



## Whitepaper

# Auditing Tender Specifications and Assessment Criteria

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## Contents

Background	2
- Purpose	2
- Background	2
Discussion	2
- Issue	2
- History	2
- Discussion	2
- Understand the Context	3
- Objectives	3
- Lessons Learned	3
- Risks and Opportunities	3
- Specification	4
- Assessment Criteria	4
- Weightings	5
Conclusion	5
- Summary	5
- Conclusion	5
Bibliography and References	5
Purpose of White Papers	5
Author's Biography	5
About the Institute of Internal Auditors—Australia	6
Copyright	6
Disclaimer	6

## Background

### Purpose

The purpose of this White Paper is to help auditors effectively audit tender specifications and the criteria used for selecting the tenderer to whom the contract will be awarded. These areas are critical to a successful tender process and, it may be argued, are the two areas that most frequently contribute to tenders failing to achieve the desired outcomes, and resulting in a range of significant problems to the organisation.

### Background

Tendering is a high-risk area due to large payments to suppliers, potential reputational and brand damage and the potential adverse consequences to strategies and operations from poor decisions, fraud and corruption.

Legislation imposing significant penalties on organisations

whose supply chain connections act unlawfully increases the level of risk. There is a trend internationally of expanding coverage of this type of legislation, such as foreign corrupt practices and modern slavery.

High probity expectations and court decisions requiring appropriate practices by tendering entities also increase potential exposures.

Tendering is additionally high risk due to a history of fraud, corruption and poor decision-making. The risks are exacerbated due to participation of people with limited knowledge and experience of tendering, the tendency to rely on bureaucratic rules at the cost of critical thought, and an inclination to vastly underestimate the consequences or likelihood of things going wrong in a particular tender being undertaken.

## Discussion

### Issue

Auditing tenders, especially tender specifications and assessment criteria, is often complex. Many auditors focus on procedural matters, such as tender electronic box opening, at the cost of taking a step back and looking critically at the specifications and assessment criteria. It can be argued that the majority of tender failures are caused by problems in the original specifications and assessment criteria.

### History

There have been numerous court cases, media accounts and reports by regulators, special commissions, parliamentary bodies, state and commonwealth auditors, anti-corruption bodies, public sector ombudsmen and others both in Australia and internationally, that have identified serious failings in tender processes that can on occasion be catastrophic. In many cases, auditors failed to identify problems in the tender process, even when they were auditing real-time. Historically, tenders are often high-risk.

### Discussion

An analysis of reports about tender failures indicates tender specifications and assessment criteria are often faulty because the drafters of them failed to:

- › Understand the context of the specific procurement.
- › Consider the objectives of the specific procurement.
- › Examine lessons learned from previous tenders, and the experience of others making similar procurements.
- › Identify and assess risks and opportunities relating to the procurement.

# Auditing Tender Specifications and Assessment Criteria

## Understand the Context

It is common for a decision to be made about the procurement method, for example whether open tender or select tender and then to go straight to drafting the specifications and assessment criteria.

An essential stage, that is often missed, is to understand the context of the procurement. Missing this stage often results in a flawed process, inappropriate and missing specifications, faulty assessment criteria and poor decisions. Consequences often include procurement that does not meet strategic and operational needs, overpayments, inadequate quality, fraud and corruption, and exposure to other significant risks such as breach of legislation and reputation exposure.

The context should cover both internal and external matters relevant to the procurement.

Ideally, there should be a document such as a procurement strategy or plan that adequately explains the context, so people involved in the procurement are given the information they need to understand key issues and make more informed decisions. The document will also help drafters of the contract and those involved in contract management.

The length of the document will vary from tender to tender. It may be a few paragraphs to many pages, depending on the complexity, level of risk and other factors.

Good practice is for the document to include key assumptions made. Invariably, assumptions are made whether they relate to technological matters, security of supply, financial factors, legislative influences, compliance with ethical standards, assurance matters or anything else. If the key assumptions are clearly stated, they can be critically examined and if need be, specific information requested from tenderers to address those assumptions. These would be addressed in the risk and opportunity assessment, or other appropriate measures taken. Stating the key assumptions is useful so the specifications and assessment criteria can be adapted to address uncertainties and reduce exposure if warranted.

## Objectives

It is essential the objectives be clearly stated and answer the question: "Why are we buying these goods or services?" Generally, the overall reason should be stated, as well as any individual components of the reason.

The detail in which objectives are stated should be sufficient to enable the specifications and assessment criteria to be drafted, so they ensure the objectives will be met.

The auditor should consider whether the objectives are reasonable, aligned with organisational objectives, clearly

stated, reasonably comprehensive, useful for people who will be involved in the rest of the procurement and contract management process, and be prepared after proper consultation with key stakeholders.

## Lessons Learned

It is often valuable to consider lessons learned from previous procurement experiences, and experiences of others, before drafting the specifications and assessment criteria. This can help to avoid mistakes and incorporate measures to increase chance of a successful outcome. Project management has shown that incorporating lessons learned can vastly improve results.

The key question is: "How can I take into account what happened before, or happened to others, to make the specifications and assessment criteria more effective and avoid failures and problems?"

Lessons learned might be considered from:

- › The previous tender for the services or goods.
- › Other similar tenders.
- › The way the goods or services were delivered by the previous vendor.
- › Experiences of other organisations who have tendered for similar goods and services.
- › Reports of media, research, regulators, public audit and investigative bodies.

## Risks and Opportunities

Risks and opportunities should be properly considered.

It is not uncommon for risk and opportunity assessments to be done primarily as a 'cut and paste' exercise from previous tenders, or done by listing risks in a generic way that has little value. It is essential for risk and opportunity assessments to be performed by really applying one's mind to all the circumstances of that particular procurement, and the proposed use of the goods or services being procured.

There is frequently overlap between lessons learned and risks and opportunities. However, because the methodologies are different, a risk and opportunity assessment should always be undertaken separately.

Factors the auditor may examine include:

- › Was the risk and opportunity assessment undertaken by people with the appropriate skills and experience?
- › Did the risk and opportunity assessment include consultation with sufficient people with relevant knowledge of the specific strategic, operational and procurement issues?

# Auditing Tender Specifications and Assessment Criteria

- › Did the risk and opportunity assessment include appropriate research?
- › Were all key risks and opportunities considered?
- › Has the cumulative effect of risks and opportunities been considered?
- › Does the risk and opportunity assessment appear to be reasonable and in accordance with established processes and procedures?
- › Have the risks and opportunities identified been recorded in a way that is likely to help in the formulation of specifications and assessment criteria, drafting of the contract and future contract management?

## Specifications

The specifications are a significant determinant of the success or failure of the procurement and any subsequent contract management.

Questions the auditor should consider include:

- › In light of the context, do the specifications make sense?
- › If each specification is met, will they cumulatively result in the procurement objective being met?
- › Is each specification necessary, and will it help meet the procurement objective?
- › Are the individual specifications aligned with each other?
- › Do any of the specifications contradict or detract from other specifications?
- › Are there apparent gaps in the specifications?
- › Is each specification clear, complete and likely to be understood by potential tenderers?
- › Is each specification fair to all potential tenderers, not unreasonably favouring or disadvantaging any potential tenderers?
- › Do the specifications cumulatively address all the significant risks and opportunities, and will the information provided by tenderers be adequate to assess risk mitigation by the tenderers?
- › If appropriate, do the specifications cover the assurance framework needed from the supplier of the goods or services?
- › Have the specifications been reviewed carefully by a person independent of their drafting?
- › Have reasonable measures been undertaken to give

the tender evaluation team an understanding of each specification, together with the cumulative effect of the specifications, and does the team have the required understanding?

Specifications can be audited through a number of audit techniques, and ideally a mix of them including:

- › Review of relevant documentation.
- › Interviews with people, such as those who evaluated the context and risks, drafted the specifications, the evaluation team, technical experts, tenderers and potential tenderers.
- › A review of the tender submissions to see if tenderers have understood the specifications and properly addressed them.
- › A review of queries from potential tenderers in tender briefings and through other channels.
- › A review of evaluation records to see if the specifications appear to have been clear, comprehensive, appropriately addressed, and to see if the evaluation team has understood them properly.

## Assessment Criteria

It is not uncommon for procurements to fail catastrophically because of poor assessment criteria and evaluation teams misapplying the criteria. The failure is often not evident immediately after the procurement, and frequently only becomes clear over the life of the contract. This generally allows the drafters of the assessment criteria and the evaluation team to escape accountability, not learn from their mistakes, and keep repeating their errors on other procurements.

Auditors may consider whether each criterion is:

- › Necessary.
- › Appropriate for the context.
- › Sensible, useful and relevant in terms of the context, and helpful for meeting the procurement objective.
- › Drafted so it does not detract from other criteria.

Auditors may consider whether cumulatively the criteria:

- › Provide sufficient transparency to tenderers that the evaluation will be fair and in compliance with appropriate requirements.
- › Result in the procurement objective being completely met.
- › Results in all significant risks and opportunities being addressed.

# Auditing Tender Specifications and Assessment Criteria

- › Adequately address the assurance framework to be provided by the supplier.

Auditors should also consider whether the criteria were drafted by a person with sufficient knowledge and skill, and whether the criteria were reviewed by someone independent of the drafting.

Auditors should review whether the evaluation team were given a clear understanding of what the criteria mean, and how to use them in the tender evaluation.

## Weightings

Assessment criteria are often weighted. It is common for the weightings to be 'cut and pasted' mindlessly from previous procurements, arbitrary rather than carefully reasoned, not related to the objectives, opportunities and risks, and therefore not necessarily appropriate for the procurement. This can often result in the wrong tenderer being selected.

Auditors should carefully consider whether the weightings:

- › Make sense for this specific procurement.
- › Take into account stakeholder requirements, the context, opportunities and risks.

## Conclusion

### Summary

In auditing tender specifications and tender assessment criteria, auditors should consider the context and objectives of the specific procurement, examine lessons learned from previous tenders, the experience of others making similar procurements, and review the risk and opportunity assessment relating to that procurement.

Specifications are a significant determinant of the success or failure of a procurement and future contract management. This is why auditors should critically assess them.

It is not uncommon for procurements to fail catastrophically because of poor assessment criteria and evaluation teams misapplying the criteria. There are a range of factors the auditor should examine during an audit of the assessment criteria.

### Conclusion

In auditing tender specifications and tender assessment criteria, auditors should examine the individual factors listed in this White Paper, as well as taking a step back and critically considering whether the specifications and tender assessment criteria make sense in the specific circumstances of that procurement.

## Bibliography and References

### Purpose of White Papers

A White Paper is a report authored and peer reviewed by experienced practitioners to provide guidance on a particular subject related to governance, risk management or control. It seeks to inform readers about an issue and present ideas and options on how it might be managed. It does not necessarily represent the position or philosophy of the Institute of Internal Auditors—Global and the Institute of Internal Auditors—Australia.

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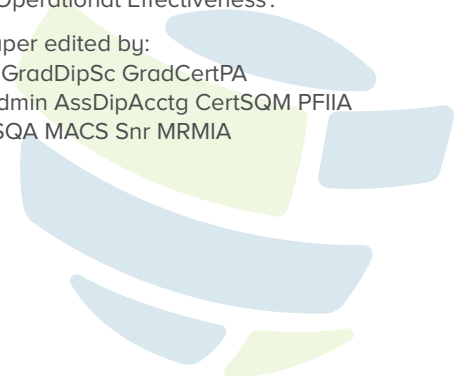
Barry has over 20 years' experience in internal audit, fraud and corruption control, investigations, governance and compliance. He has contributed to books on fraud control, computer fraud, communications and sociology. He co-authored IIA-Australia White Papers on 'Fraud Risk Indicators', 'Corruption Indicators in Internal Audit', 'Corruption-Related Risks in Decision-Making' and 'Conflicts of Interest: A Framework'.

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As the chief advocate of the Internal Audit profession, the IIA serves as the profession's international standard-setter, sole provider of globally accepted internal auditing certifications, and principal researcher and educator.

The IIA sets the bar for Internal Audit integrity and professionalism around the world with its 'International Professional Practices Framework' (IPPF), a collection of guidance that includes the 'International Standards for the Professional Practice of Internal Auditing' and the 'Code of Ethics'.

The IIA-Australia ensures its members and the profession as a whole are well-represented with decision-makers and influencers, and is extensively represented on a number of global committees and prominent working groups in Australia and internationally.

The IIA was established in 1941 and now has more than 200,000 members from 190 countries with hundreds of local area Chapters. Generally, members work in internal auditing, risk management, governance, internal control, information technology audit, education, and security.

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