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Construction procurement — Guidance on strategy and tactics

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Foreword

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The procedures used to develop this document and those intended for its further maintenance are described in the ISO/IEC Directives, Part 1. In particular, the different approval criteria needed for the different types of ISO documents should be noted. This document was drafted in accordance with the editorial rules of the ISO/IEC Directives, Part 2 (see www.iso.org/directives).

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For an explanation of the voluntary nature of standards, the meaning of ISO specific terms and expressions related to conformity assessment, as well as information about ISO's adherence to the World Trade Organization (WTO) principles in the Technical Barriers to Trade (TBT), see www.iso.org/iso/foreword.html.

This document was prepared by Technical Committee ISO/TC *[59] [Buildings and civil engineering works]*, Subcommittee SC 18, *[Construction procurement]*.

Any feedback or questions on this document should be directed to the user's national standards body. A complete listing of these bodies can be found at www.iso.org/members.html.

Introduction

Procurement is defined in ISO 10845 as *the process which creates, manages and fulfils contracts*. Procurement accordingly commences once a need for goods and services or any combination thereof has been identified and it ends when the goods are received and the services and construction works are completed and contracts are closed out. Delivery management is the critical leadership role played by a knowledgeable client to plan, specify, procure and oversee the delivery of construction works projects efficiently and effectively, resulting in value for money. Procurement yields the necessary resources to deliver projects while delivery management provides the necessary leadership and oversight management and forms part of the governance or quality oversight arrangements for construction-related projects.

ISO 10845-1 describes generic procurement processes and establishes generic methods and procedures for procurements enabling a procurement system to be established within an organisation. ISO 10845-4 contains standard conditions for the calling for expressions of interest enabling respondents to be prequalified to be admitted to a data base or be invited to submit tender offers. ISO 10845-3 contains standard conditions of tender enabling the process of offer and acceptance to be conducted. ISO 10845-2 establishes a uniform format for the compilation of calls for expressions of interest, tender and contract documents, and the general principles for compiling procurement documents for supply, services and construction contracts, at both main and subcontract levels.

ISO 10845-1 describes a number of techniques and mechanisms associated with targeted procurement procedures, all of which are designed to promote the participation of targeted enterprises and targeted labour in contracts. Key performance indicators (KPIs) relating to the engagement of enterprises, joint venture partners, local resources and local labour in contracts are needed to implement many of these procedures. Parts 5 to 8 of ISO 10845 establish KPIs to measure the outcomes of a contract in relation to the engagement of target groups, and to establish a target level or performance for a contractor to achieve or exceed in the performance of a contract.

The current 8 parts of ISO 10845 only address parts of the procurement and delivery management system required for the delivery of construction works projects. They focus on the characteristics of procurement processes, methods and procedures and the detail relating thereto, focussing on the acquisition phase of procurement i.e. the areas which are commonly of greatest interest to regulators. They introduce the concept of procurement strategy for a particular procurement and make provision of a range of methods to solicit tender offers but fall short of providing definitive guidance on the development of a procurement strategy and procurement tactics and ignore the funding options that are available.

There are a number of options relating to how construction works are funded and design and interface responsibilities are allocated. There are also options relating to the different types of contracts that may be entered into during the life cycle of a project, how contractors are to be remunerated, how secondary objectives are to be promoted through a contract and how the market is to be approached to solicit tender offers. Such choices impact upon procurement and project outcomes.

ISO 22058 provides guidance on the development of procurement strategy and the procurement tactics which are necessary to effectively implement a procurement strategy.

Annex A describes basic delivery management principles and practices which can inform decisions made regarding the options for engaging the market for new or refurbished construction works.

Construction procurement — Guidance on strategy and tactics

1 Scope

This document provides guidance on

a) options for engaging the market in satisfying a client's need for new or refurbished construction works,

b) the development of procurement strategies for one or more projects involving the acquisition of goods, services or any combination thereof irrespective of complexity, size, duration or life cycle stage, and

c) the formulation of procurement tactics which enable identified procurement strategies to be effectively implemented.

This document may be applied by private sector, public sector or community organisations.

Delivery management (see Annex A) and subcontracting strategies are beyond the scope of this standard.

2 Normative references

The following documents are referred to in the text in such a way that some or all of their content constitutes requirements 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 10845-1, *Construction procurement — Part 1: Processes, procedures and methods*

ISO 10845-2, *Construction Procurement — Part 2: Formatting and compilation of procurement documents*

ISO 10845-3, *Construction Procurement — Part 3:Standard conditions of tender*

ISO 10845-4, *Construction Procurement — Part 4: Standard conditions for the calling for expressions of interest*

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 19208, *Framework for specifying performance in buildings*

3 Terms and definitions

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

ISO and IEC maintain terminological databases for use in standardization at the following addresses:

— ISO Online browsing platform: available at https://www.iso.org/obp

— IEC Electropedia: available at http://www.electropedia.org/

3.1
client
person or organisation who initiates and finances a project and approves the brief

[SOURCE: ISO 6707-2:2017 definition 3.8.2]

Note 1 to entry: Note to entry: a brief is the document that states the requirements for a project

3.2
construction works
everything that is constructed or results from construction operations

[SOURCE: ISO 6707-1:2017 definition 3.1.1.1]

3.3
framework agreement
an agreement between a client and a contractor, the purpose of which is to establish the terms governing orders to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged

[SOURCE: ISO 10845-1:2010 definition 3.19]

3.4
order
an instruction to provide goods, services or any combination thereof under a framework agreement

3.5
secondary procurement policy
procurement policy that promotes objectives additional to those associated with the immediate objective of the procurement itself

[SOURCE: ISO 10845-1:2010 definition 3.38]

3.6
stakeholder
person, group or organization that has interests in, or can affect, be affected by, or perceive itself to be affected by, any aspect of the project

[SOURCE: ISO 21500:2012, definition 2.14]

3.7
value for money
optimal use of resources to achieve intended project outcomes

[SOURCE: ISO 10845-1, definition 3.40]

Note 1 to entry: Note to entry: optimal use of resources results in the most desirable possible outcomes given expressed or implied restrictions or constraints

4 Options for engaging the market for new or refurbished construction works

4.1 Concept

A client, where new or refurbished construction works is required, needs to answer basic questions relating to (see Figure 1)

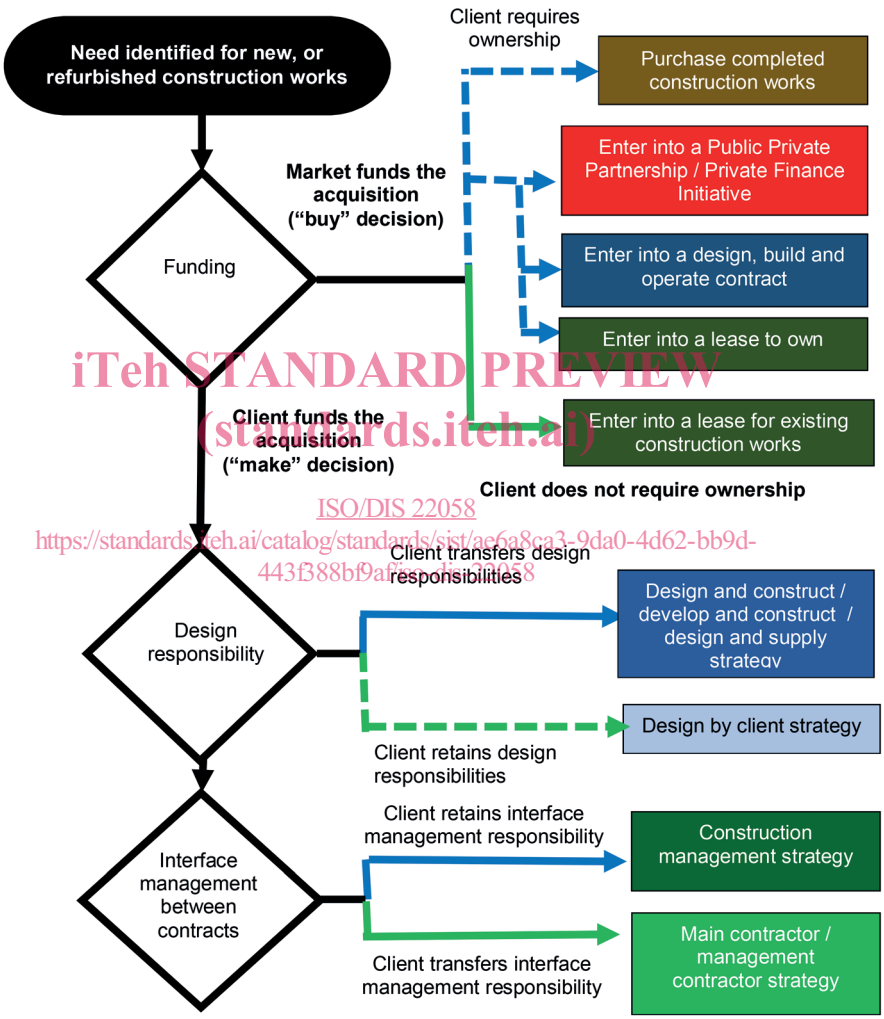
- the financing of the project on a “buy” or “make” basis (see 4.2), and

- if the decision is to “make”, whether or not design responsibilities and / or responsibilities for the management of interfaces between direct contracts are to be retained or transferred.

This is an important decision as the choice of “buy” or “make” determines the number of contracts that need to be procured and overseen as well as the capacity and capabilities of the client delivery management team which needs to be put in place to oversee the delivery of the required construction works (see Annex A). It also informs the procurement strategies that are adopted.

4.2 Financing of the project

The source of funding might not be an option as it can be a matter of policy or regulation for any given client.



NOTE Clients appoint their own personnel or contract professional service providers to perform their allocated design and interface management responsibilities in the delivery process.

Figure 1 — Common options for engaging the market for new or refurbished construction works (“buy” or “make” decisions)

The financing of the project on a “buy” basis requires the market to pay for the acquisition incrementally as the client pays only for completed work. Under this financing mechanism, the developer typically carries the cost of providing the required construction works and commonly receives payment either in the form of a lump sum, a monthly amount for the term of the contract or a percentage of the income

stream following the completion of the project. The options commonly available to the client where the market funds the acquisition are indicated in Table 1.

Table 1 — Options where the client requires the market to fund the acquisition

Client requirements	Options available to the client
Client requires ownership	Purchase completed construction works
	Enter into a Public Private Partnership or a Public Finance Initiative agreement
	Enter into a lease to own agreement
Client does not require ownership	Contract on a design, build and operate basis
	Enter into a lease for construction works

The client's involvement in the delivery management of a project where the market funds the project is limited (see Annex A). In procurements of this kind, a client may need to appoint a transaction advisor as the other party to the contract will oversee or has already overseen the delivery of the project. A client nevertheless needs to undertake a procurement process or negotiate a contract to acquire the outcomes associated with the selected project delivery route. Furthermore, clients will need to source some professional capacity to ensure ensuring that due diligence is undertaken at an appropriate level to confirm that the requirements of the contract are delivered in accordance with the terms of the contract.

The financing of the project on a "make" basis, on the other hand, requires the client to directly pay all contractors for the goods and services associated with the delivery of the project incrementally as the works proceeds. It also requires that the client play an active role in the delivery of the project as indicated in Annex A and to make decisions regarding the allocation of design and interface management responsibilities between the parties to a construction contract. A client needs to appoint professional service providers to undertake design and interface management responsibilities which it has retained, where it lacks in-house professional expertise to assume these responsibilities. Accordingly, decisions made regarding responsibilities for design and interface management determines the nature and number of professional service agreements that are entered into.

Strategies and tactics appropriate to the selected option to engage the market need to be adopted to attain desired outcomes.

4.3 Design and interface management responsibilities

A client can retain design responsibility, in which case the contractor undertakes construction on the basis of production information issued by the client (design by client strategy). Alternatively, the client can assign design responsibility to the contractor in which case the contractor:

- designs the works based on requirements established by the client and constructs it (design and construct strategy) or provides a solution to the client's requirements and manufactures and installs the required works or component thereof (design and supply strategy); or
- completes the production information based on a scheme design provided by the client and constructs it (develop and construct strategy).

The client needs to have in the design and construct and develop and construct strategy a capability or procure the necessary professional resources to develop the end of stage deliverables which form the basis of the scope of work for a contractor who is assigned design responsibilities and thereafter for reviewing the outputs of the contractor for general conformity with the scope of work and what has been agreed at each stage following the appointment of a contractor. A client may in order to obtain continuity in aspects of the design novate professional service providers to a contractor as a condition of contract e.g. mechanical design. (Novation is the substitution of a new contract in place of an old one or the substitution of one party for another party in a contract.)

Table 2 indicates the appropriate usage of the design by client, develop and construct and design and construct strategies. The client is at risk for delays in production information in the design by client strategy. The attractiveness of the develop and construct and design and construct strategy is that there is single point accountability for design and construction which overcomes fragmentation in design through integration. However, early contractor involvement (the practice of appointing a contractor before the design is complete) linked to a design by client strategy, possibly though a framework agreement, also enables construction knowledge, experience and inputs to be obtained earlier than normal to reduce costs, before the price for detailed design and construction is agreed. There are accordingly several options to achieve design integration and minimise waste through collaboration between designers and constructors.

Table 2 — Appropriate use of strategies involving design responsibilities

Strategy	Appropriate usage
Design by client	Where one or more of the following applies • the client wishes to make significant technical inputs into the design process and design details, • the client requires flexibility in the development of the design, • reasonable certainty in cost and time is required before a commitment to proceed to construction is made, • independent design advice is required, or • the flow of outstanding production information after the formation of the contract can be tightly managed
Develop and construct	Where • the client requires integrated detailed design and construction, based on the client's design development report, and single point accountability, • standard designs exist which need to be made site specific, or • the works need to be priced and commence before the production information has been completed
Design and construct	Where the client requires • integrated design and construction and single point accountability, • that most risks lie with the contractor in return for price certainty, or • that the cost and completion date be agreed when a decision to proceed with the project is made

4.4 Interface management responsibilities

A client can retain responsibility for managing interfaces between direct contracts in which case the client is responsible for the planning and managing of all post contract activities for work packages which have dependencies due to interfaces (construction management strategy). Alternatively, a client can assign interface responsibilities to a contractor who will subcontract parts of the work (main contractor strategy) or most if not all the works to others (management contractor strategy).

5 Developing a procurement strategy

5.1 Introduction

A procurement strategy can be developed for a single project, a programme of projects or a portfolio of projects where the client funds the acquisition. It identifies the best way of achieving objectives and value for money for a single contract or a group of contracts linked to a project, whilst taking into account risks and constraints. Decisions regarding specific procurement strategies should only be made after the option to engage the market has been identified.

Different options in a procurement strategy carry different level of risk for the client. No one option is right for every project. For each situation, there will be advantages and disadvantages in the use of any specific method. The client needs to carefully assess its project requirements, objectives and potential challenges and find the method that offers the best opportunity for success and achieving its value proposition (promise of value to be delivered) for the project.

The framework as set out in Figure 2 enables choices to be made and aligned with procurement objectives in the development of a procurement strategy. The application of the framework can rationalise the delivery of projects within a programme or portfolio of projects and minimise the contractual realtionships which are entered into. This can be used to address capacity constraints in spending public sector budgets as it can be used to reduce the number of contracts that need to be procured and managed and tap into the resources of the private sector without compromising objectives.

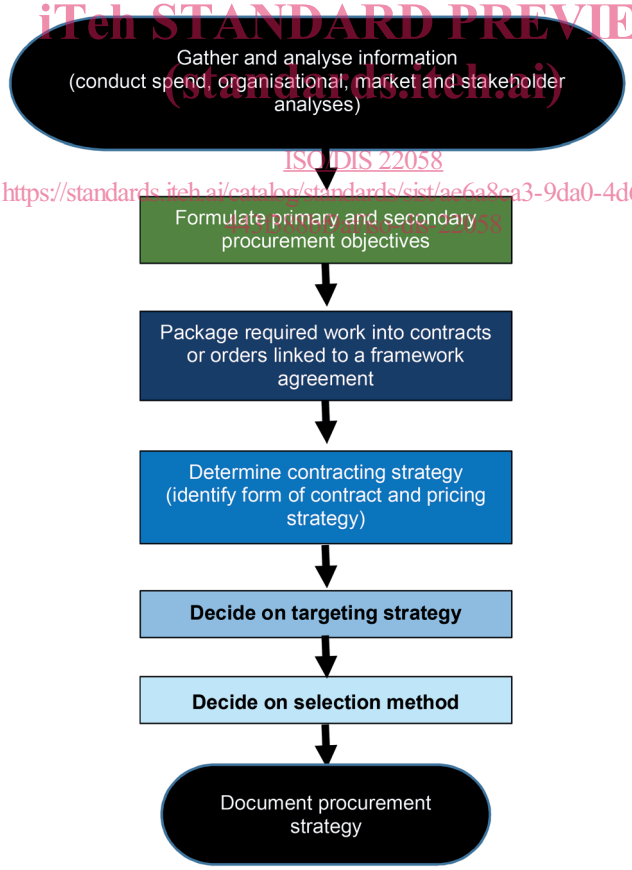


Figure 2 — Framework for the development of a procurement strategy

The application of the framework can also be applied in support of the delivery culture which the client wishes to persue in delivering the project e.g. long term collaborative relationship.