology in what is a particularly fast-paced industry. A customs administration must first have an organizational strategic plan and a strategic management team, of which an ICT strategy and a planning group are parts. The ICT strategy should be based on a thorough assessment of organizational needs, should focus on how ICT will contribute to the administration’s mission and objectives, and—together with the mission statement and general strategy—should form a basis for evaluating and comparing proposed ICT projects. In turn, ICT procurement planning should provide a context for potential ICT investment, involve stakeholders and contracting authorities to ensure compliance with the national ICT strategy, and reflect understanding of the role of procurement agencies and the procurement rules already in place. Applying procurement rules properly demonstrates an administration’s ability to manage a procurement program.

This section describes how to move from an organizational ICT strategy to procurement planning, needs analysis, justification of the proposed purchase, definition of procurement scope, the forming of a procurement team, and the initiation of the procurement, which is itself a project. These steps apply whether a procurement is to be self-funded or funded from a general budget or a capital program with an approved global budget.

ESTABLISH LEGAL FRAMEWORK

ICT procurement requires a legal framework, without which countries may experience years of delay in developing paperless filing for customs declarations and in implementing policies agreed on in international, regional, and national institutions. Shaped by a country’s legislation, culture, economics, and politics, an effective legal

framework covers procurement in general, provides for the legislation and regulation of ICT and related matters, and covers an administration’s authority to use ICT. Public procurement should be governed by the principles of equality of opportunity, transparency, value, and sustainability (see the World Trade Organization’s Agreement on Government Procurement, which applies to many but not all WTO members).

An automated single window for trade is a good example of the importance of a solid legal foundation. The World Customs Organization recommends that the legal foundation for single windows be in place before ICT is procured. After all, automated single windows are now the largest ICT investment that governments and customs administrations are contemplating and may cost hundreds of millions of dollars.7

Advising on changes necessary to a country’s laws and legal processes as they affect ICT procurement is beyond the scope of this guide, but laws and processes must be understood from the start to ensure that legal requirements are either being followed or being amended as necessary. Amending laws while procuring new ICT heightens procurement risks, and such risks, like all project risks, must be monitored and managed.

FORM PROCUREMENT TEAM

The procurement team should consist of representatives from an administration’s various departments—IT, budget, human resources, legal—as well as from the business units that will be the primary users of the new ICT systems. The role of the procurement team should be defined by a formal mandate of the administration. The entire procurement team need not be present for all discussions, but when issues arise, department and unit experts should attend to share their perspectives. Some teams may determine that a proposed procurement is not warranted and cannot be justified; this should not be viewed as a failure, because the sooner a weak solution is rejected, the sooner an alternative can be formulated.

DEVELOP PROJECT PLAN

The procurement team should develop a project plan. Projects usually have five steps:

- **Initiate**—define objectives and scope and complete needs analysis, schedule, budget, organization, and business case
- **Plan**—set measurable objectives, identify deliverables, plan schedules
- **Execute**—follow processes to complete work; coordinate people and resources
- **Control**—use regular checkpoints to control and monitor quality, changes, and issues
- **Close**—project evaluation, completion, and process improvement evaluations.

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7 **“Single window”** is defined in UN/CEFACT Recommendation 33, and the legal framework is elaborated in UN/CEFACT Recommendation 35.
ANALYZE NEEDS

During needs analysis, the procurement team gathers information about current practices and compares them to best or desired practices to define how ICT could bridge gaps, recognizing that ICT may not be the best means for effecting change in business processes. The analysis should identify root causes of problems or weaknesses to help determine if the desired change can in fact be achieved through automation. For example, automation can help the administration identify and manage transaction-level risks in customs declarations but will not address the causes of such risks, such as weak penalties or absence of incentives for voluntary compliance. These must be addressed in risk strategy, legislation, policies, and procedures.

Needs analysis should reflect understanding of an administration’s budget and funding sources, as well as the perspectives of the stakeholders in any future ICT system—including the government, legislature, and donor organizations. When funding is established and the administration determines its ICT needs, a formal needs statement is drafted.

Stakeholder input should be gathered through focus groups, one-on-one and group interviews, and written questionnaires. To ensure understanding of the administration’s needs for information management, interviews and questionnaires should cover the following topics:

• Types and sources of information being dealt with
• Information collection processes
• Types of information processing
• Existence of redundant data sets and whether they can be standardized
• Types of information disseminated
• How information management could evolve over the next 2 to 5 years
• Type and quality of current information automation systems
• Who inside or outside the administration can provide expertise and insight on information data elements.

Equipped with stakeholder input, the team then determines how automation would meet the needs identified, developing a formal needs statement that covers the nature and impact of perceived needs, shortfalls in current ICT, factors contributing to the problem that new ICT could solve, and possible approaches for meeting needs. The statement should highlight what requires prompt attention but should not propose a particular solution or vendor.

DEVELOP A BUSINESS CASE

When needs are identified and prioritized, the team develops a business case that helps leaders and managers grasp the value of investing in ICT infrastructure. It forms the basis for managing ICT strategies and structure and for reaching strategic objectives through a defined investment.
An effective business case should generate among an administration’s leaders the support, participation, and commitment required to transform an idea into reality. The business case describes the idea, problem, or opportunity that ICT will address; desired results in concrete terms, such as cost savings and productivity; the impact, risks, costs, and benefits of alternative ICT solutions; who will be affected and how; and any change management necessary to secure adjustments in individual or organizational behavior.

The business case should be scalable to the investment. Small projects and their business cases may focus on a technical component contributing to a general business solution.

DEFINe AND PLAN FUNDING PROCESS

A clear business case will ease execution of the steps described below and the funding challenges that any project faces.

The financial plan is an important part of the procurement plan. When developing the financial plan, the procurement team should learn about and seek out all sources of funding—internal and external, public and private, or a combination of these. The team should consider conventional and innovative funding options, including contracting, public-private partnerships, and in-house consortia. An in-house consortium may draw on the ICT budgets of more than one department for procurement that affects multiple agencies, such as a single-window project or risk-analysis software.

It is also important to determine what can be funded and what may be excluded because of the rules and regulations of a particular source; for instance, certain public sector donors will not fund travel or capital expenditure.

The financial plan should explain why the ICT procurement should be funded, how it will be funded, and how returns (additional revenue collection, cost savings, and intangible benefits), if any, will be measured and credited. Plan elements should include the following:

- Detailed budget, including reserves
- Funding sources (e.g., donations, partners, grants)
- Funds expected for targeted project
- In-kind (noncash) contributions
- Returns from project performance (with time)
- Operating and administrative costs
- Cash flow statement.

QUANTIFY PROJECT VALUE

Cash flow calculations can take into account time saved, errors reduced, and intangibles such as perception of organizational integrity—all of which can be translated into rough estimates of financial value. Net cash flow is useful in justifying and selecting among options. Net cash flow, however, is usually negative at the start of a project because money is only going out. The point at which the project takes in more money or value than it expends is the point of payback. Because money received or spent today is more valuable than money received in the future, a cash flow calculation should include a realistic interest rate called a discount rate or discounted cash flow.
When seeking funding approval, ensure that payment delegation to chosen suppliers within approved limits is such that the purchasing manager is not excessively restricted or encumbered in the payment process. Contract value, complexity, and financial risks should be considered when deciding the level of financial delegation.

**UNDERSTAND THE IMPLICATIONS OF PRICES**

Purchasing officials should report to senior levels in the administration and must have a direct line to the budget office so they can understand the impact of price increases and whether increases should be passed on in the form of user fees that comply with GATT Article VIII. Price increases should be offset by decreases in other areas. A team approach to purchasing helps to keep the focus on the top priorities.

**SOLICIT STAKEHOLDER INPUT**

A stakeholder is a person or group that can affect or be affected by the administration’s policies, objectives, and actions. Stakeholders can influence funding and should have been identified in the business case. For ICT procurement, stakeholders include executive managers who will approve funding and may be users; experts and future users from whom system requirements will be elicited and who will influence system design; and people who will benefit from a completed ICT project, including parties outside the administration.

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**SEEK VALUE FOR MONEY**

In public-private partnerships, private finance initiatives, or a Global Development Alliance, the government buys services over a prescribed concession period, often 20 years or more. Ownership risk and responsibilities for efficient operation rest with the concessionaire. This type of procurement gets more value for money by focusing on whole-life costing and transferring risk. It is not the same as privatization because the government remains responsible to the public for the service. An important consideration in entering this type of agreement is transparency; such an agreement should not be considered a shortcut to a sole-source procurement.

When the administration has justified the procurement to itself, as well as staff members or agencies that also have to commit to the project, it should bring together all these stakeholder groups to explore ideas about the procurement. All parties should understand the goal of the procurement and the effect of successful procurement. Winning stakeholders’ commitment is vital. Successful fundraising is based on clear and powerful articulation of why a funder should support a procurement.
DEFINE PROCUREMENT SCOPE
The project team should define the procurement’s scope in terms of time, cost, and quality. The scope will eventually become part of the solicitation. The scope statement may
• Justify the project in terms of market demand, business need, customer requests, and legal requirements
• Define project objectives
• Define project deliverables
• Identify certain ICT products as possible solutions
• Identify risks on a preliminary basis
• Define stakeholders.

DECIDE ON BUY VS. BUILD VS. DO NOTHING
The procurement scope should address the sourcing of the ICT solution if sourcing was not covered during the needs analysis. The administration must decide whether to procure a commercial off-the-shelf (COTS) product, build a new ICT solution, or do nothing (Figure 2-1).

FIGURE 2-1. PROCUREMENT DECISION TREE
PROCUREMENT PROCESS

The procurement team should confirm that automation is indeed the best solution for the defined problem. If it is not, the team should revisit the problem through root cause analysis and seek other solutions. If it is, the team should seek commercial software that meets automation objectives—it rarely makes sense to build when an existing product can meet needs cost-effectively. Trade-offs must also be considered. For example, a new build is usually costly—with costs rising over protracted build periods—and carries substantial risk of failure. But the administration will own the intellectual property rights for a new build. In deciding whether to build, the administration must consider whether to outsource the project or use internal capacity. Customs should let ICT experts handle the build.

Beware of thinking of requirements as unique; off-the-shelf products often reflect best practices and processes that a customs administration might benefit from adopting. Still, configurability is important. Configurability means that the software can be changed easily to fit local conditions; for example, data fields can be added, field names changed, and drop-down lists modified. Customization, however, is more complicated and involves changing the underlying software code. Customization can be expensive and can make software difficult to upgrade. Furthermore, vendors may use different terminology than that used here for configuration and customization. The procurement team should ask vendors to clarify or define the terms that they use.

In selecting new software to support business processes, be aware that businesses processes inevitably change—not only to save on customization costs of the COTS software but also in recognition that the software probably automates best practices from the Revised Kyoto Convention. If cost-benefit analysis shows that the return on investment for buying or building will be negative, then the administration should not advance the procurement and should do nothing.

OBTAIN PRELIMINARY PROCUREMENT APPROVALS

Customs should refer to local ICT resource planning instructions to ensure that internal approval processes are followed. For example, the business case may have to be approved by an information steering committee or a similar governance group before anyone begins a procurement of significant value. If there is no committee responsible for ICT strategic planning, one will have to be formed, or at a minimum, an ad hoc group from management should review the business case. In addition, the business case may have to be submitted to higher authorities for preliminary approval before more time is spent elaborating project scope. This will result in a preliminary approval to proceed to actual procurement.

INITIATE PROCUREMENT

ESTABLISH PROCUREMENT TEAM

With the transition from strategy and planning to actual procurement, team membership may need to be revised. For example, the IT specialist who determined interoperability
requirements during procurement scoping may no longer be needed on the team. Nevertheless, members of the team that developed the procurement strategy are often involved in actual procurement. Their continued involvement ensures that the goals of the procurement as well as the strategic priorities of the organization are understood and supported. With a procurement team established, procurement can begin.

WRITE PROCUREMENT WORK PLAN
As a project in and of itself, the procurement should be guided by a detailed work plan. The procurement team should draft a plan that names a project manager and project staff and consultants (if known) and their responsibilities; describes key activities and locations; outlines milestones and evaluation criteria for each milestone; and identifies risks to procurement completion and contingencies. A Gantt chart showing the beginning and end point for tasks may be helpful. Examples of such charts can be found on the Internet.

OBTAIN FUNDING APPROVAL
How a proposed procurement is approved will vary by project and by country. The business case should provide the information necessary to determine why the ICT project should be funded. Buy-in from management should be secured throughout the procurement process, beginning with ICT project planning, and progress should be succinctly communicated to stakeholders on a periodic basis. The procurement work plan should allow enough time for funding approval processes. The time lag for funding at this stage reinforces the need for the long-term strategic planning identified earlier in this guide.
3. SOLICITATION PROCESS

A request for tender (RFT) is an organized invitation to vendors to bid to supply products or services. It describes the results of the needs analysis, outlines what is requested for the procurement, stipulates contractual requirements, and describes how bidders should respond. An RFT is released in a public forum rather than sent to potential suppliers. Many countries require that all business opportunities with the government be advertised through an RFT. A request for information may be sent to suppliers before the RFT is published; that request asks vendors to describe the suitability of their product or service for the upcoming tender. In this section we review the principles of sound solicitation and present solicitation steps from development of the RFT to contract award.

FOLLOW SOLICITATION PRINCIPLES

Finalize the RFT. It is advisable and often necessary to have the final version of the RFT (including contract boilerplate, proposed commercial terms, and evaluation criteria) reviewed by the legal, procurement, and project management departments.9

Hold a pre-tender meeting. For larger procurements, hold a pre-tender meeting of potential bidders to discuss the RFT process. Distribute a record of the meeting and all information shared at it to all potential bidders.

Keep good records. The procurement team should keep a list of contact names, addresses, and phone numbers of suppliers receiving the RFT. If suppliers request additional information, all questions and answers should be recorded and communicated to all suppliers on the list. This ensures that all suppliers have access to the same information in preparing tenders.

Confirm receipt of tenders. All tenders should be time and date stamped when received, and the contents of each validated. For a large competition based on price, tenders should

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8 There are many types of solicitations, such as requests for proposals, requests for quotations, and requests for offers. This guide uses RFT.

9 Customs administrations are urged to make project management a core competency, perhaps in a project management or risk management unit. The Project Management Institute maintains standards for and offers certification in project management. See www.pmi.org.
be opened in a public venue to which observers have been invited to ensure transparent and ethical proceedings.

**Enable auditable and transparent selection.** Tenders should be analyzed on the basis of published criteria in the format of a comparative analysis matrix, and all recommendations should be documented carefully.

**Provide objective evaluation criteria.** Evaluation criteria should be described clearly and based to the greatest extent possible on objective factors to preclude favoritism or subjectivity. The tender documents should indicate the length of the evaluation period and when the award will be announced. Depending on bid complexity and approval processes, evaluation may take four to six weeks.

**Provide additional information fairly and equitably.** While the invitation is still open, potential bidders will often seek additional information or clarification. To ensure fair and equitable treatment of all bidders, details provided to one that could materially alter the understanding of a requirement or provide a competitive advantage must be shared promptly with all.

**Obtain additional information ethically.** During evaluation, administrations may seek further information from bidders. Questions should be in writing and should not deviate from or amount to soliciting late or amended bids beyond the bounds of the initial invitation. This will help ensure that the selection process can withstand a probity audit.

**Make no verbal or informal commitment.** The procurement team should not make any verbal or informal commitment of award before the letter of intent is issued, the contract is formally signed, or the purchase order released.

**Avoid conflicts of interest.** An administration’s personnel should act responsibly and professionally in dealing with industry representatives. Personnel should report perceived conflicts of interest, deal with suppliers even-handedly, and not compromise themselves or the government by accepting gifts or hospitality. The terms of engagement for ICT consultants assisting with procurement should make it clear that they and/or their company are precluded from being bidders because their involvement gives them an unfair advantage.

### DECIDE WHETHER TO INCLUDE SET-ASIDES FOR LOCAL BUSINESSES

<table>
<thead>
<tr>
<th>Evaluation criteria can express a preference for a local business to be a primary or secondary solution provider: Reasons for having a local provider include the following:</th>
</tr>
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<tbody>
<tr>
<td>• Supports the national economy</td>
</tr>
<tr>
<td>• Ready access for troubleshooting</td>
</tr>
<tr>
<td>• Lower costs for equally acceptable solution</td>
</tr>
<tr>
<td>• Language customization</td>
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### SELECT THE TENDER PROCESS

Broadly speaking, the purpose of IT contract procurement is to identify a supplier on the basis of team quality, agreed costs and program, and appropriate transfer of risk. Buyers
usually choose suppliers on the basis of lowest cost. There are many types of tender processes; here we describe one-stage and two-stage tendering. Tenders may also be open or restricted. Restricted tendering means the administration seeks in a nondiscriminatory manner bids from at least three suppliers from which the goods or services are known to be available. Frequently, such suppliers are selected from an approved list maintained by the government. Restricted tenders may also have other conditions such as being open only to companies in the country.\textsuperscript{10}

**ONE-STAGE TENDERING**

In one-stage tendering, bidders submit at one time their technical and financial responses as distinct sections. The technical section is first reviewed for conformance. If the technical section conforms to RFT requirements then the financial section is reviewed.

**TWO-STAGE TENDERING**

Two-stage tendering is usually used to achieve an early appointment of a supplier to a contract. In the first stage a preferred contractor is competitively selected for further negotiation on the basis of limited information. Bidders submit tenders without a price. Tenders may cover the goods’ technical aspects, quality, or other characteristics; services; contractual terms and conditions of supply; and the bidder’s professional and technical competence and qualifications. The administration may then negotiate in the second stage with any potential supplier whose tender has not been rejected.

In the second stage negotiations between the buyer and preferred suppliers are handled cooperatively. Bidders whose tenders have not been rejected are invited to submit final offers with prices for a single set of specifications. In formulating these specifications, administrations may modify the original RFT with regard to the technical or quality aspect of the goods or services and any criterion for evaluating and comparing tenders and for ascertaining the successful tender, and may add new characteristics or criteria. Any alteration should be described in the invitation to submit final tenders.\textsuperscript{11}

In sum, the purpose of the first stage is to find the right fit and the purpose of the second is to negotiate the right amount.

**DEVELOP RFT AND COLLATERAL BIDDING DOCUMENTS**

Bidding documents, including contractual clauses, technical requirements, and bid evaluation methods, should reflect the procurement strategy. Depending on the complexity of the project, the package of bidding documents could include prior studies, cost estimates, and information on legacy systems. The documents may obligate the

\textsuperscript{10} Another type of restricted tender is a direct correspondence solicitation. This type of tender is not advertised. For most public procurements, a public solicitation is preferred, but private bidding or direct solicitation may be acceptable or even preferred when a contract will not exceed a threshold amount or when products or services are necessary but had not been anticipated in project estimates. Other exceptions include emergency work, unforeseen circumstances, and national security.

\textsuperscript{11} See, for example, New South Wales, Australia’s procurement policies: \url{http://www.nswprocurement.com.au/tenders.aspx}
provider to provide specific makes and models for equipment or it may suggest specifics or equivalents. ICT bidding documents include an RFT, which consists of the following:

- Specifications describing the desired product or service
- The conditions of the tender
- Evaluation criteria
- Information on relevant procurement policies
- Closing date, time, and place
- Mandatory conditions of participation
- When the debriefing interview will occur
- Guidance on the process for purchasing software, i.e., laws and regulations
- Standard contract terms and conditions.

To ensure comparability in responses, the RFT or supporting documents should do the following:

- Define ready-made equipment and materials (e.g., servers, desktop computers, printers), with preinstalled software packages and consumables only (e.g., paper print cartridges), so there is no unusual prebid uncertainty (i.e., site visits or a prebid conference would be the exceptions for which additional information may be provided).
- List the services and work elements that are incidental to the purchase and that are to be included in the price of the goods, such as installation (including wiring of local area networks) and standard training on hardware and software.¹²
- Define mandatory and preferred qualifications for key personnel, particularly project manager and lead trainer. For a major project, bidding documents may stipulate qualifications in project management, experience, and university degrees or certifications.
- Provide straightforward logistics for contract implementation in a mutually agreed timeframe. This may be in the form of milestone dates (e.g., “Within 60 days of the signing of the contract the contractor will submit …”).
- Ensure that the technical support provided is solely a part of the vendor’s or manufacturer’s standard warranty provisions for the products and the licensed use of the software packages. These warranties are generally provided for up to three years.
- Provide for hardware upgrades or replacement during the contract life cycle.¹³
- Require the bidder to estimate postcontract costs for license renewal and system maintenance. For example, a software solution probably will have an operating system license for a set number of users or stations that must be paid for annually. Associated costs will affect the administration’s budgeting over the long term.
- Provide a payment schedule with checkpoint requirements for release of payment (e.g., when XX module has been delivered, tested, and signed off as delivered, YY percentage of the contract value will be released to the vendor).

¹² A general rule is that the training should cost no more than 15 percent of the value of the entire procurement. If the new software is combined with significant business process reengineering then this percentage can change significantly.

¹³ During long-term contracts, computers wear out and become obsolete.
• Define requirements for a bidder contract plan that includes high-level activities, dates, and responsible parties for the delivery of the activity, as well as incorporation of milestones for release of payment.

A government agency may turn to independent experts to define business, user, and technical specifications. Such experts must not have any relationship with potential bidders because this constitutes a conflict of interest. If a conflict of interest is discovered, the bidder should be disqualified from being awarded a contract. It is acceptable, however, for an agency to seek general information from potential bidders when developing an RFT\(^\text{14}\) and for potential bidders to seek general information from the soliciting agency when developing a tender. In developing bidding documents, the administration or the independent expert may

Analyze existing systems for interoperability (a metadata analysis of systems may clarify issues of interoperability with stakeholders’ internal and external systems)

• Determine ancillary investments needed to ensure that a system will be operable\(^\text{15}\)
• Determine change management activities
• Specify data migration and loading requirements
• Specify institutionalization of technical capacity
• Specify operations support.

## INTELLECTUAL PROPERTY RIGHTS

The procurement should deal with the ownership of intellectual property related to the ICT system. For most commercial off-the-shelf sales the supplier retains intellectual property rights. In a build-own-operate-transfer contract the purchaser may be able to assert intellectual property rights. Those rights need to be carefully spelled out in the RFT by the procurement team because retention or transfer of intellectual property will have a significant effect on cost. This is because the owner of the rights has the opportunity to resell or lease them to other potential users of the solution.

## FORM EVALUATION TEAM

The evaluation team should be drawn from the administration and stakeholders and should include subject matter experts (e.g., an ICT systems expert, an engineer, a lawyer, a financial expert or accountant, an economist, somebody with a business background, procurement specialist).\(^\text{16}\) Sometimes consultants or other outside experts are recruited to be on a team to add international expertise and an independent perspective. Such experts, however, must not be associated, directly or indirectly, with bidders.

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14 Such information may pertain to material in marketing brochures.

15 For example, customs posts without electric power would need to have power.

16 Private sector stakeholders and representatives from other government agencies (as potential system users) or donor funding organizations may be included in the evaluation.
EVALUATE TENDERS

The evaluation team assesses the bidder’s ability to execute a prospective contract on the basis of criteria stipulated in the RFT. The RFT should indicate the relative importance of proposal parts (e.g., management, past performance, technical capabilities, contractors, cost), assigning weights to each; should describe how past performance will be evaluated, including how bidders with no relevant performance history will be judged; and should provide bidders an opportunity to describe past or current contracts and work done (including federal, state, and local government and private) for similar efforts. The final step in evaluation is due diligence. This entails checking the bidder’s financial stability, evaluating the bidder’s technical capacity for formal project management, and checking the bidder’s general record and reputation—including pending litigation or previous judgments against the bidder.

TECHNICAL EVALUATION

The evaluation team should be led by a senior member of the administration. Ideally, each member of the team evaluates each technical proposal independently. Evaluations are then compared and discussed in a group meeting to remove uncertainty or answer questions about a proposal’s compliance using a simple, color-coded checklist:

- Compliant or technically acceptable (green)
- Clarification required or susceptible to being made acceptable (yellow)
- Noncompliant or unacceptable (red).

The compliance checklist in the bidding documents should cover all criteria so bidders and evaluators alike can check compliance. The evaluation team usually reserves the right to reject bids that do not meet requirements.

Evaluation criteria should focus on the improvement of the administration process and achievement of business outcomes, not only on technological solutions and reducing costs. The criteria are the same as the criteria for meeting technical requirements spelled out in the bidding documents. Proposals are deemed acceptable or unacceptable on the basis of those criteria, which may include the following.

- Meets minimum qualifications for corporate net worth, financing capacity, proper incorporation, and operational experience
- Has acceptable general record and reputation (e.g., criminal history, civil actions).
- Offers minimal service level target.
- Guarantees required quality of service.
- Offers technical solution allowable by laws and regulations
- Offers a technical solution that is field proven, deployed in at least two projects for which references are provided, and can provide the service required by the bidding documents.
- Offers to develop or has in development solutions that might meet the service required by the bidding documents as an alternative to a field-proven solution.17

17 If a system has not been built, tested, or proven, it has a much higher risk of failure. To compensate for that risk, the administration should require a much higher reserve value (amount of money held
Within a stipulated period after tender closing (e.g., a maximum of one month), the procurement director and the evaluation team should determine which bidders have met the minimum service obligations and the minimum standards for corporate, financial, technical, operational, and quality matters. No matter what the bidding process, the financial offers of bidders whose technical proposals do not meet minimum standards will not be considered further.

**FINANCIAL EVALUATION**

The financial proposals of bidders whose technical responses meet published qualification criteria will then be evaluated. The lowest bid does not always win. Full life-cycle costs should be considered—for the administration, for the government in general, and for users, including traders. If, for example, traders will be charged a fee—direct or indirect—for using the system, the total cost to trade should be measured. A fee paid for an import drives up the retail cost of goods; fees paid on exports can reduce export competitiveness. Cost and payment structures should be considered throughout procurement, not just during evaluation.18

**SHORTLISTING**

When competition is tight, the evaluation team may shortlist bidders, narrowing the selection range by requiring them to clarify their proposals, deliver oral presentations, or provide demonstrations of proposed solutions.

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**CONDUCT DUE DILIGENCE**

Due diligence should include running an Internet check of a bidder’s reputation, using terms such as “[company name] criminal”, “[company name] fraud”, “[company name] lawsuit,” “[company name] owners,” and “(owner’s name) criminal.” Adverse information should be verified through other sources. Also ask for a complete list of where the vendor’s system has been implemented. Contact the customs administrations and perhaps even visit to see the system at work.

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**ISSUE LETTER OF INTENT AND AWARD**

The evaluation team issues a letter of intent to the winning bidder, notifying it of award and requesting acknowledgement and willingness to negotiate a contract. After the bidder acknowledges award, evaluation results can be made public. Bidders that did not win may request a proposal evaluation and may lodge a complaint if they are not satisfied with the explanation. At the time of contract signing or shortly thereafter, the winning bidder usually furnishes a performance bond or bank guarantee (as required by the bidding documents). Bonds and other guarantees protect the administration if the vendor fails to deliver. Carefully review each of these terms.

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18 Issues described in Section 4, Cost and Payment Structure, need careful consideration. Some payment schemes have a greater impact on a nation’s economy than others.
LETTER OF INTENT
Confirming the basic understanding of parties that intend to enter into contract, a letter of intent authorizes the winning bidder to begin work pending conclusion of contract negotiations. It is useful when either the vendor or the agency, or both, is awaiting internal approvals or when immediate action by the vendor is required. It may be better to define a specific limited scope of work and issue a purchase order to cover limited requirements pending negotiation of a complete scope of work with complete funding.

The letter of intent should include a mini scope of work and schedule and a not-to-exceed price. To be as complete and definite as possible, it may include general provisions for contract type. It must lead to a fully defined contract or be subject to a negotiated settlement agreement if the parties do not agree on the continued progress of the work. Because a letter of intent does not include all standard contractual terms and conditions and may not allow for payment for expenditures, finalizing a negotiated agreement soon after the letter is issued is in the best interest of all.

PROPOSAL EVALUATION
Informing losing bidders why their proposals were rejected is important to the decision-making process. Evaluators must explain why a proposal is considered nonresponsive or a bidder nonresponsible. For example, a nonresponsive proposal might neglect to provide mandatory information or documents requested in the RFT. A nonresponsible bidder, although supplying all requested information, might not be able to fully satisfy requirements defined in the RFT or might be financially unstable or unable to complete the project in a timely manner.

Documenting the reasons why a proposal is rejected is more difficult than merely identifying it as noncompliant. Spend the time needed to honestly and properly communicate reasons for rejection. The more specific, complete, and honest the reasons for the rejection, the more difficult it will be for rejected bidders to contest your decision. It is not appropriate to release financial, product, or service information—especially proprietary or confidential information—of the winning bidder to losing bidders.

PERFORMANCE BONDS AND BANK GUARANTEES
A performance bond insures against a contractor’s failure to perform. Alternatives include bank guarantees and cash deposits. Bonds are preferred because they are more cost-effective for the contractor. Whatever guarantee is used it should cover the total cost of the project. Why? The contractor may receive partial payment at established milestones, but if the contractor fails to provide the final deliverable, the administration may find itself back at square one without a working system but plenty of expenditure.
Cost elements and structures for the purchase and installation of ICT solutions vary from country to country and from vendor to vendor. Payment structure and components of the final price depend on the state of the current ICT system, the upgrades necessary to make the chosen software fully functional, whether suppliers can use local experts for maintenance and installation, the content of the purchase and maintenance contract, and the length of the contract. Installation, post-installation, licensing and maintenance figure in most pricing structures for customs systems.

When evaluating a financial proposal, the evaluation team should consider life-of-project costs, which include software installation, fees, and post-installation costs. If maintenance and licensing are necessary but not included in the price quote, a revised quote covering all cost factors should be requested.

**INSTALLATION COSTS**

Installation costs include the following:

- **Initial payment/investment for implementation.** This usually includes the initial price of the goods/software and the main costs of installation. Software will either be purchased or developed.
- **Installation service fee.** If applicable, the fee is negotiated with the supplier during contract award.
- **Integration fee.** This is relevant if software is very specific to one function and needs to be integrated into a larger system.
- **Migration fee.** This is relevant if the software replaces an existing system and data must be moved from the legacy system to the new system.
- **Expert consulting.** Consulting is often covered by installation costs but is sometimes treated as a separate line item for installation and for initial software training.

**POSTINSTALLATION AND MAINTENANCE COSTS**

These include a combination of the following:

- **Support function fee.** This fee is often treated as a cost distinct from the purchase price of the system. It is usually set for a fixed period at the end of which the
The support fee can sometimes be just as significant as an initial investment and should be seriously considered during bid evaluation, as follows:

– What is the time period for the fee?

– What level of maintenance is provided? Does it cover training of in-house staff or only external or remote support? Maintenance can be provided through a local partner or remotely, and these options may be priced differently. To ensure sustainability, some suppliers only provide technical assistance through a local firm.

– If support is provided by an outside entity, is it a local or international firm?

– Is there a plan to transfer support responsibilities to an in-house function or local supplier?

– What are the software licensing costs and fees? Are they paid annually and fixed for the life of the contract? Do licensing models depend on the volume of transactions? If so, what is the potential impact of an increase or decrease in trade transactions? Will fees increase significantly over the period of the contract and affect traders’ costs?

- **Training costs.** Depending on the supplier and the administration’s needs, training may be offered for installation, operation, and/or maintenance. As with any deliverable, training requirements must be specified in the contract (e.g., number of persons to be trained, length and quality of training, whether related costs are one-time or steady over the life of the project).

### Paying Party

Some administrations pay for their ICT solutions by charging importers transaction fees calculated on the basis of import value or percentage fees calculated on the basis of the amount of revenue collected by the administration. When the private sector will have to pay such fees, its opinion on the pricing mechanism should be solicited before the RFT is released, perhaps in a working group. Before entering into a percent-of-import/export value or revenues payment scheme, final consumer costs should be considered. This applies to import and export fees. Export fees may reduce competitive advantage for national manufactures and exporters. In addition, if the country is a member of the WTO, fees must comply with GATT Article VIII and be established at the level or approximate level of cost (GATT Article VIII recognizes that exact costs for each transaction may be difficult to calculate). For example, cost-based user fees acceptable to the WTO have been established in bracket amounts. The bracket amount recognizes that low-value shipments have costs and that costs increase with shipment value but do reach a maximum. Calculation of cost-based user fees takes careful consideration.

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19 After all, fees charged as a percentage of import value will be passed on to retail consumers and could affect consumption patterns. For example, a 1 percent fee may mean a cost hike of 4 percent or more for retail consumers based on general markup through the sales chain.
5. CONTRACT ISSUANCE AND MANAGEMENT

The success of projects or programs requiring ICT support depend on ICT services being contracted in the most appropriate and efficient way. A clearly worded contract that lays out contractual terms and conditions supports delivery of programs and projects to the benefit of government, industry, and service users. In this section, we present the steps necessary to issue and manage an ICT contract.

FOLLOW CONTRACTING BEST PRACTICES

A contract is a written record of the obligation of the ICT supplier and the customs administration. Contracting best practices aim to ensure

- Successful and reliable delivery of services
- Value for money, including avoidance of unnecessary costs
- Due compensation if the contractor does not perform as agreed
- Recognition of the administration's role in facilitating delivery
- An equitable balance of risk, with responsibilities assigned to those best able to manage it
- Acknowledgment of the importance of business social behaviors in the delivery process (i.e., courtesy, requests with adequate lead time for response, and timely response to requests)
- Commitment to working together for the success of the program
- Realistic delivery schedule, including reserve time
- Existence of funding reserves and procedures for activating them

- A healthy and profitable project delivery for the contractor.

20 Project managers may activate project reserves; a contracting officer or the customs administration may have to approve the use of management reserves. Unused reserves are not automatically paid to the contractor but are returned to the administration. Reserves permit the contractor to give lower bids with an acceptable risk margin. Without them, contractors tend to pad bids to account for likely cost overruns.
In their tenders, bidders may offer warranty extensions that raise the purchase price but lead to long-term savings by doing away with annual maintenance fees. Service- or operating-level agreements are essential in ensuring that the administration and the contractor fully understand the terms and conditions of any ICT maintenance agreement.

Rapid growth in the use of ICT has prompted customs administrations to consider how to reduce the environmental impact of ICT products and services. Management of impact should be an ongoing and evolving activity. Approaches to life-cycle costing will vary depending on project requirements, progress in managing environmental impact, resource availability, priorities and stakeholder expectations. An RFT should include an evaluation of life-cycle costing for the ICT procurement. Payment and discount rates should be comparable as the payment schedule will be laid out in the RFT.

An ICT contract should cover not only normal contractual terms and conditions but also other terms and conditions specific to ICT:
- Performance guarantee
- Financial security
- Confidentiality
- Privacy and disclosure of personal and security information
- Delivery period
- Performance review
- System requirements
- Licensing arrangement
- Intellectual property rights
- Training
- Site specifications and preparation
- Title and risk
- Escrow of source code
- Acceptance testing
- Payment schedule

Figure 5-1 summarizes the types of ICT goods and services that can be contracted for and can be helpful in developing an ICT contract.

GET EXPERT HELP

Few customs administrations have ICT contracting experts. Hiring an independent expert—an expert not linked to any solution provider—may be worthwhile to help develop the contract and management plan. The expert may help all the way from needs analysis to validation of the final contract and can transfer skills to the administration’s procurement team. The government will be responsible for determining the requirements, but independent expertise and stakeholder input can raise the likelihood that the government will make informed decisions.
The contract management phase of the procurement life cycle, which is when goods and services are delivered, often receives the least management attention—until something goes wrong. From the contractor’s perspective this phase is important because performance in this phase will influence whether future business is won or lost. Here, performance pertains to the delivery of required goods or services in full, on time, and to specification; to the relationship built with the administration; and to any value added delivered.

Although the contract is a record of each party’s obligations, it is not a management tool. A contract management plan, not the contract, should become the first point of reference. Formalized after contract negotiation, the management plan is usually updated throughout the life of the contract and may cover transition activities. For larger projects, or when transition is significant or critical, a separate transition plan is developed.

The contract management plan might present the following:

- A summary by date of milestones and deliverables, including contract review and lead time for any re-tender or renewal
- The names of persons in the administration and in the supplier’s employ pertinent to contract implementation (e.g., contract manager, governance board)
- A schedule of risks to be monitored and managed
- Reporting requirements (e.g., frequency and content of supplier reporting, or content, frequency and distribution of internal reporting, such as monthly reporting of service statistics to senior managers)
• Meeting schedules, standard agenda items, use of standard project management tools (e.g., regular earned value measurements)\textsuperscript{21}
• Processes for achieving some contractual obligations (e.g., how a regular survey of staff satisfaction with the new ICT system will be carried out, and sample size)
• Each party’s approval process and authorities for contract deviations (usually presented in a formal change management plan)
• Details of any ordering procedure (e.g., ordering of hardware)
• Payment procedures and level of detail to be provided on invoices (e.g., asset numbers) and the format of electronic invoices.

MANAGE CHANGE
Because every ICT project undergoes changes after the contract is signed, a formal process for managing such changes is imperative. When the administration requests a change, the contractor must identify its impact on project time and cost. The administration can then either proceed with the change or not. When the effects of changes on time and cost are not considered, the project is at risk of being terminated or failing.

ENSURE DELIVERY
Managing service delivery entails creating a well-structured service schedule or agreement, with clearly defined targets for performance and reporting. Reporting frequency will depend on the services, but a good rule of thumb is to require monthly reporting on primary services. The format of the contractor’s reports should enable a quick grasp of delivery problems (e.g., a traffic light–type system of red, yellow, green for key services).

REVIEW SUPPLIER PERFORMANCE
Keep track of and score the contractor’s service quality, delivery, and pricing habits, and share scores with the contractor so what is important to the administration is understood. Scorecards can be used to monitor contract performance and the award, issue, and management of future contracts. Used in a variety of industries, scorecards cover such criteria as quality, delivery, total cost, and service. Level of service is increasingly essential. Scorecard criteria should be well defined and objective to ensure consistent evaluation and to make it possible to evaluate all potential suppliers. Criteria should also be weighted explicitly, with factors clearly stated and defined, not assumed, so suppliers and buyers alike understand relative importance. Most scorecards assign the most weight to quality, delivery, and total cost, but this may not be appropriate for all organizations, because weighting depends on the commodity, organization, funding, and other factors.

\textsuperscript{21} Earned value management (EVM) is a project management tool that measures progress in terms of time and cost and is required in some countries for high-cost projects. If used regularly, even as often as every two weeks, EVM makes it possible to make corrections that avoid cost or time overruns.
REVIEW CONTRACT

When the administration has a continual requirement for goods or services, it may exercise an option (if one was included in the contract) to extend the contract term, or it may seek bids for a new contract. Before deciding on an approach, the administration should formally review the existing contract. If the administration uses a neutral external expert for this review, the contractor may accept the findings more readily.
The value of attending to detail during procurement and contract management will become apparent during launch of the ICT project. Good communication will be essential in ensuring that stakeholders and participants are ready for launch, and implementation proceeds to successful delivery. Key points include:

- Elaboration of project plan steps to the work breakdown level
- Monitoring of progress to control time and cost
- Updating and monitoring of project risks
- Making necessary subprocurements
- Following the change management plan
- Communicating with stakeholders
- Managing training and human resources
- Testing and signing off on deliverables.

The system supplier has a project manager and will have a project team, but is not responsible for the administration’s business process changes. It is recommended that there be two project managers, one from the supplier and one from the administration. To protect investment made thus far, the administration should monitor and manage the supplier’s performance through routine reviews of progress against a project plan that tracks the time and cost of deliverables. And no ICT project is complete until the administration signs off on deliverables. This means that each specified component of the ICT system has been thoroughly tested and is functioning to the satisfaction of the administration.

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22 ICT project implementation and associated changes in business processes can be combined into one project plan using Project Management Information Software (PMIS), which permits linking a business process change with ICT rollout. Several PMIS solutions are commercially available.

23 Such changes encompass those that capitalize on the new ICT system. For example, eliminating paper declarations in favor of electronic declarations when supporting documents (e.g., commercial invoices, packing lists, and transport documents) may no longer be included changes the business process and recordkeeping requirements of customs administrations, customs brokers, importers, transporters, and other private sector actors in the supply chain.
At project closeout, all documentation should be gathered and archived. The administration should review lessons learned with the entire project team and stakeholders. This review can prevent costly mistakes from recurring and increase the probability of success in future projects.

This guide does not cover all best practices and standards for the distinct discipline of project management. But standards followed by hundreds of thousands of project managers throughout the world are available at http://www.pmi.org/PMBOK-Guide-and-Standards.aspx.
7. ICT PROJECT TOOLKIT

Many USAID-sponsored projects entail ICT procurement. The following reference materials, found on the CD-ROM accompanying this guide, include templates provided to the customs administration of Jordan by the USAID-funded AMIR program:

- UN/CEFACT Recommendation 33
- UN/CEFACT Recommendation 35 (draft)
- Model business case
- Writing ICT Procurements
- Sample RFT with cost template
- RFT scoring guidelines
- Sample vendor evaluation matrix
- Sample cost questions
- Project management templates
- Model procurement timeline (in .mpp, .xls, .pdf files)