



STANDARD

Public procurement should to the greatest extent practicable¹, be transparent in its practices, processes, policies and relationships with all stakeholders, while ensuring protection of confidential information.

Definition

Transparency can be defined as timely, easily understood access to information. Transparency assists in ensuring that any deviations from fair and equal treatment are detected very early, and makes such deviations less likely to occur. It protects the integrity of the process and the interest of the organization, stakeholders, and the public.²

Element 1.1: Integration of Technology to Achieve Transparency

Ease of public access to government-generated data greatly depends on the jurisdiction's use of technology-oriented operations. Procurement should integrate and utilize technology systems to enhance transparency. Steps to accomplish this may include:

- Establish a Web-based reporting tool for entity data that includes, at minimum, current bid opportunities, bid results, current contracts, and solicitation schedules³
- Establish a recommended raw data format (such as .txt, .csv, .xml⁴) for statistical data
- Establish a Public-Procurement Liaison link on the government procurement site that provides contact information for an identified procurement professional who can assist in providing data that is not immediately available through the Website
- Establish and post Terms of Use on the government procurement site to discourage fraud and misuse of information
- Establish⁵ and post an entity statement of commitment to a Code of Ethics on the government procurement site

Element 1.2: Access to Information

Procurement should provide access to reliable information about the activities of the procurement organization. This is a key safeguard against corruption and aids in the improvement of competition, and the relationships between procurement and stakeholders. This should be done by:

- Creating and publishing annual reports of procurement activities and spending in a format that is accessible and easy to understand
- Providing stakeholders and the public access to current, up-to-date information about procurement processes, procedures and policies
- Providing stakeholders and the public access to information pertaining to proposed changes in the procurement processes, procedures, and policies
- Providing all bidders, offerors, and the public with easy and timely access to information about:

- solicitation/ tender opportunities
- selection criteria
- the evaluation process
- rules governing the award
- the award decision and its justification
- the terms and conditions of the contract and any amendments
- contract administration
- the role of intermediaries⁶ and agents
- protest and dispute-settlement mechanisms and procedures
- Providing equivalent information for all procurement transactions and contracts (direct, limited bidding, formal, informal) and making sure that the information is accessible to the public
- Limiting confidentiality to legally protected information only⁷

Element 1.3: Transparency and Supplier Relationships

Procurement should strengthen relationships with the supplier community through transparent practices. These practices should include, but are not limited to:

- Clearly expressed, readily available regulations, policies, and procedures (See Element 1.2)
- Complete, timely, and accurate information
- Equal access and opportunity to all qualified suppliers
 - There should be no “insiders”⁸ when it comes to accessing public procurement information or the opportunity to do business with government
 - Ensuring that specifications do not limit competition
 - Under no circumstances should a competing vendor be allowed to write the specifications for a procurement⁹
- Open and frequent communication between procurement and the supplier community
- Education opportunities for vendors/ suppliers at regularly held information sessions or expos
- Standardization of procurement documents including: bids, quotes, proposals and registration documents. Documents should include:
 - specific details regarding the procurement method being used
 - specifications of the required goods, works or services
 - required time frame for bid submissions
 - the closing date
 - date and time for receiving and opening bids
 - any appropriate fees required to be paid to receive bid documents¹⁰

Element 1.4: Transparency and the Procurement Professional

Procurement professionals must adhere to a code of ethics¹¹ and declare conflicts of interests as soon as they become apparent and disqualify themselves if there is a conflict or the appearance of a conflict, such as:

- Holding a bias or prejudice towards a particular vendor in a procurement
- Have (or appear to have) a direct personal interest in the outcome of the procurement

Element 1.5: Transparency and the Procurement Organization

Procurement organizations must provide adequate resources and accurate information to employees in order to achieve a sustainable transparent procurement process. This process may include the following steps:

- Identify proposed legislation, regulations, and/ or international agreements¹² that will guide and/or affect transparency-related requirements for the organization

- Complying with existing legislation, regulations, and/ or international agreements that guide transparency-related requirements for the organization
- Allocating the financial and human resources necessary to undertake an entity assessment of the procurement organization's "transparency friendliness"
- Identifying and requesting the financial and human resources necessary to establish a systems solution that supports transparency
- Developing policies and procedures for staff to declare any outside employment
- Requiring disclosure of conflicts of interest from anybody in the procurement process, including both internal and external staff or consultants



Background

Transparency in public procurement is critical. The manner in which government conducts itself in its business transactions immediately affects public opinion and the public's trust in good government. In addition to encouraging the public's good will and strengthened trust, the more practical business benefits of transparency are increased competition and better value for goods, services, and construction.

Standardization of processes, simplified access to information that is easy to understand, and availability of information, all make doing business with government much more appealing to the supplier community and strengthen the public's trust.

With the size and scope of government spending activity it is critical that all stakeholders have confidence in the public procurement process¹³. A transparent and informative public procurement process encourages this confidence through the free and open exchange of information, enhanced knowledge, improved efficiency, and reduction of the potential for corruption and waste.

- 1 Procurement should strive to be as transparent as possible within reason, while maintaining the integrity of the competitive process, and protecting confidential information. Confidential information is information protected under law, or information that would otherwise cause undue harm if made public.
- 2 Adapted from UNOPS. (2006). UN Procurement practitioner's handbook. UNOPS: IAPWG
- 3 Procurement should aim to expand the web-based reporting tool to include as much information as possible to stakeholders and the public. This may also include: an annual procurement schedule, pre-solicitation (tender) notices, sole source and emergency procurement notices, policies, procedures, forms, answer to frequently asked questions, and department contacts.
- 4 For more information on publishing and storing government data please view the Government Linked Data Working Group at <http://w3.org/egov>
- 5 The procurement entity must develop their own Code of Ethics, or adopt an existing Code of Ethics (i.e. NIGP Code of Ethics) prior to posting a statement of commitment to such on the site.
- 6 An intermediary usually is understood to be a conduit for goods or services offered by a supplier to a consumer. Hence, the intermediary can act as a conduit for legitimate economic activities, illegitimate bribery payments, or a combination of both. This may include: sales representatives, consultants or consulting firms, suppliers, distributors, resellers, subcontractors, franchisees, joint venture partners, subsidiaries and other business partners including lawyers and accountants. Both Natural and legal persons, such as consulting firms and joint ventures are included. OECD. (2009). Typologies on the role of intermediaries in international business transactions. Retrieved from www.oecd.org/dataoecd/40/17/43879503.pdf
- 7 Transparency International. (2005). Transparency International policy positions #03: TI's minimum standards for public contracting. Transparency International: Berlin, Germany.
- 8 An example of "insiders" would be a department holding a pre-meeting with selected vendors prior to a bid or request for proposals being issued. Other "insider" examples include refusing to meet with some vendors or failing to answer bid/proposal questions to all by addendum" (NIGP, Op. cit).
- 9 Ibid.
- 10 ODPP. (n.d.). Transparency in public procurement. ODPP: Malawi
- 11 See NIGP Code of Ethics.
- 12 International agreements affecting government procurement include, but are not limited to: the procedures under the plurilateral WTO Agreement on Government Procurement, the UNCITRAL Model Law, World Bank Guidelines, and any other international instrument to which the government is a signatory party (e.g. treaties, trade agreements).
- 13 Adapted from NIGP. (2010). *Transparency in government procurement*. Herndon, VA: NIGP