
Construction procurement —
Part 1:
Processes, methods and procedures

Marchés de construction —

Partie 1: Processus, méthodes et procédures

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ISO 10845-1:2010

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Foreword

ISO (the International Organization for Standardization) is a worldwide federation of national standards bodies (ISO member bodies). The work of preparing International Standards is normally carried out through ISO technical committees. Each member body interested in a subject for which a technical committee has been established has the right to be represented on that committee. International organizations, governmental and non-governmental, in liaison with ISO, also take part in the work. ISO collaborates closely with the International Electrotechnical Commission (IEC) on all matters of electrotechnical standardization.

International Standards are drafted in accordance with the rules given in the ISO/IEC Directives, Part 2.

The main task of technical committees is to prepare International Standards. Draft International Standards adopted by the technical committees are circulated to the member bodies for voting. Publication as an International Standard requires approval by at least 75 % of the member bodies casting a vote.

Attention is drawn to the possibility that some of the elements of this document may be the subject of patent rights. ISO shall not be held responsible for identifying any or all such patent rights.

ISO 10845-1 was prepared by Technical Committee ISO/TC 59, *Building construction*.

ISO 10845 consists of the following parts, under the general title *Construction procurement*:

- *Part 1: Processes, methods and procedures*
- *Part 2: Formatting and compilation of procurement documentation*
- *Part 3: Standard conditions of tender*
- *Part 4: Standard conditions for the calling for expressions of interest*
- *Part 5: Participation of targeted enterprises in contracts*
- *Part 6: Participation of targeted partners in joint ventures in contracts*
- *Part 7: Participation of local enterprises and labour in contracts*
- *Part 8: Participation of targeted labour in contracts*

Introduction

Procurement is the process which creates, manages and fulfils contracts. Procurement can, as such, be described as a succession of logically related actions occurring or performed in a definite manner and which culminate in the completion of a major deliverable or the attainment of a milestone. Processes, in turn, are underpinned by methods (i.e. a documented, systematically-ordered collection of rules or approaches) and procedures (i.e. the formal steps to be taken in the performance of a specific task), which are informed and shaped by the policy of an employer. Methods and procedures can likewise be documented and linked to processes.

Procurement activities commence once the need for procurement is identified and end when the transaction is completed. There are six principal activities associated with the procurement process, namely:

- 1) establish what is to be procured;
- 2) decide on procurement strategies in terms of packaging, contracting, pricing and targeting strategy and procurement procedure;
- 3) solicit tender offers;
- 4) evaluate tender offers;
- 5) award contract;
- 6) administer contracts and confirm compliance with requirements.

Methods, procedures and operational policies are required to implement these principal activities. There is a finite range of methods and procedures associated with the various procurement sub-processes which can be standardized around a set of system objectives. Public, private, international organizations and main contractors can then establish their procurement systems around these standard procedures and methods. Contractors who contract with such organizations can in turn be required, as an obligation of the contract, to apply relevant standard procedures and methods when procuring goods and services or subcontracting construction works associated with their contracts.

This part of ISO 10845 is one of a series of International Standards entitled "Construction procurement" which cover various aspects of procurement within the construction industry. Each part of the series relates to a different aspect of procurement. The objective of this series of standards is to provide a generic and standard set of processes, procedures and methods for a procurement system that is fair, equitable, transparent, competitive and cost-effective and which can be used to promote objectives additional to those associated with the immediate objective of the procurement itself.

This series of standards is especially relevant for developing countries that lack experience and instruments in this field and can be used to improve international trade. This part of ISO 10845 provides a framework around which public, private and international organizations can develop their procurement systems to achieve fair competition, to reduce the possibilities for abuse and to improve predictability in procurement outcomes.

NOTE Standardization, apart from removing technical barriers to trade, enables

- a) those engaged in procurement activities to perform their duties, within the confines of their organization's procurement policy, in a uniform and generic manner;
- b) procurement documents to be readily compiled in a uniform and generic manner; and
- c) curricula to be developed to capacitate those engaged in a range of procurement activities.

Furthermore, it allows governments to readily develop an internal procurement-skills base, which is not lost when members of staff move between different departments or levels of government or organizations.

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Construction procurement —

Part 1: Processes, methods and procedures

1 Scope

This part of ISO 10845 describes processes, methods and procedures for the establishment within an organization of a procurement system that is fair, equitable, transparent, competitive and cost-effective. This part of ISO 10845

- a) describes generic procurement processes around which an employer can develop its procurement system,
- b) establishes basic requirements for the conduct of an employer's employees, agents, board members and office bearers when engaging in procurement,
- c) establishes the framework for the development of an employer's procurement policy, including any secondary procurement policy, and
- d) establishes generic methods and procedures for procurements, including those pertaining to disposals.

Guidance on the application of certain clauses is provided in Annex A and on the establishment and management of procurement processes in Annex E. An approach for obtaining best-value procurement outcomes is outlined in Annex B. Various types of procurement procedures are discussed in Annexes C, F and G. A tender-adjudication procedure to challenge decisions made during the tender process is given in Annex D and suggested Auction Data is given in Annex H.

2 Normative references

The following referenced documents are indispensable for the application of this document. For dated references, only the edition cited applies. For undated references, the latest edition of the referenced document (including any amendments) applies.

ISO 10845-5, *Construction procurement — Part 5: Participation of targeted enterprises in contracts*

ISO 10845-6, *Construction procurement — Part 6: Participation of targeted partners in joint ventures in contracts*

ISO 10845-7, *Construction procurement — Part 7: Participation of local enterprises and labour in contracts*

ISO 10845-8, *Construction procurement — Part 8: Participation of targeted labour in contracts*

ISO 15392:2008, *Sustainability in building construction — General principles*

ISO 15686 (all parts), *Buildings and constructed assets — Service life planning*

3 Terms and definitions

For the purposes of this document, the following terms and definitions apply.

3.1

acceptance

agreeing to a contractor's offer or tender, thereby creating a binding contract

[ISO 6707-2:1993, definition 3.4.2]

3.2

agent

person or organization that is not an employee of the employer and that acts on the employer's behalf

3.3

bill of quantities

document that lists the items of work and the quantities and rates associated with each item to allow contractors to be paid, at regular intervals, an amount equal to the agreed rate for the work multiplied by the quantity of work completed

3.4

bond

sum of money or securities submitted to the employer or placed in the hands of a third party to guarantee completion of the work and recovery of the sums which the contractor would be recognized as owing under the terms of contract

[ISO 6707-2:1993, definition 3.5.4]

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3.5

competitive negotiation procedure

procurement procedure which, through a series of negotiations, reduces the number of tenderers competing for the contract until the remaining tenderers are invited to submit final offers

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3.6

competitive selection procedure

any procurement procedure in which the contract is normally awarded to the contractor who submits the lowest financial offer or obtains the highest number of tender-evaluation points

3.7

conditions of contract

terms that collectively describe the rights and obligations of contracting parties and the agreed procedures for the administration of their contract or document containing conditions of contract

NOTE Adapted from ISO 6707-2:1993, definitions 3.2.1 and 3.2.2.

3.8

conflict of interest

any situation in which someone in a position of trust has competing professional or personal interests which make it difficult for him to fulfil his duties impartially, an individual or organization is in a position to exploit a professional or official capacity in some way for his personal or for corporate benefit, or incompatibility or contradictory interests exist between an employee and the organization which employs that employee

3.9

contract

legally enforceable agreement to supply goods, execute work or provide services

[ISO 6707-2:1993, definition 3.4.8]

3.10**contract data**

document that identifies the applicable conditions of a contract and states the associated contract-specific data

3.11**contracting strategy**

strategy that governs the nature of the relationship which the employer wishes to foster with the contractor, which in turn determines the risks and responsibilities between the parties to the contract and the methodology by which the contractor is to be paid

3.12**contractor**

person or organization that contracts to provide the goods, services or engineering and construction works covered by the contract

3.13**corrupt practice**

offering, giving, receiving or soliciting of anything of value to influence the action of the employer or his staff or agents in the procurement process or the administration of the contract

3.14**cost plus contract**

cost reimbursement contract in which the contractor is paid for his actual expenditure plus a percentage or fee

[ISO 6707-2:1993, definition 3.4.11]

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3.15**cost reimbursement contract**

contract based on costs expended

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[ISO 6707-2:1993, definition 3.4.12]

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3.16**electronic auction**

repetitive process involving an electronic device for the presentation of new prices, revised downwards or new values concerning certain elements of tenders (or both), and which occurs after an initial full evaluation of the tenders, enabling them to be ranked using an automatic evaluation method

3.17**employer**

person or organization intending to or entering into a contract with the contractor for the provision of goods, services, or engineering and construction works

3.18**expression of interest**

request for respondents to register their interest in undertaking a specific contract or to participate in a project or programme and to submit their credentials so they may, in terms of the employer's procurement procedures, be invited to submit a tender offer should they qualify or be selected to do so

3.19**framework agreement**

agreement between an employer and one or more contractors, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged

3.20

fraudulent practice

misrepresentation of the facts in order to influence the tender process, the award of a contract arising from a tender offer to the detriment of the employer, including collusive practices intended to establish prices at artificial levels, or the administration of the contract including compensation procedures

3.21

joint venture

grouping of two or more contractors acting as one legal entity, where each is liable for the actions of the other

[ISO 6707-2:1993, definition 3.4.22]

3.22

method

documented, systematically ordered collection of rules or approaches

3.23

organization

company, firm, enterprise, association or other legal entity, whether incorporated or not, or a public body

3.24

packaging strategy

organization of work packages into contracts

3.25

price adjustment

amount to be added or to be deducted from the contract price in accordance with the terms of the contract by way of allowances for increases or decreases in the costs of labour, plant, materials and equipment occurring during the performance of the contract

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3.26

pricing strategy

strategy which is adopted to secure financial offers and to remunerate contractors in terms of the contract

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3.27

principal, noun

owner, partner, director or office bearer

3.28

procedure

formal steps to be taken in the performance of a specific task, which may be called upon in the course of a process

3.29

process

succession of logically related actions occurring or performed in a definite manner which culminates in the completion of a major deliverable or the attainment of a milestone

3.30

procurement

process which creates, manages and fulfils contracts relating to the provision of goods, services and engineering and construction works or disposals, or any combination thereof

3.31

procurement document

documentation used to initiate or conclude (or both) a contract

3.32**procurement procedure**

selected procedure for a specific procurement

NOTE Specific procedures provided in terms of this part of ISO 10845 may be described as auction, competitive negotiations, electronic auction, negotiated, nominated, open, qualified, quotation, proposal or shopping.

3.33**procurement strategy**

selected packaging, contracting, pricing and targeting strategy, and procurement procedure for a particular procurement

3.34**project**

contract or a series of related contracts

3.35**quality**

totality of features and characteristics of a product or service that bears on the ability of the product or service to satisfy stated or implied needs

3.36**respondent**

person or organization that submits an expression of interest in response to an invitation to do so

3.37**scope of work**

document that specifies and describes the goods, services, or engineering and construction works which are to be provided, and any other requirements and constraints relating to the manner in which the contract work is to be performed

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3.38**secondary procurement policy**

procurement policy that promotes objectives additional to those associated with the immediate objective of the procurement itself

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3.39**submission data**

document that establishes the respondent's obligations in responding to a call for an expression of interest and the employer's undertakings in administering the process of calling for and receiving expressions of interest

3.40**suitable**

capable of fulfilling or having fulfilled the intended function, or fit for its intended purpose

3.41**sustainability**

state in which components of the ecosystem and their functions are maintained for the present and future generations

[ISO 15392:2008, definition 3.20]

3.42**system**

organized scheme or plan of action or an orderly or regular procedure or method

3.43

target cost contract

cost reimbursement contract in which a preliminary target cost is estimated and on completion of the work the difference between the target cost and the actual cost is apportioned between the employer and contractor on an agreed basis

NOTE Adapted from ISO 6707-2.

3.44

targeted procurement procedure

process used to create a demand for the services or goods (or both) of, or to secure the participation of, targeted enterprises and targeted labour in contracts in response to the objectives of a secondary procurement policy

3.45

tender data

document that establishes the tenderer's obligations in submitting a tender and the employer's undertakings in administering the tender process and evaluating tender offers

3.46

tender offer

written offer for the provision of goods, or to carry out a service or engineering and construction works under given conditions, usually at a stated price, and which is capable of acceptance and conversion into a binding contract

3.47

tenderer

person or organization that submits a tender offer

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4 Establishing a procurement system

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4.1 General

4.1.1 Developing and documenting the system

An employer shall develop and document its procurement system

- a) in a manner which is fair, equitable, transparent, competitive and cost-effective and which may, subject to the policies of an employer and any prevailing legislation, include the promotion of other objectives, in accordance with the requirements of Table 1, and
- b) around a process which commences once the need for procurement is identified, ends when the transaction is completed and includes the attainment of procedural milestones which enable the system to be controlled and managed.

The employer's executive shall designate persons to undertake the actions associated with the attainment of procedural milestones.

NOTE Annex C provides a generic procurement process which incorporates activities linked to procedural milestones. A procurement system can be developed around this generic process. Separate processes might (but not necessarily) be required for different categories of procurement, e.g. disposals, services, goods, and engineering and construction works.

Table 1 — Basic procurement system requirements

Attribute	Basic system requirement
Fair	The process of offer and acceptance is conducted impartially without bias and provides participating parties simultaneous and timely access to the same information. Terms and conditions for performing the work do not unfairly prejudice the interests of the parties.
Equitable	The only grounds for not awarding a contract to a tenderer who complies with all requirements are restrictions from doing business with the employer, lack of capability or capacity, legal impediments and conflicts of interest.
Transparent	The procurement process and criteria upon which decisions are to be made shall be publicized. Decisions (award and intermediate) are made publicly available, together with reasons for those decisions. It is possible to verify that criteria were applied. The requirements of procurement documents are presented in a clear, unambiguous, comprehensive and understandable manner.
Competitive	The system provides for appropriate levels of competition to ensure cost-effective and best-value outcomes.
Cost-effective	The processes, procedures and methods are standardized with sufficient flexibility to attain best-value outcomes in respect of quality, timing and price, and the least resources to effectively manage and control procurement processes.
Promotion of other objectives	The system may incorporate measures to promote objectives associated with a secondary procurement policy (see 4.4) subject to qualified tenderers not being excluded and deliverables or evaluation criteria being measurable, quantifiable and monitored for compliance.

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4.1.2 Responding to decisions (taken [standards.iteh.ai](https://standards.iteh.ai/catalog/standards/sist/7248359c-e776-4db6-b5d0-36faa932e126/iso-10845-1-2010))

The employer shall provide, upon request, written reasons to respondents and tenderers for any decisions that are taken during a call for an expression of interest and an invitation to tender, but may withhold information which

- a) would not be in the public interest to be divulged,
- b) is considered to prejudice the legitimate commercial interests of tenderers and respondents, or
- c) might prejudice fair competition between tenderers.

Organizations should consider, when developing their procurement systems, how challenges resulting from the outcomes of the tender process should be dealt with.

NOTE Annex D suggests an adjudication procedure to enable disputes around the tender processes to be resolved.

4.2 Conduct of employees, agents and contractors

4.2.1 Code of conduct

The employer shall comply with all legal obligations and shall establish a code of conduct for procurement to regulate the actions of its employees, agents, public office bearers or board members. Such a code shall at least require that these persons

- a) discharge their duties and obligations on time and with integrity,
- b) behave equitably, honestly and transparently,
- c) avoid conflicts of interest and, where a conflict of interest is known, declare and address that conflict, and
- d) not maliciously or recklessly injure, or attempt to injure, the reputation of another party.

NOTE ISO 10845-3 deals with the manner in which conflicts of interest are to be dealt with during the process of offer and acceptance. The commentary to this part of ISO 10845 contained in Annex A provides guidance on how to deal with conflicts of interest in a number of situations.

4.2.2 Disciplinary action

Employers should discipline their employees, agents, public office bearers or board members who contravene the requirements of their code of conduct for procurement.

Employers may place contractors or their principals (or both) who have engaged in corrupt and fraudulent practices under restrictions from participating in the employer's procurement for periods of time. Contractors and persons placed under restrictions shall be advised of the restriction and the reason for it.

NOTE 1 The standard conditions of tender contained in ISO 10845-3 require both the employer and each tenderer to discharge their duties and obligations on time and with integrity, behave equitably, honestly and transparently, comply with all legal obligations, not engage in anti-competitive practices and avoid conflicts of interest.

NOTE 2 A conflict of interest might exist even if there are no improper acts as a result of it. This might arise due to a conflict of roles which might provide an incentive for improper acts in some circumstances. A conflict of interest can create an appearance of impropriety that might undermine confidence in the ability of that person to act properly in his position.

NOTE 3 Conflicts of interest in respect of those engaged in the procurement process include direct, indirect or family interests in the tender or outcome of the procurement process, and any personal bias, inclination, obligation, allegiance or loyalty which would in any way affect any decisions taken.

4.3 Procurement policy

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The employer's executive shall, taking into account all laws governing procurement processes and laws governing contracts locally and internationally, develop and document a procurement policy which should, as a minimum, establish

- a) which of the standard procurement procedures listed in Table 2 and described in 6.3 apply to which categories of procurement and under which circumstances,
- b) whether or not framework agreements may be utilized,
- c) the manner in which procurements, including disposals, shall be managed and controlled,
- d) the employer's secondary procurement policy, if any, in accordance with the requirements of 4.4,
- e) requirements for recording and reporting,
- f) the functioning and composition of the employer's oversight structures and evaluation panels (see Annex E),
- g) requirements for managing risks associated with the breaching of the basic procurement system requirements established in Table 1,
- h) the legal requirements, if any, which will be sufficient grounds for the employer to decline to enter into a contract, in terms of 6.7,
- i) the employer's procedures for placing contractors and persons under procurement restrictions,
- j) advertising arrangements for the calling for tender submissions and expressions of interest,
- k) which standard forms of contract and industry standards shall be incorporated by reference in procurement documents and how procurement documents shall be formatted and compiled,
- l) which standard conditions of tender (e.g. ISO 10845-3) and standard conditions for the calling for expressions of interest (e.g. ISO 10845-4) shall be adopted,

- m) levels of retention and bonds in the various categories of procurement, if any,
- n) insurance arrangements, if any,
- o) quality standards,
- p) health and safety policy,
- q) the cost of procurement documents (see 6.6.2),
- r) the authorized percentage increase in the final contract amount (see 6.7),
- s) the procedures for unsolicited proposals (see 6.9),
- t) departures from procedures (see 6.10),
- u) the language in which procurement documents are prepared and the language for communications,
- v) the preferred means of communication (see 4.6),
- w) the maximum term of framework agreements that may be permitted (see 6.3.7),
- x) the minimum number of framework agreements which need to be entered into should competition be reopened amongst framework contractors (see 6.3.7),
- y) whether or not agents and contractors that are commissioned to prepare a procurement document or part thereof for a particular procurement shall be excluded from submitting a tender for that procurement even if it is determined that the outputs of their commission and the procurement document is objective and unbiased with regard to their role and recommendations, and
- z) whether or not use may be made of contracts awarded by other employers for economies of scale and improved purchasing power.

NOTE 1 Annex E provides guidance on establishing, managing and controlling procurement processes. Annex F provides guidance on the selection of standard procurement procedures.

NOTE 2 Employers need to be aware that they are responsible for the correct application of the processes, methods and procedures contained in this part of ISO 10845 and for ensuring consistency with prevailing legislation. Compliance with this part of ISO 10845 cannot confer immunity from legal obligations. If doubt exists, legal advice should be sought.