



PROCUREMENT METHODS

BY

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OBJECTIVES

- This course is aimed at helping the contractor to understand:-
 - Difference between Procurement and tendering
 - Identify tendering and procurement methods
 - Places to seek for tendering and procurement opportunities

WHAT IS PROCUREMENT?

Dictionary definition:-

- Procurement is to **obtain** or **acquire**, especially by care or effort.

All **public** projects are expected to prescribe to the the The Public Procurement

Act, 2015 which defines procurement as:-

“means the acquisition of goods, works or services by any means, including, where applicable, purchase, rental, lease or hire-purchase, and the acquisition of works, and consulting or other services.”

Differences Between Tendering And Procurement

Procurement: the whole series of activities resulting in acquisition resources from external sources as per specified requirements. In this case, a contractor would be procured to give construction works services

Tendering; one formal method through which clients and service providers (contractors, sub contractors and suppliers) are linked together for a possible business relationship. So tendering is a form of procurement

CONSTRUCTION PROCUREMENT

- Construction procurement mostly refers to the process of competitively:-
 - ❖ Selecting a **Contractor** carry out the work on the basis of either specifications and drawings or Bills of Quantities, where the **lowest responsive tenderer** is awarded the contract (Ramus and Birchall, 1996)

PROCUREMENT METHODS

➔ **Methods of procurement can be divided generally into two:-**

1. Public Procurement
2. Private Procurement

PUBLIC PROCUREMENT METHODS

► The Public Procurement and Asset Disposal Act (2015) provides for 12 main procurement methods:-

1. Open Tendering most preferred method)
2. Two-Stage Tendering
3. Design Competition
4. Restricted tendering
5. Direct Procurement
6. Request for Quotations
7. Electronic Reverse Auction
8. Low Value Procurement
9. Force Account
10. Competitive negotiations
11. Request for Proposals
12. Framework Agreements
13. Any other method prescribed in regulations and stated in the tender document



Methods continued

The procuring entity can choose any of the above methods by first pre-qualifying contractors or they can choose to put an open tender where everyone eligible is allowed to bid

OPEN TENDERS

- ❑ Open bidding is the **most preferred** procedure for public procurement. The steps involve;
 - ❑ Advertisement ; government portals and websites, in at least 2 national dailies, notice boards
 - ❑ Preparation of tender documents
 - ❑ Provide the tender documents to tenders, a fee may be paid

TWO STAGE TENDERING

- used where due to complexity or inadequate knowledge in projects, it is not possible to give detailed specifications at that time
- 1st Stage , tenders contain their proposals without a tender price
- 2nd stage , successful tenders are called to provide detailed bids with the tender price as per set specifications



DESIGN COMPETITION

- This is used to determine the best architectural, physical planning and any other design scheme, engineering, or graphic.
 - The invitation, evaluation and award will be as per the Act.
 - Best three assessed designs are given an honorarium
 - All bidders transfer copyrights, intellectual property rights and patents relating to their design.
 - This is majorly applicable to consultants unless the contractor offers design and build services
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RESTRICTED TENDERING

- ❖ Restricted tendering refers to a process in which few bidders are identified and invited to bid.
- ❖ Restricted tenders are not advertised. Restricted tendering may be used;
 - (i) when the process is complex or the specialized nature of the goods, works or services favours pre-qualified contractors;
 - (ii) when the time and costs for examination and evaluation of the large number of tenders would be unequal to the value of goods to be procured;
 - (iii) when there are only few known suppliers of goods, works or services sought after; and
 - (iv) whenever the Tender Committee gives approvals and reasons in favour of Restricted Tendering.

DIRECT PROCUREMENT

- ❖ Direct procuring means buying goods and or services from a single source.
- ❖ Section 103 of the Act states that Direct Procurement may be used if the intention is not to avoid competition in addition to the following conditions, either when;
 - (i) there is only one person who can supply the goods, works or services being procured; and
 - (ii) there is no reasonable alternative or substitute for the goods, works or services; or
 - (iii) there is an urgent need for the goods, works and services being procured;
 - (iv) the other available methods of procurement are impractical; and
 - (v) the circumstances that gave rise to the urgency were not foreseeable and were not the result of the negligent or slow conduct on the part the procuring body.



REQUEST FOR QUOTATIONS

- ▶ This is used when;
 - ▶ value of works is less than or equal to the maximum value allowed for using RFQs.
 - ▶ for goods, works or services that are readily available in the market
 - ▶ or for goods, works and services where there is an established market



LOW VALUE PROCUREMENT

- This is used where;
 - An entity is procuring low value items which are not procured on a regular or frequent basis and are not covered in framework agreement;
 - the estimated value of the goods, works or non-consultancy services being procured are less than or equal to the maximum value per financial year for that low-value procurement procedure as may be prescribed

FORCE ACCOUNT

- ▶ A procuring entity may use force account by making recourse to the state or public officers and using public assets, equipment and labour which are competitive and where;-
 - ▶ quantities of work involved are small and scattered or in remote locations for which qualified construction firms are unlikely to tender at reasonable price and the quantities of works cannot be defined in advance
 - ▶ unforeseen and urgent work is required to be carried out without disrupting on-going operations
 - ▶ the procuring entity is to complete works delayed by the contractor after the written warnings did not yield any tangible results
 - ▶ This method shall only be applied— (a) with the prior approval of the accounting officer; (b) within the limit prescribed in Regulations; (c) where the total cost of procuring the goods, works and non-consultancy services are, at most, set at the prevailing market rate

ELECTRONIC REVERSE AUCTION

- For an accounting officer of a procuring entity to be qualified to use the reverse auction method it shall possess— Conditions for use of Reverse Auctions. (a) a procurement portal; (b) an appropriate secure software with electronic procurement capabilities and functionalities approved by the Authority
- In the reverse auction method of procurement— Procedure for Reverse Auction. (a) a procuring entity shall— (i) invite all registered suppliers in the specific category to compete; (ii) advertise its requirements on its website including the period of time and goods specifications; (b) the prices of bidders within the prescribed time shall be visible to other bidders without revealing the bidder's identity; and (c) a pre-qualified supplier shall not revise its bid upwards within the prescribed time.
- Subject to the reserve price set by the procuring entity, the successful bid shall be the bid with lowest price at the bid submission deadline



FRAMEWORK AGREEMENT

- ▶ A procuring entity may enter into a framework agreement through open tender if— (a) the procurement value is within the thresholds prescribed under Regulations to this Act; (b) the required quantity of goods, works or non-consultancy services cannot be determined at the time of entering into the agreement; and (c) a minimum of seven alternative vendors are included for each category (2) The maximum term for the framework agreement shall be three years and, for agreements exceeding one year, a value for money assessment undertaken annually to determine whether the terms designated in the framework agreement remain competitive

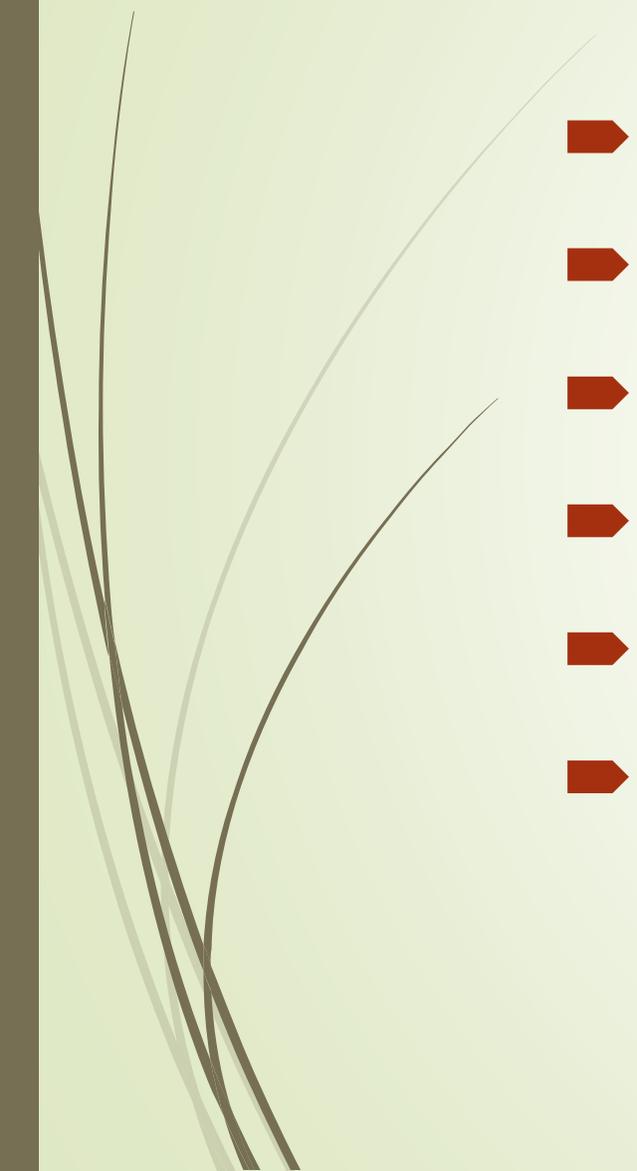


PRIVATE PROCUREMENT METHODS

- This majorly follows the public procurement methods; but the most commonly practiced method involves restricted tendering where clients through the consultants will give tenders to those they have been referred to. Open tendering is quite rare in private procurement methods



WHERE TO GET TENDERS FROM

- Newspapers
 - Government portals
 - Various websites
 - Social Media
 - Notice boards
 - Referrals
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LEGAL PROVISIONS IN PROCUREMENT/TENDERING

Procurement is governed under the following laws in Kenya:-

- ❖ The constitution - Article 227
- ❖ The Public Procurement and Assets Disposals Act(Act of 2015)
- ❖ The Public Procurement Regulations, 2006, 2011, 2013
- ❖ Legal notices No. 106 and 114
- ❖ Procurement Manuals and Standard tender Documents
- ❖ Government Circulars