

# The PPP Procurement Process

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## Concepts and Procurement Stages

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# Overview

- Public Procurement Regulations
- Competitive Dialogue
- Framework Concepts
  - PPP Procurement process
  - Nature of Tender document
  - Risk transfer
  - Payment Mechanism
- The Stages to the PPP procurement process
- Role of PPP Unit



# Public Contracts Regulations, 2005

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Came into force on 3 June 2005 (L/N 177/2005).

Underlying principles:

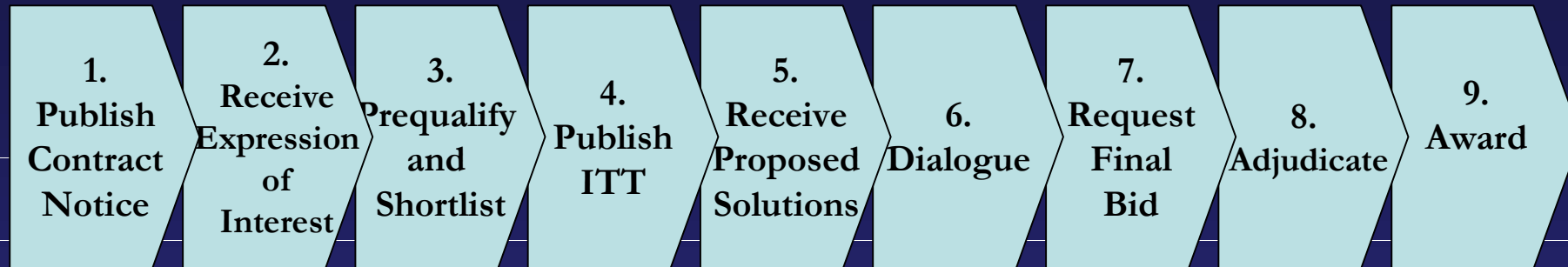
- No discrimination between economic operators (tenderers);
- Transparency;
- Confidentiality of information provided by economic operators;
- All public procurement to be undertaken by public contract.



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# Competitive Dialogue – Section 47



- Used in ‘particularly complex’ projects.
- Director of Contracts determines whether Competitive Dialogue can be used.
- IF YES – Director of Contracts will recommend to the Minister of Finance that an ‘ad hoc committee’ be appointed to conduct the Competitive Dialogue on behalf of the contracting authority.
- The ad hoc Committee shall operate under the supervision of the Director of Contracts.



# Competitive Dialogue – Section 47 (Cont...)

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- A process of discussion and review leading to a refinement of the tendered solution and the requirement;
- Carried out between the individual tenderer and the authorised representatives of the Contracting Authority;
- Information gathered from tenderers is confidential and cannot be divulged to other tenderers;
- Process covers broad package and is not solely price based – but price is a key indicator and comparator to the contracting authority's own benchmark;
- When the Competitive Dialogue procedure ends, tenderers re-submit their final proposal taking account of redefined solutions emerging from the dialogue.



# Framework Concepts

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Procurement process – competitive dialogue type of procedure

- Disciplined, fair, competitive and transparent;
- Multi-stage procurement environment where project scope is reviewed and negotiated with short-listed bidders;
- Allows innovation and leverage of Private Operator capabilities and expertise;
- Initiated through calls for expressions of interest and market sounding.
- Final choice based on most economically advantageous tender.



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# Award Criteria

Most economically advantageous offer according to a number of criteria. In the case of the Mellieha Home pilot project, the following criteria will be adopted:

- Quality of proposal
- Skills, capability and experience of contractors
- Overall price
- Understanding of business needs
- Use of technology
- Off-site support
- Quality plan
- Consideration given to health and safety issues
- Risks and contingency arrangements



# Framework Concepts

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## Nature of tender document

- Project scope is primarily expressed in terms of:
  - Outputs required – what type of service is expected to be delivered;
  - Service level expectations throughout project lifetime – what quality standards need to be maintained.
- Allows for flexibility in delivery methods to enable innovation and leverage of expertise.
- Commitment typically for 15 years and over to encourage long term approach and investment.



# Framework Concepts

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- Template Contract based on the UK PFI model consistent with the Government of Malta's standardised PPP contract to be published shortly. Key features include:
  - Transfer of risk to the sector best able to manage it
  - Payment covers the service element delivered through the PPP project. This means that:
    - First payment only falls due when the service starts – i.e. payment is made only during the operational phase of the project;
    - Payment is reduced when service levels contracted are not maintained.



# Stages to PPP Procurement

## Stage 1- Preparing for Procurement

- Appointment of project procurement team;
- Appointment of advisors (if required);
- Determining whether to adopt a two stage or a three stage selection process;
- Drawing up of a detailed timeline;
- Preparation of Output Specifications and value for money benchmark (the comparator);
- Issue of Contract Notice, Information Memorandum and Pre-Qualification Questionnaire (PQQ).



# Stages to PPP Procurement

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## Stage 2 – Pre-qualification

- Expressions of Interest will be evaluated against the pre-qualification criteria.
- These criteria represent tests of good standing (probity), technical competence and financial strength or capability. These tests are general and independent of each other.
- Once the evaluation of the responses is completed, the applicants should be notified as to whether their candidacy is to be taken forward or not.
- If number of successful candidates exceeds 5, a further round of selection will be required.



# Stages to PPP Procurement

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## Stage 3 – short listing and preparation of ITT

- Requires short listed bidders to focus on the particular project and make a further submission to prove their specific resolve, commitment and approach to the project. This will not involve a costed submission though high level costings are normally requested.
- Responses should be evaluated on their particular merits taking account of this submission. For practical purposes, the number of bidders to whom an ITT is issued should not exceed 3.
- Before issuing the ITT, the original benchmark costings should be updated.



# Stages to PPP Procurement

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## Stage 4 – the Tenders

- Tenderers are normally allowed a period of 2 to 4 months to submit their responses. Meetings may be held to clarify any grey areas in the ITT document.
- Competitive Dialogue will be held separately with bidders upon receipt of submissions.
- Once the dialogue phase is concluded, bidders will be given time to revise and re-submit their tenders as 'best and final offers' (BAFOs).



# Stages to PPP Procurement

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## Stage 5 – Evaluation of BAFOs

- BAFOs should be ranked according to which is the most economically advantageous offer.
- This requires that tests be carried out to ensure that the BAFOs are affordable and offer value for money.
- If the preferred BAFO passes the tests of affordability and value for money, the bidder submitting it should be appointed the 'preferred bidder'.
- Bidders whose BAFOs are rejected should be notified accordingly and reasons given why they were not chosen.



# Stages to PPP Procurement

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## Stage 6 – The Preferred Bidder

- At this stage, the competitive process ends and both parties should work to proceed towards contract signature by settling any minor outstanding contractual details.
- This stage should not take longer than 2-3 months and contract signature should lead directly to the commencement of works.
- It should be made clear to the preferred bidder that no further discussions of commercial substance are anticipated at this stage.



# Stages to PPP Procurement

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## Stage 7 – The Public Private Partnership

- The process of PPP procurement requires concerted effort that may last several months because considerable time needs to be put in during the various preparatory phases.
- If the long term relationship is to succeed, and the PPP to provide the benefits desired, both parties need to manage their inputs into the contract very professionally especially insofar as relates to the ongoing monitoring.



# Stages to PPP Procurement

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## Stage 8 – Monitoring

- Ownership and responsibility has to be exercised by the contracting authority throughout the project.
- Adequate resources must be in place to exercise monitoring effectively from day one of the contract.
- Effective contract monitoring helps to minimise fiscal or programme risks at the outset.



# Role of the PPP Unit

The Unit will:

- Interact with line ministries / entities to help structure ideas / concepts for project implementation under the PPP process;
- Assume a gate keeping role in determining the applicability of a project for PPP procurement;
- Provide assistance throughout the procurement process as and when necessary;
- Participate in project procurement teams / ad hoc committees;
- Assist monitoring units within line ministries / entities in their efforts to ensure that the contracted service levels are adequately maintained.



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