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POSITION PAPER

TOPIC:

Best Value in Government Procurement

Concepts and practices.



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BEST VALUE IN GOVERNMENT PROCUREMENT

*A position paper from NIGP: The Institute for Public Procurement
on the use and importance of procurement practices to achieve best value.*

INTRODUCTION

Since the early 1800's, government organizations have often relied on the relatively simplistic lowest-bid process of publically-advertised competition as the primary method for getting value from its purchases.¹ In contemporary thinking, the drawbacks of over-reliance on the low-bid method are well recognized, particularly around potential shortcomings in quality, reliability and service.² Alternative procurement methods that consider and balance multiple issues regarding costs, service and risk have evolved in response to the limitations and risks of the low-bid method. For instance, beginning in 1972 in the U.S., the architectural and engineering industries promoted a Qualifications-Based Selection (QBS) method where selection is based on qualifications, experience and project approach; comparative costs information and criteria unrelated to qualifications are excluded.

Public procurement professionals are becoming increasingly sophisticated in their understanding and application of methods to achieve best value, balancing multiple factors regarding costs, quality, risk and other values. For example, those methods include “total cost of ownership” (TCO) analyses, “performance-based contracting” generally, or Design-Build for construction contracting and project delivery. These practices help strike an optimum balance between accountability (enforced through extensive, prescriptive controls) and efficiency and effectiveness (achieved through greater flexibility and less prescriptive control).³

Governments increasingly recognize that enabling the use of Best Value Procurement (BVP) methods by procurement professionals maximizes the value of all procurements and ultimately improves the way they conduct business. These entities are replacing older legislated policies with procurement statutes and policies that recognize and rely on professional judgment to

¹ James F. Nagle. *A History of Government Contracting*. George Washington University School of Law School (1992)

² *Modernising local government: Improving local services through best value*. U.K. Department of the Environment, Transport and the Regions (1998), <http://www.local.odpm.gov.uk/bv/improvbv/improvbv.pdf>

³ *Assessing Federal Procurement reform: Has the Procurement Pendulum Stopped Swinging?* Joseph A. Pagnato. In the *International Handbook of Public Procurement*, Khi V. Thai, ed. CRC Press; Taylor & Francis (2008)

choose the best selection methodology rather than through prescribed, categorical, “one-size-fits-all” approaches. No single contracting method consistently achieves the best interests of the government organization in support of its public mission. Consequently, the professional burden of procurement practitioners is to master understanding of the practices and methodologies that achieve best value outcomes.

POSITION STATEMENT

NIGP: The Institute for Public Procurement promotes conscientious consideration of all factors that lead to good value at every stage of procurement, not only price or other single factor. Organizations should analyze and select the attributes and outcomes of an acquisition that provide the greatest overall benefit in response to the requirement and the other values of the organization. Best Value Procurement is both a concept and a set of recommended practices. Procurement professionals must be aware of BVP concepts, have a thorough understanding of the recommended methods and practices for achieving best value, and have the ability to effectively evaluate and apply the most appropriate approach to each procurement.

WHAT IS BEST VALUE?

The *value* of procured goods or services may be simply described as a comparison of costs and benefits. Compare all the benefits from what you get and how you use it, against your costs to purchase, use, and perhaps dispose of it. Additional costs include the resources necessary to conduct the procurement, purchase price, fiscal tracking and processing costs, storage/maintenance and other operational costs, costs for needed training, disposal costs, etc. Other terms to characterize best value comparisons are strengths and weaknesses, pros and cons, risks and rewards. While recognizing these variables may seem mostly common sense, that recognition reflects an evolution in the role and responsibility of procurement in the public setting and how these variables are applied in detail.

In the assessment of costs and benefits, it is important to identify comparative costs of different alternatives for meeting the same need, function or program purpose, as well as the costs of doing nothing at all. This strategic accounting of opportunity costs considers how resources can be allocated for maximum benefit relative to all of the organization’s needs, functions and programs.

Value is a combination of “what” is important and “how much” it is important. As for the “what,” typical procurement considerations affecting value include:

- Consistency, reliability, and responsiveness from suppliers.
- Meeting preferences favoring veterans, minority-owned, women-owned or small businesses, local purchasing, etc.
- All costs identified through a life-cycle cost analysis.

- Reduction of risks such as schedule delays; costs added through change orders; degradation of performance or service from an outsourced provider; potential legal or financial risks; the need for government oversight of program delivery; the amount of needed contract administration effort; or the likelihood of successful/unsuccessful contract performance.
- Environmentally preferable aspects (more efficient scheduling leading to less shipping impact, lower toxic materials content, less environmentally harmful manufacturing, less harmful end of life disposal, etc.).
- Just-in-time ordering/shipping to avoid storage costs.
- Contracting out to eliminate internal resource costs or to achieve better results for the same overall price.

BEST VALUE POLICIES

A Best Value Policy is intended to provide a framework that guides appropriate decision making; it is not a step-by-step prescription that program and procurement staff will follow and automatically achieve *best value*.

What, then, should a BVP policy contain? Because of the danger in oversimplifying all the variables, in policy situations like this where one size *does not* fit all, the policy defines a process for making decisions and includes standards for accountability. It contains statements that answer: *what* must be considered, *who* decides, *how much* explanation must be provided, and *what* oversight and audit requirements must be evidenced.

When addressing these questions, the government entity will match them to its strategic plan and its institutional values. Ideally, organizations will consult with their stakeholders when identifying top level organizational values. Those values may shape formation of standard guidelines for documenting the decision making and justification process, and also inform procurement staff's choice of information to gather and the selection criteria to use for specific procurements or categories of procurement.

Government entities adopting Best Value Procurement policies should be prepared for scrutiny of their policies and how they are applied in specific procurements. Agency constituents, stakeholders and participants in the process may all express, from time to time, keen interest in the specifics of a given policy *in action*. "Keeping the process as open as possible, and clearly communicating how the process will work, should be a guiding principle throughout. The best way to maintain the trust of the public is to have a process that, though it may include some subjectivity, is still one that is difficult to influence."⁴

⁴ *Best Practices for Use of Best Value Selections*, from the Associated General Contractors of America and the National Association of State Facilities Administrators (2008) at: <http://www.agc.org/galleries/projectd/Project%20Delivery%20-%20Best%20Value%20Selection.pdf>

In a best value selection, judges of comparative value seek to choose the provider offering the best combination of performance, qualifications, price and other values of importance to the organization, but must always do so with methods that promote full and open competition and reflect the core values of the public procurement profession.⁵ The Chief Procurement Officer in an organization should have the authority and responsibility to ensure the organization's procurement processes maintain that integrity and cannot be improperly manipulated.

WHAT GOES INTO A BEST VALUE APPROACH?

There are challenges when introducing greater flexibility to achieve greater value. Designing and implementing new methods takes thought and intention, and may require more time, especially during a learning phase. With more choices come more questions. Which selection criteria should be used? How should they be weighted and scored? Since, theoretically, there are infinite subjective interpretations of how to define value and how to determine which supplier is best, the challenges to using best value in selections can seem endless. If solicitations are crafted to be more open to innovation, each bidder will likely sport a unique mix of value-added features. It can seem a real challenge to compare and contrast good but different offers and decide which will turn out best.

In practice, best value is neither infinite nor arbitrary, but is a matter of context, relating a restricted set of desired characteristics to desired outcomes. There are three basic stages to choosing factors to guide a procurement toward best value.

1. **Identify possibilities.** List all the possible solutions, and the possible pros and cons of each. Conduct market research, consult others, and collaborate with stakeholders).
2. **Choose relevant factors.** Decide what is relevant to each specific acquisition.
3. **Assign values or “weights”** to the chosen factors and create selection criteria.

Identify Possibilities

Public procurement professionals form cross-functional teams or include key agency stakeholders to recommend best value factors. Procurement professionals recognize when the organization may not have all the relevant expertise needed to implement best value methods in specific procurements (or categories of procurements), and reach out to other organizations and the marketplace to benchmark, find best practices, discover best available solutions, and identify relevant techniques that will fulfill the organization's needs.

⁵ Values of Public Procurement: *Accountability, Ethics, Impartiality, Professionalism, Service, Transparency*. NIGP (2010)

Determine Relevant Factors

Procurement professionals are accustomed to examining the “R”s of right quality, right quantity, right time, right place, from the right source (responsive/responsible), at the right price, the right service level, and at the right level of risk. Some have had experience examining best total cost of ownership, best reliability of supply, best impact on the environment, and best social benefit. Building upon these competencies, procurement leaders are increasingly responsible for guiding their organization toward selecting the most relevant factors and optimizing their relative importance.

Keep in mind that the concept of best value is fluid over time, place and subject matter – the choice of values depends upon each situation. For instance, if you need a product quickly, you might pay expedited shipping costs that one time. If the next order is an ordinary one to replenish inventory, the cost of the item is probably more important. A more complex example of best value variability is when service or product maturity is taken into account. Relatively new industries or market offerings may demand more extensive research effort and time. “High product differentiation with radically different proposals is typical of the early stage of an infant industry, until a dominant design will replace technically imperfect or simply unlucky models. Afterwards, when the industry reaches the maturity stage with a few main competitors, differentiation re-emerges (often due to minor external changes) as an attempt to soften price competition and to reach new niches of consumers.”⁶

Assign Values

Procurement goals should be tied to organizational goals, but organizations are frequently forced to make trade-offs between competing goals, such as lower risk vs. lower costs, or socio-economic objectives vs. lower cost.

Many values can be quantified in dollar terms, although quantifying value can introduce a degree of subjectivity to the assessment – how much is prompt delivery or prompt return of phone calls, worth? Other values are difficult-to-impossible to quantify in monetary terms - for instance, past experience with or financial stability of a supplier. There is a common saying that between quality, timeliness, and price, an entity can usually get two out of the three. If that holds true, then which is the most important? And who decides? There are no pre-determined answers to any of these questions about values – expertise and wisdom are built with experience – but ranking and updating your values is part of the quest for best value.

Skeptics may be concerned with whether more money is needed to support some of the values of the organization that were previously not factored in. Lowest purchase price is emphatically not the only factor in good value when it comes to achieving good public interest outcomes, but,

⁶ Valentino Piana (2003). <http://www.economicwebinstitute.org/glossary/product.htm>

certainly, a fair public expectation is that the rationale for value judgments and tradeoffs will be documented, understandable and accessible.

Whatever methodology is followed, procurement staff must ensure that the organization's choices about what to value and how much importance to assign are formed impartially and do not unjustifiably restrict competition (just as they do during the process of traditional specification development, for example). Procurement professionals serve a valuable role in helping the organization keep the big picture of its cumulative choices organized over time. Procurement staff must also ensure that documentation of the valuation and evaluation processes include not only conclusions about the criteria and outcome, but the context (goals and values), the facts/considerations examined, and the reasoning leading up to the value conclusions.

Procurement professionals should guide organizational assessments and decisions regarding tradeoffs at several stages, not just when choosing evaluation criteria for specific procurements. As described in Canada's Treasury Board policy on contracting: "The analysis necessary to achieve best value should not be confined to the actual procurement process; it should begin in the planning and appraisal of alternatives and continue through the definition of requirements which would include assessment and award criteria, evaluation of sources, selection of contractor, preparation, negotiation, execution and award of contract, contract administration and post-contract evaluation."⁷

Note that attention is paid to post-contract evaluation. A broad assessment of overall value in the context of policy effectiveness depends upon data aggregated from across historic procurements. It may take data from many procurements, including any extra costs paid and benefits achieved, in order to identify whether or not procurement practices are effectively achieving the organization's goals.

METHODS AND PATHWAYS TO BEST VALUE

Best Value is a broad heading and, in addition to what has been said to this point, organizations should recognize and consider the following concepts and approaches that can increase best value. To reiterate, some of these approaches can be applied across procurements, while others are more relevant to specific projects or initiatives. The procurement professional must understand and apply each concept appropriately.

- A. **Performance-Based Contracting.** A set of concepts and practices that focus more on desired outcomes rather than on prescriptive details for how to achieve the outcomes. By its nature, performance-based contracting involves determination of what is most important to an organization.

⁷ Treasury Board of Canada Secretariat.

<http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=14494§ion=text>

Guidance is available from the U.S. Office of Management and Budget (OMB) and Office of Federal Procurement Policy (OFPP) at https://www.acquisition.gov/comp/seven_steps/introduction.html, and through the NIGP course: [Performance Based Requests for Proposals](#).

- B. **Total Cost of Ownership (TCO).** A measure of all of the cost components associated with the procurement of a product or service. The sum of all fixed and variable costs attributed to a product or service. A philosophy for understanding all supply chain related costs of doing business with a particular supplier for a particular good or service.⁸
- C. **Design-Build.** A delivery method for construction projects that combines the architectural, engineering, and construction services required for a project into a single contractual agreement.⁹
- D. **Construction Manager At-Risk.** An alternative procurement method that allows the owner to choose the Construction Manager (CM) based on qualifications. The entire operation is centralized under a single contract before the design stage is complete. The CM gives the owner a guaranteed maximum price, and coordinates all subcontract work. Intended benefits include speed, strengthened coordination between the Architect/Engineer and the CM and therefore cost savings, and a strong allegiance between the CM and owner. Because all costs and fees are in the open, adversarial relationships are diminished. The CM is an alternative procurement method that retains enough of the design-bid-build process to assuage some owner's fears concerning design-build.¹⁰
- E. **Public-Private Partnerships.** An arrangement for service delivery, whereby government and private enterprise divide responsibilities, risks and rewards, and pool their skills and resources to meet a particular objective.¹¹
- F. **Industry standards.** Learn about and keep in mind the common factors across suppliers or products or services (e.g., ISO standards). Focus selection criteria and negotiation effort on the factors that will reveal substantive differences or risk levels between them. Rarely are products/services or suppliers identical, but one must choose which differentiating details are worth paying attention to.

Reminder: any snapshot choice of best value characteristics will not remain static over time – products and suppliers are always evolving.

⁸ Burt, D. N., Dobler, D. W., & Starling, S. L., *World Class Supply Management: The Key to Supply Chain Management*. McGraw-Hill: NY (2003)

⁹ NIGP Online Dictionary of Procurement Terms. (From ISM, 2000)

¹⁰ *Ibid.*

¹¹ *Ibid.*

G. Procurement process map; Solicitation steps. Visually mapping out the possible process steps and methodology for an acquisition often sparks valuable discussions examining the many alternative steps, e.g., which are the most fair, which are the most practical, and which have the most potential benefit.

For instance, there is great flexibility in choosing options in multi-step competitive proposals (where proposers have equal chance to respond to a request that the organization then evaluates). How valuable can it be for the organization, or the proposers, to utilize a prequalification process? Interviews? Reference checks? Financial records, past performance records or other “responsibility” indicators?

While BVP policies may allow more flexibility, the fundamental principle guiding how to use these steps is fair and open competition. The overall selection process must still be described in a solicitation document. The solicitation will include information requests/evaluation criteria the organization wants, but procurement regulations or policies may also allow for optional steps involving development of unanticipated or new criteria (perhaps to help resolve the conundrum raised by receiving proposals with differing mixes of value-added features). Other best value steps may occur after the selection, such as during negotiations, so long as they do not manipulatively change the rules of the game after the fact – that is, would it have changed what the competition did?

Adopting the mindset of what adds value for the proposers will improve the likelihood of supplier response and the quality of submissions. For example, using “threshold” methods like pre-qualification or short-listing or competitive range helps keep competitors’ costs low until they get to the final stage in the evaluation process. By contrast, it would not be appropriate to require proposers/bidders to submit a Best and Final Offer for mere “auctioning” purposes, when everyone has already arrived at a clear understanding of the needed requirements and approach, and no further changes or clarifications are needed.

Some best value steps may be part of the overall procurement process, but are outside of the solicitation process, such as obtaining third party “value engineering” or “quality assurance,” or developing a “Plan B” (remedies) if contract performance fails.

H. Recognize value of each procurement phase. Most procurement stages are considered essential links in a chain, but consideration should be given to which procurement stage delivers the best value compared to others: Is it in picking the best provider? Using competition to get the best prices? Writing the best contract? Ensuring the best contract administration?

Some say that picking the *best provider* has the most impact on lowering risk. Best provider can include lots of considerations, like reliability around quality and delivery, and reliability around continued existence or long term pricing.

Conducting *competition* that includes price competition gets lower prices or at least valuable information that can be used in negotiating for better value than would be possible without it.

Good *contract negotiation* and writing strongly affects value. For negotiated services contracts, deciding the right approach and right level of effort is crucial. Organizations and their suppliers should cooperatively form the substantive approach, the budget, the obligations and “deliverable” products, and outcome measures, explicitly sharing assumptions and deciding on the trade-offs. Other factors affecting cost have relatively less impact, like the risks/incentives inherent in the different compensation methods, but are still quite important.

Good *contract administration* is important to make sure expected benefits are received and to prevent avoidable changes to the contract or avoidable increases in price.

Procurement professionals can help the organization decide where best to allocate resources among these activities, which becomes even more crucial when resources are limited.

- I. **Ongoing dialog for continuous improvement.** A savvy organization will keep talking and working with providers and other partners (internal clients; partner organizations in a cooperative procurement program) throughout the procurement cycle about value-added activities and services. How can the partners save time or money or improve service? Without even altering a contract, is there, for instance, an opportunity for coordinated ordering within the organization or among organizations that will increase shipping efficiency, lower costs or contribute to reduced traffic congestion and greenhouse emissions?

- J. **Example costs** that may contribute to an overall best value calculation.
 - 1. Purchase price
 - 2. Financing charges
 - 3. Staff time conducting the procurement
 - 4. Staff time tracking and processing payments
 - 5. Storage, maintenance, insurance and other operational costs
 - 6. Disposal fees
 - 7. Mitigation measures to deal with a risky provider
 - 8. Possible costs outside of contract to remedy poor outcomes

- K. **Example benefits** that may contribute to an overall best value calculation.
 - 1. Added services at no additional cost to entity
 - 2. Products with no toxic ingredients
 - 3. Market-leading product likely to be maintainable and upgradeable for longer time (less obsolescence)
 - 4. Supplier with track record of price stability and product availability

5. Supplier with track record of effectively delivering desired service outcomes
6. Increased competition and advancement of socioeconomic policy

The above list is not meant to be an exclusive list of all practices or considerations; instead, it illustrates the breadth and diversity of factors and approaches that could be applied to a procurement. Fundamental principles employed in these methods may be relevant when applied to procurements outside of the type indicated above. For example, while public-private partnerships may be commonly recognized in context of toll road projects, they have also been successfully established to provide concessions and other services at public venues. Combining creative thought with professional judgment is the new normal for procurement leaders.

CONCLUSION

Just as government policies must adapt to social, economic and political forces, so too must the supporting functions that enable government effectiveness. Public entities legislating broader operating authority to professionals in public service are moving along the evolutionary path to greater effectiveness. These changes are growing acknowledgement of Procurement's value and an expectation that those leading the function deliver on the promise of professionalism.

In this time of empowerment for public procurement professionals, best value philosophies and methodologies are foundational to the greater value this professional community can provide. Stewardship of public funds no longer equates strictly to lowest product or service cost. Rather, public funds should be expended in a transparent, documented, justifiable manner consistent with the ideals of the community and the social, economic and sustainability goals it values.

Procurement professionals are strongly encouraged to gain fluency in best value practices and methodologies to ensure they can effectively rise to the challenge of their profession.
