

# **BID EVALUATION**

## **GUIDANCE NOTE**

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## <u>Contents</u>

1.	Context	3
1.1	Overview	3
1.2	Contact	3
2.	What is bid evaluation?	4
2.1	Process	4
3.	Right at the start	5
3.1	Compliance with the Public Contracts Regulations 2015	5
3.2	Create a timetable	5
3.3	Plan sufficient resources	7
3.4	Set up a record keeping process	8
3.5	Agree what a good process looks like	8
4.	Creating the evaluation model	9
4.1	Effective design	9
5.	Balancing the importance of price, quality, and social value	10
5.1	Achieving value for money	10
5.2	Evaluating Social Value	11
5.3	Sequential evaluation of price and quality	12
5.4	Consider Deliverability	12
6.	Evaluating quality	13
6.1	Overall approach	13
6.2	Evaluating Innovation	13
6.3	Objective, proportionate, relevant, clear quality criteria	14
6.4	Weighting Quality Criteria	16
6.5	Design a scoring approach to allow differentiation	16
6.6	Measuring bidder culture in evaluation	16
7.	Evaluating price	17
7.1	Considering price	17
7.2	Relative price scoring	17
7.3	Price per quality point and benchmark price scoring	18
7.4	Contingent and assumption based pricing	18
7.5	Low cost bids	19

8.	Test and publish the evaluation model	21
8.1	Calculating MEAT	21
9.	Apply the evaluation model	22
9.1	Use the published model	22
9.2	Clarification of bids	22
9.3	Moderation and consensus scoring	23
9.4	Post-bid submission bid differentiation	24
10.	Finalise the award process	25
10.1	Notify bidders and provide feedback	25
10.2	Complete an evaluation report	26
11.	Appendix I: Calculating the number of evaluators required	27
12.	Appendix II: Price per Quality Point	28
13.	Appendix III: Potential weighting methodologies	29

## 1. <u>Context</u>

- 1.1 Overview
- 1.1.1 Whether for a complex procurement, or a more straightforward contract, a wellplanned and implemented bid evaluation process is critical to deliver value for money. This note builds on the guidance provided in chapter 10 (pages 48-51) in the Sourcing Playbook.
- 1.1.2 Bid evaluation is a complex topic and this guide should not be considered as a replacement for departments in ensuring suitably qualified and experienced practitioners, with appropriate legal advice, design, oversee and run the bid evaluation process for procurements.
- 1.1.3 It is a collection of good practice guidelines aimed at practitioners who are responsible for designing and running robust bid evaluation processes. Additional detailed guidance is available for central government departments through Knowledge Hub. This note may also be a useful introduction to bid evaluation processes for senior stakeholders and those unfamiliar with the subject.
- 1.1.4 Departments are required to conduct robust evaluation processes that comply with the Public Contracts Regulation 2015 and the principles of transparency, non-discrimination, equal treatment and proportionality.
- 1.2 Contact
- 1.2.1 For complex outsourcing projects departments should consult the Cabinet Office. The Sourcing Programme (<u>Sourcing.programme@cabinetoffice.gov.uk</u>) provides support to complex outsourcing projects in collaboration with the Complex Transactions Team (<u>complextransactions@cabinetoffice.gov.uk</u>), and other Cabinet Office teams.

## 2. What is bid evaluation?

- 2.1 Process
- 2.1.1 Bid evaluation is the process of assessing bids to identify the most economically advantageous tender (MEAT) submitted for a project. MEAT may not be the lowest cost bid and is determined by evaluating bids against published award criteria to get the right supplier to deliver works, goods or services.
- 2.1.2 A good evaluation is not only about the final award decision it is about the design and execution of the whole process, leading up to that decision, including ensuring the process is properly documented and can stand up to internal and external scrutiny.
- 2.1.3 This guidance note is relevant only to assessment of bids against award criteria. It does not deal with selection stage assessment (against selection criteria), although many of the principles apply at both stages. Selection stage assessment is covered by <u>action note 8/16 here</u>.
- 2.1.4 For clarity, tender is replaced by the term 'bid' in this guidance note.

'A good evaluation is not only about the final award decision - it is about the design and execution of the whole process, leading up to that decision'

## 3. Right at the start

### 3.1 Compliance with the Public Contracts Regulations 2015

- 3.1.1 The evaluation process must legally comply with the PCR 2015, from design of the evaluation methodology to evaluation of bids. This includes compliance with the core principles of transparency, non-discrimination, equal treatment and proportionality.
- 3.1.2 Compliance with the PCR 2015 and the core principles reflects best practice and is embedded throughout this guidance note. Legal colleagues can assist with designing and/or reviewing the evaluation process and any specific queries.

### 3.2 Create a timetable

3.2.1 Good project management is critical to an effective evaluation process. The overall procurement timetable should reflect all the activities required for bid evaluation as well as appropriate contingency in the event of unexpected or unplanned overruns.

## Each procurement will have different requirements, however adequate time should always be allocated to:

Identifying and agreeing appropriate resources;

Issuing evaluator guidance and Conflict of Interest forms (including time for the forms to be returned by evaluators);

Developing and testing the evaluation model before the contract is advertised, including to ensure it contains relevant, clear and focused qualitative evaluation criteria;

Completing the evaluation at each stage of the procurement process, as appropriate e.g. when using the competitive dialogue or competitive procedure with negotiation procurement routes;

Raising clarifications with bidders during the evaluation and taking responses into account;

Planning and completing moderation meetings; and

Collecting all notes taken through the process prior to making any award decision.

#### Figure 1: High-level overview of a bid evaluation process

### Right at the start

Comply with the PCR 2015 and core principles Create a timetable Plan sufficient resources Set up a record keeping process Agree what a 'good' process looks like

### Create, test and publish the evaluation model

Determine the relative importance of price and quality Set how quality and price will be evaluated



### Apply the evaluation model

Score the tenders and complete any clarifications Resolve a dead heat (if appropriate) Complete the moderation process Identify most economically advantageous tender



### Finalise the award process

Make award decision Notify unsuccessful bidders, providing feedback Complete a 'Regulation 84' report Enter into contract at end of standstill period (provided no challenge has been made)

### 3.3 Plan sufficient resources

- 3.3.1 The time needed for evaluation can vary widely, depending on the type of procurement, number of bids received, whether bids are evaluated at multiple stages (to reduce the number of solutions), and resources available. Applying the evaluation criteria and finalising the award process can take as little as a month for a simple process, but will often take longer and additional time should be included for complex procurements. When publishing the timetable, always state that it is indicative and reserve the right to change it.
- 3.3.2 Early consideration should be given to the number and type of evaluators required. Bids should be independently scored by at least two evaluators, who have sufficient knowledge and understanding of the criteria they are evaluating. For straightforward procurements, a simple approach is best - two or more evaluators and a separate moderator who can support evaluators in reaching a consensus. Finance models should be evaluated independently to the technical specification.
- 3.3.3 It is best practice to have the same evaluator evaluate all responses to a particular question. This is to help ensure consistent scoring, as each response being evaluated by the same person will make it more likely each is evaluated in the same way. Similarly, where a question is subdivided into various subsidiary questions, the same evaluator should evaluate all the corresponding subsidiary responses.
- 3.3.4 An independent moderator should be appointed to support evaluators in reaching a consensus score. The moderator should be skilled in moderation and evaluators should not act as moderators to prevent any bias in the process. It is good practice to have a separate note taker in addition to the moderator.
- 3.3.5 All evaluators and moderators need to be appropriately trained. Training materials and records of training attendance should be retained as part of the wider record-keeping and audit process to demonstrate good quality training has taken place. Training should cover:
  - Overview of bid evaluation including the primary purpose of achieving the right outcome;
  - The PCR 2015 and core principles;
  - The evaluation process, including compliance checks, individual scoring and the moderation and consensus scoring process;
  - Selection stage assessment (mandatory and discretionary exclusions, selection against published assessment criteria);
  - Price and qualitative evaluation against published evaluation criteria;
  - Clarifying bids (if this is possible and if so how it should be carried out);
  - Pass/fail criteria; and
  - Record keeping (both why it matters and how to do it effectively)

### 3.4 Set up a record keeping process

- 3.4.1 A robust evaluation process involves good record keeping. Failure to keep a thorough and well documented evidence trail can make it difficult to justify why a particular bidder won. Records need to be kept of why each bidder was awarded a particular score for internal processes, and also to be able to provide a full and helpful debrief to the unsuccessful bidders in the event of any legal challenge against the award. Options for developing an audit trail include using a bid project management office, external counsel or dedicated administrative support.
- 3.4.2 At the end of any evaluation process, departments should produce an evaluation report (which may form part of a wider "Regulation 84" report as required under <u>Regulation 84 of the Public Contracts Regulations 2015</u>). The purpose of the evaluation report is to demonstrate that the evaluation has been performed properly and to provide evidence supporting the scores given to each bid. See section 10 for further details on finalising the evaluation process.
- 3.4.3 It is essential to embed a robust process at the early stages of a procurement to keep thorough, evidenced records of all discussions, meetings and decisions between evaluators and the moderator which are relevant to the evaluation. Evaluator and moderator records should reflect the requirements and use language consistent with the evaluation criteria. Where evaluators change scores in moderation, the reason and underpinning evidence for that change must be noted.
- 3.5 Agree what a good process looks like
- 3.5.1 Consider developing a straightforward and concise overview of what a good evaluation process looks like and agreeing this with the project Senior Responsible Owner (SRO) at the beginning of the project. Experience tells us that this can be a valuable framework for the evaluation model and generate early buy-in from key stakeholders.

"A robust evaluation process involves good record keeping. Failure to keep a thorough and well documented evidence trail can mean it difficult to justify why a particular bidder won."

## 4. Creating the evaluation model

### 4.1 Effective design

- 4.1.1 The evaluation model should reflect the desired business objectives, outputs and outcomes of the procurement. It should include a consideration of:
  - How the importance of price and quality (including social value) will be balanced;
  - How quality will be evaluated (including, where appropriate, how social value will be evaluated); and
  - How price will be evaluated.
- 4.1.2 At the core of the evaluation model there should be a list of relevant and measurable criteria against which each bid will be evaluated. Evaluation criteria should:
  - Be proportionate and linked to the subject matter of the contract. Evaluation criteria need to be proportionate to the contract value and objectives and relate to the works, supplies or services to be provided under that contract. Criteria should not be taken from similar or previous programmes without being properly considered as to whether they are proportionate and relevant to that particular procurement;
  - Not be based on price alone. Evaluation criteria need to also include the consideration of qualitative criteria, i.e. bidders' ability to meet technical requirements, e.g. to manage business change programmes or compliance with commercial terms and conditions; and
  - **Be clear and unambiguous**. Evaluation criteria and the overall evaluation methodology should be able to be interpreted in the same way by all reasonably well-informed and normally diligent bidders. The methodology should accurately explain how bids will be scored.
- **4.1.3** The evaluation model should be developed iteratively, with early outline evaluation criteria tested with potential bidders as part of early market engagement. Evaluation criteria may also be developed through early testing phases of a project (see additional Testing and Piloting Services Guidance Note). Scenario test the model before finalising to check it works as expected.

## Where evaluation criteria are pass/fail, ensure that this is both appropriate and proportionate.

If it is mandatory that a particular threshold is met then it is necessary to exclude any bidder that doesn't meet it. You should therefore consider carefully whether the requirement in question is significant enough to merit rejecting a bid regardless of its other benefits.

### 5. <u>Balancing the importance of</u> price, quality and social value

### 5.1 Achieving value for money

- 5.1.1 Government policy is to award contracts on the basis of value for money.1 Value for money means securing the best mix of quality and effectiveness for the least outlay over the period of use of the goods/services bought. It is not about the lowest upfront price. To achieve the desired business objectives, outputs and outcomes of a service, it is essential to effectively determine quality through the bid evaluation process. Quality, in this context, means all non-price factors including social value.
- 5.1.2 This must be in-line with requirements under the PCR 2015 to base the award of the contract on the basis of the MEAT, which allows for a balance between price and quality. The rules relating to award criteria are designed to ensure that obtaining value for money is done in a transparent and non-discriminatory way.
- 5.1.3 The weighting of price and quality should reflect the characteristics of the service and potential outcomes should be tested with the market before the weighting is fixed. For example, an 80/20% quality/price weighting sends a clear signal to suppliers that quality is significantly more important than price.
- 5.1.4 Consider the potential impact of any subdivisions within the quality weighting. If quality includes elements relating to non-technical factors and social value than the actual percentage allocated to the solution may be lower than intended. Consider whether it is more appropriate to evaluate social value as a separate criteria, for example a 60/10/30 quality/social value/price sends a clear signal to suppliers that quality and social value are important factors.
- 5.1.5 Be aware that the relative weightings may be undermined by the nature of the criteria. If the quality criteria are designed in a way where most bidders will tend to receive the same score then the procurement may still be decided on price (even if quality has a higher weighting).

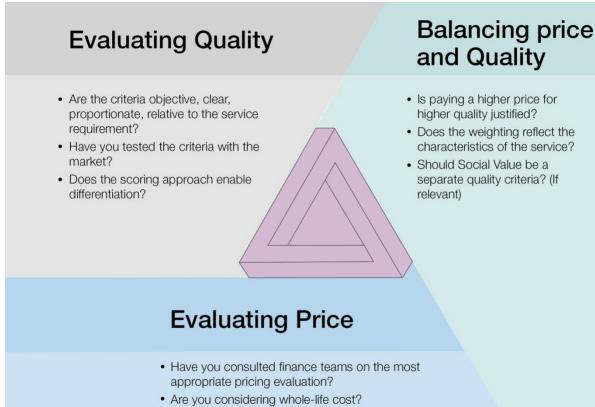
"The weighting of price and quality should reflect the characteristics of the service and potential outcomes should be tested with the market"

<sup>1</sup> See Annex 4.6 of <u>HM Treasury's Managing Public Money</u> and the <u>Green Book</u>.

### 5.2 Evaluating Social Value

- 5.2.1 Social value should be explicitly evaluated in all central government procurement, where the requirements are related and proportionate to the subject-matter of the contract. Taking account of social value in the award of contracts when it is done well will contribute to levelling the playing field for all types of businesses including small businesses, voluntary and community sector organisations and social enterprises. Social Value will help meet the Government's wider social objectives of creating employment opportunities, developing skills and improving environmental sustainability. It applies to all procurements covered by the PCR2015 and applies to all Central Government Departments, their Executive Agencies and Non Departmental Public Bodies.
- 5.2.2 <u>The new Social Value Model</u> provides a consistent approach for departments and suppliers alike. The model includes the menu of priority policy themes and outcomes that can be applied to procurements. All involved in commercial activity shall complete the e-learning on social value which can be accessed via the Government Commercial College. It will help to level the playing field for SMEs and VCSEs to bid for public contracts, providing a clear and systematic way to evaluate social value in the award of a contract.
- 5.2.3 The model includes a set of high level themes and corresponding policy outcomes, together with model evaluation questions, model award criteria and standard metrics to report on performance. Departments are able to select those policy outcomes that are relevant and proportionate to the subject-matter of the contract, for example creating employment opportunities for those who face barriers such as prison-leavers. Detailed guidance on application of the model is available on GOV.UK.
- 5.2.4 Application of the model is mandatory but commercial teams retain flexibility in selecting the outcomes to be applied to their particular procurement to ensure relevance and proportionality. Bidders' responses will be scored against the qualitative aspects, using a standard scoring methodology, in the same way that other 'quality' questions are treated. A minimum weighting of 10% for social value will be applied across all relevant procurements. As the evaluation of bids will be based on the quality of the response, the model rewards bidders who better understand and cater for their customers' requirements, and who can offer more innovative solutions.

#### Figure 2: Key considerations to create an effective evaluation model



 How will you interrogate the bid cost to ensure it is robust?

- 5.3 Sequential evaluation of price and quality
- 5.3.1 As an alternative to relatively weighting price and quality, sequential evaluation of price and quality is an option.
- 5.3.2 One way of doing this involves setting a minimum quality score threshold. This starts with bidders being evaluated against the published quality criteria. Only bids which meet or exceed the quality threshold are taken forward to the next stage of the evaluation (which is the price evaluation). Bids which do not meet the quality threshold are rejected. Bids taken through to the price evaluation stage will then be evaluated on price alone, with final award being made to the lowest priced bidder (provided it is not rejected as an abnormally low bid). This approach works best where a department has a clear view as to its minimum quality requirements (which may be set fairly high) and is indifferent to whether bids exceed that quality.
- 5.3.3 Another option is for the cost element to take the form of a fixed price or cost and bidders compete on quality criteria only.
- 5.3.4 When using this sequential evaluation of price and quality, as with all bids, it is important to verify that the solution is underpinned by a robust costing model. Any contingent pricing elements should be clearly identified and evaluated, and bidders should have evidenced how their pricing relates to their proposals on quality (i.e. confirming that the threshold quality level can be delivered at the price bid).
- 5.4 Consider Deliverability
- 5.4.1 The level of deliverability (or delivery risk) in a solution should be taken into account during the evaluation of bids. There are a number of methods which can be applied, including:
  - An evaluation of risk within the quality evaluation; or
  - A separate scored and weighted section on risk.
- 5.4.2 Having a separate scored and weighted section on risk provides for a greater focus on risk and is more useful for complex procurements where an assessment of delivery risk is critical. Including the evaluation of risk within the main qualitative evaluation may be more appropriate for lower value/low complexity requirements.
- 5.4.3 As with any aspect of the evaluation methodology, how risk is evaluated should be transparent and clear to bidders.

## 6. Evaluating quality

- 6.1 Overall approach
- 6.1.1 Evaluating quality effectively requires:
  - Objective, proportionate, clear quality criteria which are relevant to the service requirement, iteratively developed by subject matter experts and tested with the market;
  - Weightings set according to the importance of criteria; and
  - A scoring approach which enables clear differentiation of bids

### 6.2 Evaluating Innovation

- 6.2.1 Quality may also refer to innovation. Adopting innovative solutions and emerging technologies enables the Government to improve our ways of working and achieve better public service outcomes. To drive innovation, consider:
  - Having an open technical specification with clearly defined outcomes. Being overly prescriptive can prevent suppliers from proposing new and innovative solutions to deliver better outcomes.
  - **Removing the cap on cost**. This allows suppliers to propose innovative solutions which may drive additional value.

### Consider potential unintended barriers to innovation.

Even where innovation is not the primary goal of a particular procurement, departments should carefully consider whether their evaluation criteria inadvertently disincentivise innovation, for example by discouraging suppliers from offering solutions with additional benefits not directly linked to the primary service.

- 6.3 Objective, proportionate, relevant, clear quality criteria
- 6.3.1 Quality criteria will typically be developed by the subject matter experts responsible for developing the specification of requirements. Commercial input can help provide guidance as to what good criteria look like and to test and challenge the criteria as they develop.
- 6.3.2 Criteria must be objective, proportionate to the contract value and objectives, relevant to the subject matter of the contract and unambiguous. It can help to apply SMART principles are the criteria specific, measurable, achievable, realistic (and relevant) and is there a time by which they are to be delivered.
- 6.3.3 Consider how to use 'open' and 'closed' questions appropriately when designing tender questions in order to determine the right outcome and their impact on the bidders' responses.
  - Closed questions are particularly helpful to clarify whether a supplier will do something specific now or after contract award for example sign up to particular terms, conditions or standards.
  - Closed questions are also very useful for mandatory questions. If the only possible answer is yes or no (or something similarly capable of being predefined) the scope for subjectivity in evaluation is removed; whereas
  - Open questions are very helpful to establish how bidders will meet quality requirements. Questions should still be clear as to the nature of the information sought and how responses will be evaluated. Open questions are the most likely to be able to differentiate between quality bids.

- 6.3.4 Experience tells us that evaluating quality effectively requires time and expertise. Market testing can help to overcome any pre-existing bias and ensure that criteria are fit for purpose. It is good practice to peer review quality criteria and include feedback from previous contract managers before they are finalised to ensure the right factors are being assessed through evaluation.
- 6.3.5 Consider whether word or page limits (with prescribed font and size e.g. Arial 12) are appropriate for bidders' responses. If included, limits should be sized proportionally to the response required to demonstrate the bidders' ability to meet your requirements, which is likely to reflect the weighting for the question they relate to. Limits can reduce the time taken to review bids but also limit the amount of evidence a bidder can supply. If limits are set then information in excess of the limits must not be considered by evaluators. Be clear on how images or embedded files will be taken into account as part of word or page limits.
- 6.3.6 Consider whether evaluators should be allowed to take account of information contained in one question response when evaluating a separate question response if so, you should explain to bidders that they can cross refer to other answers when answering a particular question (cross references must be specific). This can make evaluation more time consuming however, allowing evaluators to cross-refer may assist in building a better understanding of the overall proposal.
- 6.3.7 Carefully consider the use of bidder presentations, interviews, scenario tests or site visits as part of the evaluation process. You must clearly and transparently set out in the procurement documents whether and how these activities will be evaluated, and the approach should be agreed with legal before proceeding. The Complex Transactions Team can be consulted on how to evaluate a bidder presentation for complex procurements as part of the bid evaluation process.

"Experience tells us that evaluating quality effectively requires time and expertise. Market testing can help to overcome any pre-existing bias and ensure that criteria are fit for purpose"

### 6.4 Weighting Quality Criteria

- 6.4.1 Within the overall quality score there will be a number of individual quality criteria (and, in some cases, sub criteria), each of which will need to be weighted against the others. This should be done in order of importance to the overall contract and its objectives.
- 6.4.2 Weightings should be set on a case by case basis taking account of factors such as the nature of the goods/services being procured, the objectives of the procurement, the overall criticality of the services being procured and deliverability or other risk. It is vital that stakeholders, including if possible end users, are as involved as possible in the process of determining the relative importance of quality criteria. Appendix III provides more information on weighting approaches.
- 6.4.3 Each evaluation criteria must be distinct from the other evaluation criteria to avoid double counting. It may be appropriate to sub-divide an evaluation criteria into lower level sub-criteria (with sub-criteria weightings). Where practical and appropriate, try to avoid giving any two criteria the same weighting, as this will make it less likely that different responses are awarded the same score.

### 6.5 Design a scoring approach to allow differentiation

- 6.5.1 An effective scoring approach should be appropriate for, and tailored to, the individual procurement and allow clear differentiation between bidder's responses to the quality criteria. Clear consideration should be given to scoring bands for example does fully meeting the requirement achieve the highest score in evaluation, or is there a higher band for exceeding the requirement to drive further innovation.
- 6.5.2 Where there are relatively few scoring bands this can risk 'bid-bunching' i.e. bidders may score the same as the banding does not sufficiently allow for differentiation in bids. For example, if there are only four scoring bands most bids may fall into one or two of them. Consider less linear thresholds (e.g. 20, 40, 73.3, 89.9, 100 instead of 20, 40, 60, 80, 100) and even numbers of bands to further reduce potential 'bid-bunching'.
- 6.6 Measuring bidder culture in evaluation

## For some contracts, supplier culture and values can be especially important.

These can be difficult issues to quantify and evaluate. Where it is relevant and proportionate it may be possible to evaluate how culture is demonstrated through the bidder's proposals. For example, in a service reliant on a significant number of public facing staff, it may be possible to look at how the bidder proposes to ensure that staff are motivated, happy and content in their work (which can impact how the service is delivered). Departments should consult legal at an early stage when considering if this is appropriate for their procurement.

## 7. Evaluating price

### 7.1 Considering price

- 7.1.1 As well as quality, the other key element in determining MEAT is price. There are a number of different types of pricing evaluation. Finance teams should be consulted on the most appropriate type for a specific procurement. This guidance covers a small selection of potential pricing approaches:
  - **Relative price scoring**. Should be treated with caution. See 7.2.
  - **Price per quality point.** See 7.3.2.
  - Benchmark price scoring. See 7.3.2.
- 7.1.2 When considering price evaluation, it is important to consider the pricing data set against which the evaluation will be tested. These should be realistic, need to be published, and may need to take account of both fixed and variable cost elements.
- 7.1.3 Whole-life cost should be considered (referred to as life cycle in the PCRs). Wholelife cost can be very different from initial cost and takes into account the total cost of a product or service over its life cycle, including costs relating to acquisition (e.g. capital costs), maintenance, management, operating and disposal costs. It may also include any post-contract residual value benefitting the department.
- 7.2 Relative price scoring
- 7.2.1 Relative price scoring should be treated with caution and not be used unless there is a specific business reason which has been approved by the commercial lead and the project SRO.
- 7.2.2 Relative price scoring has the potential to increase the risk of "bid-bunching", and can benefit bidders hoping to win by submitting the lowest price rather than focusing on quality (even where quality carries a higher weighting in the evaluation than price). It may also result in scores that do not take account of the real difference in price between bids where there are only two bidders. For example, if the methodology provides for the lowest priced bid to receive the maximum score, with scores for other bids awarded depending on how they compared to the least expensive bid, this would mean that one of the bidders would score 40 on price, while a bidder with an only marginally higher price could score significantly less.

"There are a number of different types of pricing evaluation. Finance teams should be consulted on the most appropriate type for a specific procurement."

### 7.3 Price per quality point and benchmark price scoring

- 7.3.1 Alternatives to relative price scoring such as price per quality point (PQP) should be considered as these provide an absolute standard against which bids are evaluated (see Appendix III). The PQP is established by dividing each bidder's price by its quality score. This enables true comparison of what the department will pay between per quality point and bidders are not being compared against each other, but only assessed based on their own bid. However, one disadvantage is that the same PQP could be achieved by two very different bids - e.g. both £80 price/40 points quality and £100 price/50 points quality result in a PQP of 1.2
- 7.3.2 Evaluation against a benchmark price also provides an objective standard. Consideration should be given as to how any benchmark may be set and whether the presence of the benchmark could distort bidder behaviours.

### 7.4 Contingent and assumption based pricing

- 7.4.1 As part of the price evaluation to determine whole-life cost, evaluators should identify any assumptions, dependencies or risks which could impact the pricing. Price evaluation should take into account the risk of price increases.
- 7.4.2 This can be done by:
  - Limiting price assumptions and dependencies: Permit only a specified list of price assumptions and dependencies, and be clear that any bids which include additional assumptions will be non-compliant. Be careful not to exclude risks that concern bidders as this may lead to a high risk premium (reducing value for money), or result in a limited number of bidders. It is essential to market test the list of price assumptions and dependencies before proceeding with this option. Bidders' prices can then be adjusted by reference to the probability that these authority-set assumptions and dependencies will impact their bids. The basis on which any such price adjustment would be determined needs to be published. In most cases the use of allowable assumptions (see below) will be preferable to this approach due to the difficulty of setting objective adjustment criteria.
  - Allowable assumptions: Allow bidders to include in their bid 'allowable assumptions' in addition to their main pricing. This is a mechanism allowing specified price increases where certain assumptions prove false. The price impact of the allowable assumption should be added to the bid price to arrive at the total price of the bids for evaluation purposes. If allowable assumptions are permitted, these must be precisely defined and you should set aside time before bids are submitted for clarifying with bidders how price increases are triggered. This should only be where highly specific and objective criteria are met, so that if the assumption proves valid the price remains unchanged. While the Model Services Contract does not itself address evaluation issues, it does contain allowable assumptions drafting for inclusion in a contract.
  - Assess likelihood of assumptions, dependencies and risks: Evaluate the likelihood that bidder-set assumptions, dependencies and risks may impact the price. The bidders' price could then be adjusted by reference to the probability of price increases from those factors. If this approach is taken, it is critical that

objectivity and transparency are maintained. The basis on which assumptions, dependencies and risks are assessed and exactly how prices are adjusted for them needs to be published. In most cases the use of allowable assumptions will be preferable to this approach due to the difficulty of setting objective adjustment criteria.

### 7.5 Low cost bids

- 7.5.1 The bid price should be interrogated to ensure it is robust, that all costs are included and that there are no unauthorised assumptions or caveats that could impact price further down the line. If departments fail to understand the true cost of delivery or have a bias towards low cost bids they risk, once the contract is entered into:
  - contracts running into trouble as a result of actual costs being higher and suppliers needing to find ways to cut costs post award;
  - suppliers focusing their efforts on cost reduction measures rather than the delivery of quality services;
  - suppliers seeking contract changes to counter the fact that they are unable to deliver to the contracted cost;
  - the supplier may be less likely to support the department during a crisis, and will manage strictly to the letter of the contract;
  - may be in a weaker bargaining position;
  - the need to inject significant levels of further funding into contracts to ensure critical services are not disrupted (not the only cause of this issue, but a common one); and
  - measures being taken (such as those above) that may amount to a substantial modification, which may be in breach of PCR 2015.
- 7.5.2 In order to help avoid a bias towards low cost bids the following questions should be considered before formally commencing a procurement:
  - has the pre-market engagement phase been used to inform the design of the evaluation methodology and robustly test that suppliers can deliver the required services at an affordable cost?
  - has a 'Should Cost Model' been developed and used to inform the evaluation methodology in terms of what the right cost (or cost-range) is and what financial elements should form the whole-life cost calculation? As set out in the Sourcing Playbook, a 'Should Cost Model' shall be produced for all complex outsourcing projects. Where the Should Cost Model is used as part of the evaluation methodology itself (e.g. as a comparator for bid costs), this must be disclosed to bidders.
  - is a minimum quality threshold applicable and, if so, is that quality threshold clear and the minimum requirement appropriate?

- do the quality evaluation criteria and weightings recognise and reward bids that offer highest value and low delivery risk in the areas that are most critical to successful delivery?
- does the scoring methodology avoid 'bid bunching' by differentiating between bids offering the minimum quality (an acceptable bid) and those offering above the minimum requirements and offering added value?
- 7.5.3 An abnormally low bid is a bid with a price so low as to make the department question whether it is correct and/or deliverable. Where a bid appears to be abnormally low, the department must require the bidder to explain their proposed price. The department may only reject the bid where the evidence supplied by the bidder in response does not satisfactorily account for the low price. Regulation 69(2) of the PCR 2015 provides a list of matters you may wish to ask the bidder to explain, but you can also ask them to explain other parts of their price.

### As set out in the Sourcing Playbook, any bid that is more than 10% lower than the average of all bids or the 'Should Cost Model' needs to be referred to for central assurance and scrutiny.

These should be submitted to the Cabinet Office Commercial Continuous Improvement Team.

## 8. Test and publish the evaluation model

### 8.1 Calculating MEAT

- 8.1.1 When calculating MEAT, scores are calculated using a formula which takes into account the best price to quality ratio. This can be done in a number of ways and the methodology can have a significant impact on the final result. The formula, methodology and scoring approach for bids should be scenario tested with a number of dummy bids (including low bids) and scores to ensure that results are as expected.
- 8.1.2 The department must disclose the evaluation methodology, including the evaluation criteria and their weightings (including sub-criteria) to bidders in the procurement documents. Once this is published, it must be followed and evidenced. The methodology should be clearly set out and easily understood by bidders, particularly those who may be unfamiliar with public procurement bidding processes, e.g. small and medium sized enterprises.

"The department must disclose the evaluation methodology, including the evaluation criteria and their weightings (including sub-criteria) to bidders in the procurement documents."

## 9. Apply the evaluation model

### 9.1 Use the published model

- 9.1.1 Bids must be evaluated in accordance with the published criteria and evaluation methodology. A copy of the published criteria and scoring approach should be kept on-hand by evaluators so they can refer to it as they evaluate.
- 9.1.2 It is critical that the scores awarded are supported by records which provide the justification for the scores awarded. This will help to demonstrate that the process is consistent and can be used to provide the basis for debriefing unsuccessful bidders and, if necessary, in the event of a challenge to the award decision.
- 9.1.3 Unless they can be certain that bidders' identities can be truly anonymised, departments should not propose that bids are anonymised before evaluation. This is due to the practical difficulties in ensuring bids genuinely are and remain anonymised, and the risk of inadvertently breaching that anonymity.
- 9.1.4 Sometimes the evaluation phase takes longer than planned. Consider bidders costs during the evaluation phase. Bidders may have to ring-fence or recruit resources to start immediately upon award and thus incur unforeseen costs. Be clear in communications with the bidders if or when there are going to be periods of no activity at all so they can respond appropriately and stand teams down.

### 9.2 Clarification of bids

- 9.2.1 During evaluation, evaluators may encounter points in bidder responses which appear to be incomplete or erroneous, or where specific documents are missing. Where this occurs, the department may ask the bidder to submit, supplement, clarify or complete the relevant information or documentation provided this is done in full compliance with the principles of equal treatment and transparency. Clarification is not an opportunity for bidders to improve their bids. Clarification questions must be sent in writing to the bidder and bidder must respond in writing within an appropriate timescale set by the department.
- 9.2.2 Evaluators should not raise clarification questions directly with bidders as the proposed clarification may go beyond what is permitted under PCR 2015. Clarification questions should be submitted to the procurement or commercial team who will review and, if appropriate, send to the bidder. Before submitting clarification questions to bidders, the department should consider whether any of the questions need to be reviewed by legal first to ensure they are allowed.
- 9.2.3 Responses should be reviewed by the procurement or commercial team before being shared with evaluators to ensure they provide only the information requested and in some cases steps may need to be taken to remove information that goes beyond this - e.g. by redacting some text before sharing the response. Clarifications to bidders' responses should be shared with all evaluators evaluating that particular area of the bid, not just the evaluator raising the clarification question.

- 9.3 Moderation and consensus scoring
- 9.3.1 Once individual scoring is complete, evaluators should send their scores and evaluation reports to the moderator for review. The following would suggest an issue that might require discussion with the relevant evaluator:
  - use of inappropriate language or personal remarks;
  - comments indicating the evaluator took account of matters outside of the actual bid (e.g. past experience with a bidder, or matters not expressly included in the bid response);
  - comparisons to other bidders;
  - a copy and paste of the evaluation criteria or the scoring descriptor;
  - score justifications that only make sense if the evaluator is there to explain them;
  - scoring justifications that are significantly more detailed for some bidders than others;
  - poor quality, incomplete or incoherent justifications for scores given;
  - inconsistencies between the score given and the reasons for that score.
- 9.3.2 Once the completed evaluation reports have been reviewed a meeting should be held between all evaluators and the moderator. The moderator should always act as chair in moderation meetings and should be provided with a moderation template for completing during moderation meetings.

### The purpose of the moderation meeting is to agree a single consensus score. This is particularly important where evaluators' scores differ for the same bidder. Moderator's are responsible for:

leading the moderation meeting at which evaluators explain their scores and their reasons for giving those scores;

asking evaluators about any apparent errors or discrepancies which have been identified and whether any adjustments need to be made to their scores and evaluation reports;

where different evaluators have given different scores to the same response, leading those evaluators in discussion to agree a single justifiable consensus score (which should not simply be an average); and

ensuring there is a clear and consistent note of all discussions and decisions taken in moderation (and where any scoring changes as a result of consensus discussions or moderation, make a very clear note of the exact reasons for those changes).

- 9.3.3 The moderation process should not be closed until all evaluators and the moderator have agreed and are satisfied with the scoring. The moderator should also be satisfied that the scoring methodology and evaluation criteria have been correctly applied.
- 9.3.4 Once the moderation process has been completed, this is the end of the scoring part of the evaluation process for the criteria under consideration. Scores should not be revisited or reopened unless there are exceptional circumstances for justifying doing so, for example, where there is clear evidence that an error has been made in the scoring. In such circumstances you should carefully consider consulting with legal advisers. Evaluators should not discuss their scores with other evaluators even after the moderation process has been completed.
- 9.3.5 If scores are revisited, irrespective of whether this leads to any changes in the scores awarded, the reasons for revisiting the scores and the outcome of revisiting the scores (including details of the reasons for the outcome and the evidence that led to any changes in scores) should be fully recorded to ensure a transparent process.
- 9.4 Post-bid submission bid differentiation
- 9.4.1 The risk of receiving bids which score identically or near-identically may be mitigated through good quality evaluation criteria and an effective scoring approach, but it can never be entirely eliminated. It may therefore be sensible to consider including an optional final evaluation stage.
- 9.4.2 If used, this additional stage in the evaluation would be triggered where two or more bids are awarded a final score that is the same or within a specified range of each other. The process to be followed in such circumstances must be clearly set out as part of the published evaluation methodology.

## 10. Finalise the award process

### 10.1 Notify bidders and provide feedback

- 10.1.1 Once the award decision has been internally approved the next step is to notify successful and unsuccessful bidders. The mandatory standstill period commences once the department has notified the unsuccessful bidders.
- 10.1.2 Following the award, the department must notify the unsuccessful bidders of the decision in writing. This notice is often referred to as the "standstill letter" and should contain certain prescribed information as required by the PCR 2015; this includes details of the winning bidder, their own and winning bidder's scores and the characteristics and relative advantages of the winning bid the evaluation. Departments must ensure your standstill letters comply with the requirements set out in <u>Regulation 86 of PCR 2015</u> and may need to send them to bidders excluded at earlier stages in the procurement.
- 10.1.3 Good feedback to bidders can be extremely useful to them by helping them to understand what they did well, what they could have done better, and points to consider in the future. Feedback to the unsuccessful bidders should be based on evaluators' and moderators' notes, and should be sufficient to let each bidder understand why they received the score they did. Feedback should be of the same quality for all bidders. You may wish to involve legal when drafting your standstill letters and providing feedback to bidders.
- 10.1.4 It is good practice to consider the following in providing feedback to bidders:
  - Include details such as the evaluation approach & scoring criteria, bidder's and winner's scores for each sub-criteria;
  - Use tables to present this information to make it easier for SMEs to understand and act upon;
  - Give specific examples from the bid to make feedback more understandable;
  - Notify bidders in advance when oral feedback may take time to be provided or may not be provided at all to manage their expectations.

"Good feedback to bidders can be extremely useful to them by helping them to understand what they did well, what they could have done better, and points to consider in the future."

### 10.2 Complete an evaluation report

- 10.2.1 At the end of any evaluation process, departments are required to produce an evaluation report (which may form part of a wider "Regulation 84" report as set out under <u>Regulation 84 of the Public Contracts Regulations 2015</u>). The purpose of the evaluation report is to demonstrate that the evaluation has been performed properly and to provide evidence supporting the scores given to each bid.
- 10.2.2 Good practice is to include thorough, evidenced documentation of all discussions, meetings and decisions which are relevant to the evaluation. The reporting obligations apply to all forms of records including electronic, paper and all forms of notes however informal. Hard copy notes should always be scanned and the originals retained. SMS or other methods of communication (e.g. WhatsApp or Google Hangouts) which are difficult to record should not be used.
- 10.2.3 It is a legal requirement to keep all records for a minimum of three years from the date of contract award (and good practice is to keep them for the duration of the contract). A filing system should be developed for all procurements with a clear category for all records required to comply with Regulation 84.

### 11. <u>Appendix I: Calculating the number of</u> evaluators required

In the following example, the commercial lead has estimated that each evaluator will need one week in order to evaluate their part of each bid and that no more than ten bidders are likely. It is important to test any estimates of time required with the subject matter experts involved.

Based on that information, the commercial lead can work out how many evaluators are potentially required by reference to the time available for evaluation.

	1 bid	2 bids	3 bids	4 bids	5 bids	6 bids	10 bids
1 week	2	4	6	8	10	12	20
2 weeks	2	2	4	4	6	6	10
3 weeks	2	2	2	4	4	4	 8
4 weeks	2	2	2	2	4	4	6

This exercise may lead to a need to revise the wider programme timetable. If only six subject matter expert evaluators are available, but it is thought there may be up to ten bids, then on this example less than four weeks for evaluation will not be appropriate.

## 12. Appendix II: Price per Quality Point

Price per quality point (PQP) is an evaluation technique designed to make it easier to consistently and fairly compare bids of varying quality and price. It also makes it easier for bidders to judge how they may score overall.

In this approach a PQP is calculated for each bid by:

- determining the bid price;
- determining the quality score for each bid, expressed as a whole number rather than as a percentage (though the whole number may still be points out of 100); and
- dividing the bid price by the quality score to give an output price per quality point.

Price

Quality score

The number arrived at is the PQP. The bid with the lowest PQP is the MEAT.

The chief advantages of PQP as an approach are that:

- it discourages bidders from simply chasing the lowest price possible, which may not be sustainable and which may distort behaviours during project delivery; and
- it makes it easier to assess value for money, rather than simply cost.

One potential downside of PQP is that highly disparate bids can result in the same PQP score. This can be mitigated by appropriately structuring the wider evaluation model. In particular, by setting minimum price or quality thresholds (which would need to be disclosed to bidders), below which bids will not be evaluated.

### 13. <u>Appendix III: Potential weighting</u> <u>methodologies</u>

This appendix sets out two potential methodologies for weighting evaluation criteria. The first is known as MoSCoW prioritisation, while the second is a weighting guidelines template that can be used to assist in developing the weightings to attach to each evaluation criterion.

### MoSCoW prioritisation

MoSCoW prioritisation means identifying which of the requirements are Must haves, which are Should haves, which are only Could haves, and which are Won't haves. In MoSCoW:

- Must haves are those requirements without which the procurement would not proceed. If you would ultimately go ahead without it it's not a must have;
- Should haves are important requirements which are strongly desired, but the
  procurement would not be cancelled if they weren't met. It may be that key deliverables
  would not be met or cumbersome workarounds required, but not to the extent that there
  would no longer be any point in making an Award;
- Could haves are contingent requirements which are desirable, but which are not particularly critical. They may be areas which you would like delivered in a best case scenario, but which don't form part of your minimum sought requirement;
- Won't haves are requirements that are not being sought in the current procurement, either because they are not a priority (so won't pay more for them) or would actively prefer not to have them (if it is the latter that should be made clear).

With MoSCoW, be particularly careful when setting "Must haves". Failure to meet these will likely result in exclusion, which could discourage innovative solutions.

### Weighting guidelines template

The weighting guidelines template provides one method to assist in assigning weightings to the evaluation criteria. The template is used to rank the criteria by giving each individual involved in developing the weightings a vote in the relative importance of criteria. Once the weightings have been calculated in accordance with the mechanism described, the team may discuss further to refine the relative weightings.

For each criterion set out horizontally (1 - 8 etc.):

- each individual is asked whether they consider that criterion is more important than each of the other criteria
- each cell not blanked out is completed by adding how many people considered the criterion more important

- the total number of "votes" for each criterion should then be entered into the "Total" column
- the totals are converted into percentages to arrive at the relative weightings of all of the criteria i.e.(Criteria Total/total Votes) x 100

UNWEIGHTED CRITERIA	1	2	3	4	5	6	7	8	Etc.	Total	Weight
1											
2											
3											
4											
5											
6											
7											
8											
Etc.											

### Table 1: Template

### Worked example (see Table 2 below):

Three people are involved in considering the evaluation criteria and three criteria are identified: (i) solution quality; (ii) transition approach; and (iii) price. These are entered into the matrix. Each cell not blanked out must be completed.

Reading across row one:

- The first question is, "Is Solution Quality more important than Transition Approach?". Two members of the team vote yes, one votes no. The red figures show how this is entered into the matrix.
- The second question is "Is Solution Quality more important than Price?" Three of the team vote yes. The blue figure three in row one shows how this is entered into the matrix.
- Row one is now complete and row two is partly complete.

Reading across row two:

- The relative importance of Transition Approach to Solution was already considered in the first question.
- The third question is "Is Transition Approach more important than Price?" One of the team votes yes, two vote no. The green figures show how this is entered into the matrix.

Reading across row three, a blue zero is added into column one as the total number of votes in each colour must add up to the total number of people voting. As there were three blue votes in line one, a zero must be added to the first column.

### Table 2: Worked Example

UNW	EIGHTED FACTORS	1	2	3	Total	Weight
1	Solution Quality		2	3		
2	Transition Approach	1		1		
3	Price	0	2			

Once each cell is completed, the figures in each row are totalled. The purple figures show how this is entered in the matrix. This gives the relative importance of the factors and can be converted into a percentage weighting (see pink text). These weightings are suggested weightings and the team may wish to amend the weightings based on wider considerations.

UNW	EIGHTED FACTORS	1	2	3	Total	Weight
1	Solution Quality		2	3	5	(5/9*100) = 56%
2	Transition Approach	1		1	2	(2/9*100) = 22%
3	Price	0	2		2	(2/9*100) = 22%



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