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Collection of Best Practices For Acquisition of Machine Readable Travel Document Goods and Services

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File: Collection of Best Practices For Acquisition of Machine Readable Travel Document (MRTD) Goods and Services
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Executive Summary

This Collection of practices for acquisition of Machine Readable Travel Document (MRTD) Goods and Services has been produced in order to provide assistance to State authorities tendering MRTD related systems.

Procurement projects are often large, complex and consist of a multitude of discrete tasks to be completed within pre-planned timeframes. Protracted and intricate projects require preparation and coordination in order to draw strategic connections between the planning and implementation stages. They also establish a framework for cost minimization and certainty of delivery. Those seeking to embark on a procurement process for MRTD systems should be aware of the pitfalls and obstacles involved in such ventures and how to design the procurement process to mitigate or prevent problems before they occur. The Collection leads the reader from the basic principles of procurement, steps in the procurement process and provides a 'Tip Sheet' that lists possible and common problems and solutions.

The Collection begins by outlining the principles of procurement that should be considered before the project commences and are referenced throughout the process. They include the future vision for the use of the MRTD technology, a comprehensive assessment of external markets, local legislation and internal stakeholders and a thorough risk analysis and Risk Management Plan.

The Collection then describes the procurement process, from defining the needs of the project, the tender process, evaluating bids, awarding contracts and managing change. The Collection details the requirements of each step and alerts the reader to areas of potential difficulty. In conjunction with the Tip Sheet, the Collection assists the reader to develop a successful and efficient procurement process that is cost effective and delivers results.

The Collection recommends that States clearly identify the root cause of the problem they wish to solve and elucidate the outcome they expect when procuring a new MRTD-related system. It suggests that the bidder provide a compliance matrix that describes how the system will fulfil each requirement or provide alternative solutions. It advises that contracts should be carefully written and must contain the fundamental legal obligations of each side as well as project related procedures. The contract assumes greatest importance in the event of dispute and must be written to clearly identify the roles and responsibilities of each party. The Collection proposes that a team consisting of subject matter experts from technical, to commercial is involved in evaluating each bid. This is to ensure that no one individual has undue influence and that the needs of all stakeholders are considered.

The Collection is recommended for use by State authorities because it illustrates international procurement best practices and details each step in the procurement process while supporting the reader by identifying common problems and their solutions.

Chapter 1

INTRODUCTION

1.1 Background

At the twentieth meeting of the ICAO Technical Advisory Group on Machine Readable Travel Documents (TAG/MRTD) in September 2011 the TAG members endorsed a working paper (TAG-MRTD/20-WP14/09Sept11) proposing development of guidance on procurement of MRTD-related Systems which includes electronically enabled MRTDs (eMRTD) as well. During the next two years, members of the TAG/MRTD sub-group[1] the Implementation and Capacity Building Working Group (ICBWG) gave presentations about good procurement practice at various conferences including ICAO regional seminars. Participants at these seminars showed significant interest in improving their knowledge and capability in the area of procurement. At the ninth meeting of the ICBWG in Dar es Salaam, Tanzania, in May 2013, a sub-group was formed for developing this Collection. At the twenty-second meeting of the ICAO TAG-MRTD meeting in May 2014, the developed guidance material (TAG-MRTD/22-WP/25/22/04/14) was endorsed by the TAG members.

The ICAO TAG endorsement includes an objective to generate synergies with ICAO's Procurement Section, which operates within the Technical Cooperation Bureau (TCB). ICAO's procurement section is currently managing a large number of projects for procurement of equipment and services that range from radar systems, runway lighting, aviation security equipment, feasibility studies and airport/infrastructure development. In the area of MRTD's the TCB Procurement Section managed various projects such as the procurement of the UN Laissez Passer, ePassport as well as other projects in Africa and Latin America.

1.2 Purpose and Scope of this Collection

This Collection is targeted at State authorities planning to implement major upgrades of their current travel documents and related systems and lack sufficient expertise in the field of MRTD. Additionally, they may be working with donors who are funding the project and expect the State running the procurement process to follow international best practices.

This Collection shall enable States to procure goods and services that meet their business outcomes by providing best practices guidance on all aspects of the procurement plan, such as: a) organizational b) technical c) legal and d) commercial.

The Collection should be used as a tool serving different purposes, such as:

- Self-assessment by authorities, complementing existing procurement processes with specifics for acquiring MRTD goods and services;
- Terms of reference for third party service providers e.g. ICAO Procurement Services (ICAO TCB) or donor organizations.

ICAO acknowledges that most States have already developed their own procurement processes. This Collection is not intended to replicate local general procurement laws and regulations, but covers the special aspects of MRTD goods and services. This Collection recommends authorities develop their procurement plan based on their local laws and regulations,

[1] The ICAO ICBWG sub-group on developing this Collection on procurement consists of the following members: Janet Curran (Australia), Dion Chamberlain (New Zealand), Tony Dean (ISO, United Kingdom), Markus Hartmann (ISO Germany, Chair), Fons Knopjes (The Netherlands), Neo Corneliah Lepang (Botswana), Dwight MacManus (ISO Canada) and William F. Seaman (United States of America)

and this Collection. Furthermore, the Collection is not intended to provide detailed technical specifications of respective systems nor any specific templates of contracts or legal acts. The Collection shall avoid making reference to vendors or service providers or to any kind of products and services offered by them. It should also be noted that procurement strategies may vary from tender to tender or may be different based on what is being procured (i.e.: goods or services) and consequently what is described in this Collection does not exclude other methods of procurement and inherent steps such as including specification development, planning and evaluation.

1.3 How to read this Collection

Ideally the Collection becomes a pragmatic adviser to the reader, which on the one hand provides a comprehensive overview of all necessary steps in procurement and on the other, provides a list of tips, which assist those undertaking procurement to avoid pitfalls on the way.

In Chapter 2 the reader will find a list of key principles, which should be followed in general terms. Chapter 3 leads the reader through the steps in procurement from A to Z, focusing on the process description.

Appendices 1 and 2 provide respectively a collection of references as well as a list of tips from practitioners sharing their best practices from many years of experience of MRTD-related procurement.

Chapter 2

PRINCIPLES OF GETTING PROCUREMENT RIGHT

Beyond all details of good procurement are important principles of good procurement practice. If the reader keeps these in mind during the MRTD project, the procurement project should be on the right path.

- Is there a vision for the future use of MRTD technologies such as in passports and in Automated Border Control (ABC)?
- Has an assessment been carried out and is the nature and scope of the assignment known and accepted by all stakeholders?
- Has the impact on border control been considered and does this require an additional procurement?
- Do we know who the stakeholders are and are they involved in the development and realization of the plans?
- Who is the project lead?
- Is the legislation sufficient and are the processes and administrative procedures in order?
- Are budgets available and sufficient?
- Is there a development and implementation strategy?
- Is there a Change Management Plan to increase acceptance and build on consensus in relation to stakeholders and beneficiaries?
- Has the procuring entity conducted a risk analysis and produced a Risk Management Plan?
- Is there sufficient expertise available or is there a need to hire?
- Is the public informed about the plans?

Chapter 3

STEPS IN PROCUREMENT

3.1 **Defining Needs**

States and their authorities engaged with MRTD related systems are acting upon objectives derived from the responsibility of the State to enable their citizens to travel to other countries as well as to receive genuine and welcome travellers at their borders. They are facing the fundamental challenge of identifying non-legitimate travellers from the majority of legitimate individuals. Authorities are continuously trying to fix issues they discover in their legacy systems or are acting upon a future vision of identity management. All investments in MRTD goods and services must serve this purpose in general. At the same time authorities are obliged to use taxpayers' money with great care.

As an example, buying an 80kb chip for a passport or a biometric e-gate must be considered as a tool only. It has no purpose of its own. Vendors are selling products they are offering. It is the authorities' responsibility to make sure that these products will serve their needs.

Therefore it is paramount to any MRTD related acquisition process to start with a thorough assessment of the current situation. The solution to the problem is not technology related to start with. Generally, authorities should begin by looking at their internal processes in the areas of:

- Generating and managing civil status of citizens;
- Document based identity verification at borders and other public of private use cases;
- (Internal) fraud in the issuance and/or verification processes of MRTDs;
- Lack of trust from Visa issuing States in the issuance process;
- Non-compliance of MRTD to latest international standards e.g. ICAO;
- The cost effectiveness of legacy processes and systems.

For this assessment the authorities may benefit from various guidance materials provided by ICAO such as:

- Guide for Assessing the Security of Handling and Issuance of MRTDs;
- Guide Towards Better Practice in National Identification Management;
- Document 9303 MRTD.

Having identified the root causes of the problem, the authority will need to identify the targeted outcome expected from a new MRTD related system. Subsequently, a comprehensive list of requirements should be derived. The requirements should be formulated in a well-structured manner, making sure that they can be understood clearly by third parties. Good requirements are: correct, unambiguous, complete, and consistent, ranked for importance, verifiable, modifiable and traceable. Following standards such as Request For Comment (RFC) 2119 and Institute of Electrical and Electronic Engineers (IEEE) 830 structuring requirements is recommended, and the authority should have a solid understanding of other relevant standards. The requirements should cover all the identified needs. For large and complex projects the authority may invest in developing model-based system architecture designs (MBSA). Similar to blueprints of buildings, this IT based model allows the authority to check the completeness and correctness of all requirements identified. The adaptation of standards such as the International Organization for Standardization (ISO) Reference Model of Open and Distributed Processing (ISO RM-ODP) could help in developing the requirements specifications. The

following figure illustrates the so called "Investment Logic" authorities may wish to follow[2]

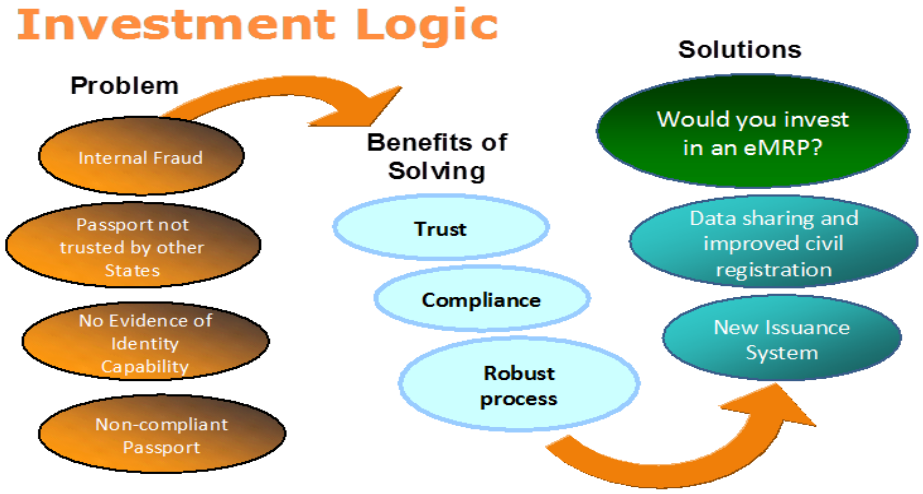

Figure 1: Points to watch defining the needs for an MRTD related system

Having gained clarity on the requirements of the new MRTD system, the authority may also evaluate different types of delivery of the solution, such as[3]:

- Procuring products and system integration services separately;
- Procuring a turn-key project and gain ownership from the start;
- Procuring the solution in a build, operate, transfer mode (BOT) having the service provider operate the system for a defined period of time;
- Procuring parts of the solution on a service mode, where the supplier leases and maintains the solution on fees per month or fees per transaction mode.

Which type of delivery is often a question of the capacity the authority has in managing the project and the willingness to manage the risks associated with the procurement project. However, the more services and risks borne by the vendor, the higher the price may be.

Authorities should not allow vendors to develop or to influence the development of the requirements specifications. Members of the authority should analyse the offerings in the market (e.g. by going to conferences and exhibitions or benchmarking on best practice missions or conducting a Request for Information (RFI[4]), but the final decision on what goes into the specifications must remain with the authority members only.

3.2 *Preparing Tender Process*

It is the daily business of the procurement department of public authorities to run a tender process, following the national procurement laws. In case the generic procurement process might need to be improved, the reader is advised to take advantage of the list of referenced documents attached in Appendix I. During the tender process, two types of documents need to be developed:

3.2.1. Procurement Plan

The **Procurement Plan** – which is for internal use only- explains *how* procurement is to be undertaken, covering areas such as:

- a description of the procurement;

[2] Source: David Philp, Chair of the ICBWG: "Getting Procurement Right"; Presentation at ICAO MRTD Symposium, Montreal, September 2011
[3] Source: World Trade Organization: WTO Agreement on Government Procurement (AGP), 1994
[4] By issuing an RFI, authorities are requesting vendors to submit information about their latest offerings, without providing a binding commercial offer.

- the evaluation criteria;
- the type of procurement process to be used;
- a probity plan, if appropriate;
- governance arrangements;
- risk assessment;
- indicative time-lines.

3.2.2. Tender Document

The **Tender Document** – which is issued to the market - provides the `ground rules´ for the evaluation of submissions. It describes to potential suppliers the specifics of the acquisition, the manner in which submissions are to be forwarded to the agency and how the submissions will be evaluated, in essence instructions to tenderers.
An indicative list of items, which may be included, in a request document includes:

- a description of the procurement;
- conditions for participation;
- operational concept,
- detailed requirements specification,
- type of delivery,
- evaluation criteria,
- process rules;
- a copy of the draft contract or terms and conditions,
- validity of tender response,
- valid period for receiving queries from tenderers prior to bid closing and when responses will be provided by the issuing entity,
- bid closing time.
- valid period for receiving queries from tenderers priori to bid closing and when responses will be provided by the issuing entity

Looking at the acquisition of MRTD goods and services ICAO would like to draw special attention to the following points.

3.2.3. Engaging all stakeholders

An effective acquisition process will require contributions from multiple stakeholders or departments (e.g. Ministries of: Interior, Justice, Foreign Affairs etc.) within the government, covering sectors such as: finance, legal, communications, operations, border control, policy, and information technology.

Often, subject matter experts can be found in other departments who are directly or indirectly related to the MRTD-related product or service being sought (e.g. the border officer who will ultimately inspect a new MRTD document being tendered). Unexpected hurdles can be avoided by identifying and engaging the key stakeholders and establishing their role in the process as early as possible.

3.2.4. Internal Work Packages

Even if the authority is tendering for the delivery of a turn-key project, there will always remain some work packages for the authority to manage internally. Buildings hosting personalization machinery may need to be adapted to accommodate environmental requirements necessary to operate sensitive machinery such as laser engraving equipment. Operating a Public Key Infrastructure (PKI) requires a new skill set from operating officers. Maybe people with these skills need to be trained or hired. Often MRTD related projects are delayed because authorities did not plan for these internal work packages well in advance. Authorities should not underestimate the impact and complexity of these work packages. The tender should be clear and unambiguous as to the roles and responsibilities of both the vendor and the authority.

3.2.5. Expression of Interest (EOI) / Request For Proposal (RFP)

Authorities may consider using a two phase acquisition process consisting of an EOI and an RFP. The first phase is the issuing of an EOI. It is to find out more about what the market is offering and / or to qualify bidders. While evaluating the EOI, the authority can select those bidders who are commercially and technically well qualified. The RFP phase, which shall include all the detailed requirements developed from the EOI, will be issued to the qualified bidders only. During the RFP the pre-qualified bidders may have access to sensitive data in travel documents and / or systems described in the

restricted tender document.

It is noteworthy that ICAO procurement rules and procedures do not follow a two system approach with an EOI and subsequent RFP. ICAO utilizes an Intended Tender Bid (ITB) directly which will require amongst other criteria, corporate, financial and technical requirements as prequalifiers.

3.2.6. Compliance and alternative solutions

It is common practice to provide a compliance matrix with the tender document. The bidder is asked to respond to each of the requirements as to whether their solution is fully, partly or non-compliant with the requirement and provide a written statement justifying each response. In order to benefit from the best solutions available, the bidder should be allowed to propose alternative solutions as an option only if equivalent or superior compliance can be demonstrated and under the condition that the bidder can explain, how the authority will benefit from this option

3.2.7. Contract

The tender document must contain a draft of the procurement contract or the legal terms and conditions that will be used for the eventual contract. The contract must contain both fundamental legal provisions as well as project related provisions. The contract will determine the degree of control the authority will have with or against the vendor after the contract is awarded. While the main body of the contract needs to cover obligations on warranty, liability, etc., the project related part will cover topics like, scope of work, delivery schedule, acceptance procedures and much more. The draft contract should contain an obligation requiring the vendor to compensate for any short falls in delivery of the MRTD-related system. Penalties could be for instance payment of fines when time delays occur. The termination clause should also obligate the supplier to assist managing the transition to a new supplier. The contract should also specify the level of service that the State will expect from the vendor. Asking the vendor to provide their review of the draft contract with the submission of their bid will give the authority a preview on how easy it will be to work with the future supplier.

3.2.8. Proof of Concept

MRTD goods and services are often procured for a period of 5 to 10 years. The decision to work with any supplier should be based on facts and compliance with tendered requirements. After the technical evaluation has been completed the best vendors may be asked for proof of their capabilities by providing a demonstration of the key elements of the offered solution at the authority's site, or at an existing reference site as deployed by the vendor. The costs associated with visiting an off-site installation should be borne by the authority. Authorities should plan the objectives and the agenda of such demonstrations carefully, so that the evaluation team evaluates the proof of concept based on predefined criteria only. Vendors should not be allowed to distract the evaluators mind with exaggerated actions or show and hospitality.

3.3. Evaluating Bids

Bids should be evaluated by a multidisciplinary team covering different subject matter expertise, such as technical, business processes, operational, security, commercial, legal, project management. The team should represent all stakeholders involved in the decision making process, including technical subject matter experts and business representatives. It should also be balanced in terms of hierarchy and ranks within the team so that the evaluation process cannot be overly influenced by one individual. In general the evaluation should cover the following aspects:

- Preliminary examination based on responsiveness to tender document and eliminating those not qualified,
- Technical bid evaluated against technical bid criteria and comparing the technical strengths and weaknesses of the bids,
- Cost evaluation, determining whether the bids exceeds budget, and if exceeded, undertaking possible negotiations where necessary.

The evaluation detail should cover each of the a) formal/legal[5], b) technical and c) financial aspects. The evaluation should be based on the compliance matrix. Each requirement may be graded as a) mandatory or b) recommended. All mandatory requirements must be fulfilled in full. Bids which are not compliant may not be evaluated any further. Key requirements should be given weighting criteria. The bidder who offers the best responses for those criteria wins the technical evaluation. Prior to a tender, it could be beneficial to visit firms for information purposes only.

The evaluation teams should also leave room for managerial capability criteria, such as criteria of the vendor's ability to work cooperatively with the authority or the vendor's capability to listen, understand and where necessary be

[5] With the "formal / legal" evaluation the evaluation team is checking if the bid is following requirements of the RFP about the format, size and legal illegibility of the bid document.

flexible in their approach. Such criteria may be discussed within the team in moderated workshops or after the vendor's presentation to the evaluation team, calling for the "overall impression" on the bidder. The evaluation panel needs to agree on a common position so that no individual can overly influence this aspect of the tender. The following figure shows one example of feasible steps of an evaluation process.

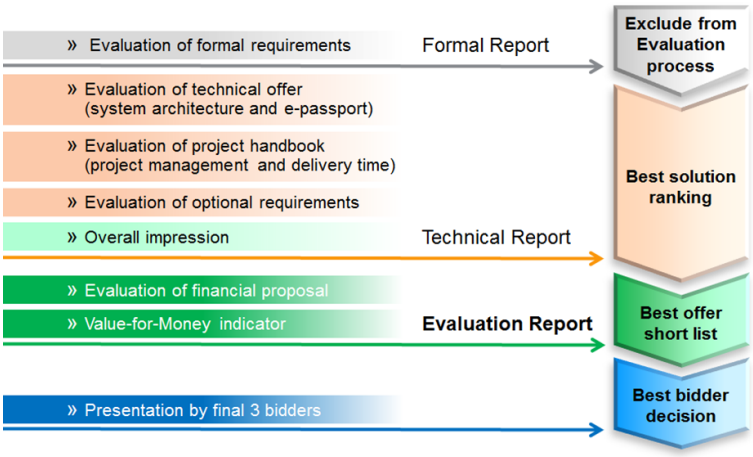

Figure 2: Sample of an evaluation process

Besides following a structured process during the evaluation phase, it is essential that the evaluation team gain a common belief that this vendor can solve the problems identified in phase 1. People have different ways of making up their mind about things. Some like to read, some like to listen, but all people tend to trust what they have actually experienced themselves. So the evaluation team should plan for multiple ways of gaining first hand experiences. Possible ways are:

- Testing the provided demo system thoroughly;
- Have sample MRTD documents tested by the authorities forensic experts;
- Visit reference customers at their site, while reserving time for a discussion without the vendor being present;
- Accompanying vendors on official interoperability test events or at third party test labs.

Prices should always be evaluated in relation to the overall value offered by the bidder (Best Value-for-Money – "BVM"). Depending on the scope of work, authorities should compare the estimated costs of operation of the proposed solution. It is t important to specify how the financial section must be furnished in the bid document and which information should be provided. Only in this way can the costs of different vendors be compared effectively. Bidders should be requested to estimate these costs under the given assumptions of the operating environment. It could well be that environmental requirements for the personalization bureau room e.g. for operating a laser engraving machine could overcompensate the lesser price for an alternative machine. Another example are the consumables required for re-transfer printing personalization, which in lower volumes could end up with higher costs per personalized passport compared to other solutions.

Finally the best qualified bidder shall be invited to contract negotiations.

3.4 Awarding Contract

In the phase of proposed awarding the authorities should ask the bidder to confirm all the details on how he intends to implement the project. This should be done by requiring a Project Handbook which is the initial project management document covering all aspect of project organization and all the details on how the project will be implemented. The Project Handbook describes in detail the project organization confirming the list of all major sub-contractors and key members of the supply team mentioned in the bid document, who will actually do the job. The project team members should present themselves to the authorities' evaluation team.

Finally, both parties will negotiate the draft contract, which has ideally been submitted with the tender document. Contracts in MRTD projects perform many essential functions. The contract itself should set out, in clear, unambiguous detail, the entire commercial understanding between customer and supplier. Within this structure will sit the technical and operational specifications which underpin MRTD delivery, including the rules relating to relationship governance and logistics. The MRTD project contract is an essential tool in transferring ownership of key assets and establishing the scope of licences and rights covering core technologies which may be embedded within the MRTD. Finally, as well as providing

the structure for project delivery, the contract will also address future risk mitigation and liability issues so that the parties can achieve their commercial objectives.

To achieve these multiple objectives, the contract needs to be properly developed and negotiated with consideration given to key issues. Besides the generic components of a technology related contract the following key elements for procuring MRTD related systems need to be considered:

- Warranty periods for MRTD documents need to be equal to the document's validity period;
- Quality control procedures must ensure the quality of the document and the stability of the production process;
- Test and acceptance procedures shall clearly define under which conditions delivery milestone are fulfilled, initiating payments and transfer of title and risks;
- Change of technologies (e.g. new chip generation) must be introduced within a defined process;
- Vendor must ensure the capacity to supply, within a business continuity obligation;
- Vendor must allow the authority to audit their supply chain, including their major sub-contractors within a mutually agreed timeframe.

After contract signing, both parties should make the contract (at least those parts covering operational procedures) available to the project team, who should base their work upon the agreed rules and regulations.

4.5. Managing Change

MRTD solutions often are planned for a period of about 10 years. It is very likely that either party may request a change to the agreed terms and conditions. This could be because of new security risks or a technology change needs to be accommodated.

For MRTD related projects, it is of paramount importance that any change is managed within a well-defined change management process. MRTD documents once issued remain valid until their expiry date. New versions of documents must be clearly specified. Changes in the document itself are best avoided, but if necessary must be communicated to all ICAO member States.

Any changes between the supplier and the issuing authority need to be well processed, as it may cause unexpected impact in a technical or commercial manner. Changes need to be well documented, which includes the amendment of solution specifications and process descriptions. The contract needs to cater for a process on how the amended specifications become an integral part of the supply contract.

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Appendix 1

REFERENCES

PUBLIC PROCUREMENT AND ASSET DISPOSAL REGULATIONS of the Government of Botswana:
http://www.google.ca/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&ved=0CCkQFjACahUKEwjN-72T0_fIAhXCdT4KHSgZBfM&url=http%3A%2F%2Fwww.ppadb.co.bw%2FAct_Reg%2Fppadb_regulations_revised.pdf&usg=AFQjCNGpdwMnwebkFuIYDOiWmCNfWCVAcg

Commonwealth Procurement Collectionlines:
http://www.finance.gov.au/publications/fmg-series/docs/CPGs-2008.pdf

Public Procurement in the European Union – rules and guidelines
http://europa.eu/business/public-contracts/index_en.htm

Guide for Assessing the Security of Handling and Issuance of MRTDs, ICAO
http://www.icao.int/Security/mrtd/Pages/Assessment-Collection.aspx

Guide Towards Better Practice in National Identification Management, ICAO
http://www.icao.int/Security/mrtd/Documents/Forms/AllItems.aspx

Document 9303 MRTD, ICAO
http://www.icao.int/Security/mrtd/Pages/Document9303.aspx

World Bank Procurement Policies and Procedures

World Trade Organization: Agreement on Government Procurement (AGP 1994)
http://www.wto.org/english/tratop_e/gproc_e/gp_gpa_e.htm

Project Management Institute (PMI): Project Management Body of Knowledge (PMBOK) Collection- Fourth Edition, 2008

Institute of Electrical and Electronic Engineers: Software Requirements Specification (SRS) originally published as ANSI/IEEE Std 830-1984)

Network Working Group S. Bradner Request for Comments (RFC), 2119 Harvard University BCP, 14 March 1997: Key words for use in RFCs to Indicate Requirement Levels

Model-based System Architecture design:
http://hjp-consulting.com/sites/default/files/pdfs/Model-centric_methodology_ID%20credentials%20article_11-2012.pdf

Revision History

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Appendix 2

PROCUREMENT TIP SHEET

Possible Issue	Suggested Treatment
Risk Assessment • Risk assessment and risk mitigation strategies can sometimes be treated as an academic exercise. Failure to properly scope/cost risk likelihood and consequence, and draft tender and legal documents accordingly can increase the risk of project failure.	**Undertake a genuine risk assessment** • The inherent nature of risk cannot predict unexpected events; however, the benefit of gaining a strong understanding of likely risks (and associated costs) positions an Agency / Authority to draft tender requirements and legal documents accordingly. This provides protection of the Agency's interests, and attributes contractual liability to the appropriate party. Constructing a strong legal instrument/platform to support the requirements helps to engender project delivery success.
Price Model Considerations • The type price model (e.g. Time and Materials or Fixed Price) included in the tender document and resultant contract can have a significant impact on the way a contract performs during its duration, as well as affect total contract expenditure.	**Use most appropriate price model** • The most common pricing approaches can be split into two broad models – 'Time and Materials' or 'Fixed Price'. There are key differences between the two models. • Within a 'Fixed Price' model, there is greater ability to estimate in advance the total project cost; however, there is far greater risk of budget blow-out if the scope of the project/deliverables is not accurately scoped in the tender document and resultant contract. Failure to do so can result in frequent and costly change requests, incurring significant additional cost. • Using a time and materials model allows flexibility; however, costs can accrue quickly. • Prior to approaching the market, it is therefore vital to determine the price model which will best suit the goods/services being procured, and how the project will function once a contract is in place.
<u>RFT Technical Considerations</u> - Agencies procure in excess of requirements • Agencies should be mindful not to contract services or goods which exceed the actual need. Vendors may propose functionality, flexibility, variability or performance which exceeds the stated need. Excessive capability has an associated cost which vendors pass on to Agencies through the tendered/contract price.	**Understand and articulate actual need** • Having a thorough understanding of current and projected requirements is vital. Tender documents should include as much detail as possible in this regard, and include metrics to guard against paying for excess functionality, flexibility or performance which is excess to requirements. • In a passport/technical context – ensure requirement is scale-able both ways (that is, functionality and performance can be increased or decreased in scale, depending on point in time need).

Possible Issue	Suggested Treatment
<u>Assessing Vendor submissions</u> - Tender Compliance • Vendors may state they are 'Compliant' against Mandatory Requirements when they are not compliant.	**Undertake a thorough risk assessment of tenders, and the process.** • It can be difficult to assess the veracity of Vendors' claim regarding compliance. If a tender includes Mandatory Requirements, where possible, utilise relevant industry standards or other quantifiable metrics and require Vendors to provide evidence (e.g. certification, evidence of relevant qualifications etc).
<u>Assessing Vendor submissions</u> – Overall tender response • Through tender submissions, Vendors often do not actually address the tender criteria, requirements or questions. Commonly, tender submissions merely paraphrase the Statement of Requirement, and include broad motherhood statements, without detailing the mechanism through which they propose to meet the requirements, and without providing sufficient or appropriate evidence to support their claims. • Vendors often assume knowledge and/or (if an incumbent) do not provide sufficient detail.	**Conduct Industry Briefing Sessions** • Conducting an Industry Briefing (an open or mandatory forum for potential Vendors) after tender release is useful to provide additional information, answer queries and outline expectations from a requirements or evaluation perspective. • At an industry briefing or through tender documents, Agencies can emphasise that Evaluation Committees are obliged to assess all tender submissions on their merit, against the specified evaluation criteria, and – importantly – only using the detail Vendors include in the tender response which objectively demonstrates their ability to meet the stated requirement. • Vendors often state they can meet a requirement without providing substantiation - this should not be treated as a sufficient demonstration of how a requirement will be met.
<u>Assessing Vendor submissions</u> - Capability • It can be difficult to make an accurate assessment against a Vendor's true ability to deliver the required services.	**Consider Vendor site visits/demonstrations** • Agencies can consider including product/service and practical demonstrations as part of the evaluation process. • If appropriate/practicable, States could include the option to visit vendor sites (either all, shortlisted or preferred vendor) as part of the evaluation process.
<u>Assessing Vendor claims</u> - Referees and Reference Projects • Vendors may include referees who are unable to provide appropriate or relevant comment against the requirement. • Vendors may include supporting projects which are not of comparable scope, expenditure or complexity to the requirement. • Both of these reduce the value of references and do not enable an Evaluation Committee to make an assessment against the Vendor's claims.	**Advise re referee/project requirements** • Include a requirement in the tender documents that Vendors are to provide contact details of referees who can comment appropriately against the requirements, and against comparable projects. • Require Vendors to cite comparable projects (scope expenditure, complexity etc), their specific role in the project, and details of the deliverables. It can be useful to ask Vendors to detail any challenges which arose during the course of the project, how the Vendor addressed the issue and what, if any, mechanisms the vendor employed to prevent the issue from re-occurring.

Contractual Considerations • Use a contract which includes a good balance of flexibility and certainty, to allow for growth/changes of the project duration, as well as providing sufficient protection for the Agency.	**Carefully consider contract provisions** • Depending on size/complexity of project worth engaging legal subject matter expert to provide advice/draft appropriate contract. • Areas to consider in a passport/technical contract may include (as well as general contract terms and conditions): — Design phase — Implementation phase — Acceptance testing — Service Level Agreements/Key Performance Indicators — Support (e.g. 1st, 2nd, 3rd level), maintenance and warranty — Intellectual property rights — Disaster recovery and business continuity — Security considerations (e.g. document, national etc) — Relationship management — Fees and Charges (including process of submitting and approving change requests)
Contract Compliance/Contract Negotiation • Through the tender process, Vendors may identify areas of non-compliance with the draft contract. Depending on the nature of the non-compliance, it may affect the ability to ratify a contract.	**Determine a considered position early** • Vendors cannot be precluded from raising issues with the contract during the tender process or contract negotiations. Vendors typically challenge provisions relating to liability (e.g. capped liability amounts), indemnities, warranties and insurance amounts. Agencies should be prepared for this, determine in advance its position against any threshold terms and conditions (i.e. provisions which are non-negotiable), and seek legal advice where appropriate.
Post Contract: Contractor's bid team do not deliver services • In any commercial bid, Vendors may base its proposal on a highly skilled and experienced team; however, after a contract is in place, a less skilled or experienced team may perform the required tasks.	**Require details in tender response/Incorporate into Contract** • Rather than only requiring Vendors to provide details or CVs of proposed staff, require a breakdown against specified personnel's actual proposed involvement in the project and/or a detailed activity breakdown (including estimated effort and cost) against personnel. • The specified personnel and/or activity schedule against personnel can be incorporated into the contract prior to commencement of the services. • Ensure the contract is formally tied closely to the successful Tenderer's proposed approach and service deliverables (including key performance indicators).

<u>Evaluating Bids:</u> Vendors claim to be fully ICAO compliant in all aspects • Sometimes vendors use the phrase "Our solution is fully ICAO compliant" to pretend that their solution is fit for purpose	**Determine which of the sometime alternative ICAO requirements shall be applicable** ICAO specifies Standards and Recommended Practices (SARPs) as well as guidelines • The Agency must gain their own knowledge about the standards and which are applicable for the particular projects • ICAO and other organizations such as OAS, OSCE, IOM offer seminars and on site missions to gain this knowledge • Require the vendor to explain which ICAO requirements their offer is compliant with and why.
<u>Defining Needs</u>: ICAO deadlines: 2015 • Vendors may misuse deadlines published by ICAO	**Study ICAO time schedules in detail** ICAO deadlines as appearing in Annex 9 SARPs need to be read carefully • 2015 deadline is not saying that States have to issue e-passports, but that States should not have non-MRPs in circulation any more
<u>Defining Needs</u>: Vendors recommend expensive passport booklets. • Vendors offer booklets with many different security features and / or chips with large memory size	**Define your objectives and constraints for your next generation booklet** • Each security feature shall protect the booklet or parts thereof against counterfeiting or fraud • A good passport booklet follows a security concept which includes a balance of security features of all three levels • Vendors should be asked to explain what threats their proposed security features mitigate and how. • Cost of additional security features or chip memory size needs to be reasonable
<u>Defining Needs:</u> Vendors push for using the latest technologies	**Check if latest technologies are field proven** • MRTDs shall be designed for a 5 or 10 years lifetime, therefore new technologies shall be thoroughly tested in the lab and in the field before used in mass production • Technology is not a purpose of its own; usability and maintainability of the products and features need also be considered.
<u>Preparing Tender Process</u>: Tendering process under time pressure • Senior levels of the Authority or the incumbent vendor may push for very fast response times for submitting the bids	**Plan enough time for both evaluation team and bidders** • Vendors need at least 8, ideally 12, weeks for preparing a comprehensive bid. • Shorter response time is limiting the competition/response to the disadvantage of the tendering authority.
Evaluating Bids: Evaluation teams are built of one Authority only • Passport issuing authorities often claim to have the sole expertise to evaluate MRTD related bids	**Create an evaluation team consisting of all relevant stakeholders** • MRTD related project should involve all stakeholders from the beginning, such as a) issuing authority, b) forensic lab c) finance, d) foreign affairs e) IT department f) procurement g) compliance department h) public relations i) border authority, etc.

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