

Tendering - the only way?

One of the key activities of procurement is to obtain acceptable agreements with suppliers by using the tendering and the negotiating processes. However, which of these two processes is best and why do some organisations use only tendering, whereas other organisations, will only negotiate?

Let's therefore briefly consider the negotiating and tendering processes further in the following sections:

- What is Tendering?
- What is Negotiation?
- Suppliers are one side of the buying process, five questions must be asked by buyers
- What is it fundamentally that Suppliers & Customers want?
- Summary

What is Tendering?

Tendering is defined as:

"The procedure, by which potential suppliers are invited to make a firm unequivocal offer of the price and term which, on acceptance, shall be the basis of the subsequent contract"

Tendering is a formal process involving the following steps:

- identification and selection of suppliers from whom to seek bids
- for those selected suppliers, the issue of invitation to tender (ITT) documentation that contains the buyers specification or the statement of requirements
- receipt and assessment of tenders
- selection of the preferred tender/supplier

Those tenders received by the nominated date/time, will then be assessed, both technically and commercially, against the required criteria that has been specified in the ITT and at this stage; any offers that do not meet

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these criteria are eliminated. The objective of the tender assessment is therefore for the purchaser to establish which the best offer is.

These assessments will normally cover the following aspects:

Technical assessment	Commercial assessment
Compliance with the specification (either a conformance specification or a performance specification)	Price
The required output parameters will be met	Any other commercial qualifications such as terms of payment
Product/service quality	Perceived risks such as supply lead times
For equipments, the maintenance/ repair over the operating life	Value for money

If price is the only selection criterion, then the tender with the lowest price will be awarded the contract; however where price is only one criterion among several others, such as service, lead time, quality etc; then the purchasing organisation will need to decide the most economically advantageous tender (MEAT) or, which one represents the best value for money (VFM).

The result of the assessment is therefore to rank the tenders either by price, or in accordance with assessment criteria and these which could be specified in the ITT.

This establishes the lowest assessed tender, which is then recommended for the award of contract.

The tender specification in the ITT must therefore be clear, unambiguous and allows suppliers to make an appropriate offer.

In summary, tendering aims in a single round of tendering to obtain compliant tenders from qualified tenderers by allowing for open competition and fairness.

What then are the perceived disadvantages of tenders?

Tendering may not always give the intended open competition and fairness; yet these are the major reasons for its use. Indeed tendering may be merely "going through the motions" as tendering processes can be influenced by those who have power and influence over the eventual selection process.

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Tenders may also be selectively issued with suppliers' responses then being clearly influenced. Additionally I am also reminded of a procurement manager who once said to me, "we are always able to pre-cook the tender board."

The private sector, for example, will usually disregard tendering completely and after selecting suppliers, moves straight to negotiating. They see the following disadvantages of the tendering process:

- When it is necessary to clarify any technical points in the ITT, this will automatically mean such a question/answer is then passed onto all of the other bidders/suppliers; therefore, any commercial advantages of the supplier are openly revealed.
- The supplier may wish to give better alternatives that can only be found during negotiations; therefore the tender specification can restrict offering alternatives.
- Tendering is slow and also expensive to administrate.
- Tendering conflicts with "newer" collaboration approaches and working more closely together with suppliers.
- Tendering is irrelevant to monopoly suppliers of for example, OEM spares, brands etc.

We will further consider the above aspects later; meanwhile let us explore the negotiation process.

What is Negotiation?

Negotiation can be defined as *"the resolution of conflict through the exchange of concessions"*.

This will mean trading concessions, not donating them, and can also only be undertaken with people who have the power to vary the initial terms and are able to give something in return. In other words, all the players have to be prepared to negotiate.

The advantages of negotiations can be seen as follows:

- Relatively expedient
- Unclear requirements can be clarified
- Inexpensive
- Flexible and not prescriptive
- Confidential

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Disadvantages of negotiations are seen as below:

- No transparency
- No clear audit trail
- Requires skill and competence
- Viewed as a competition with winners and losers
- Can need a lot of preparation

Conducting negotiations is a skilled process and whilst there are available some ideal guidelines, it cannot be thought as a strict procedural process; indeed some observers observe there are really few rules involved. As it is a process conducted by people, then, personality and cultural aspects are also involved where for example, negotiating with Koreans is different to negotiating with Germans.

Negotiating is a skill that needs to be learnt and developed. Whilst it is commonly found that supplier's sales people are trained in selling and negotiating, perversely and regrettably, buyers are often not trained to negotiate.

Suppliers are one side of the buying process

In the buying of products/services, the position of the supplier in the marketplace should be considered; this often being something that is not systematically considered by all buyers.

There will often be other buyers for products and this may mean the supplier takes a view of how "attractive" the buyer could be as a customer. Indeed, there may be several reasons why the buyers appear unattractive to suppliers including:

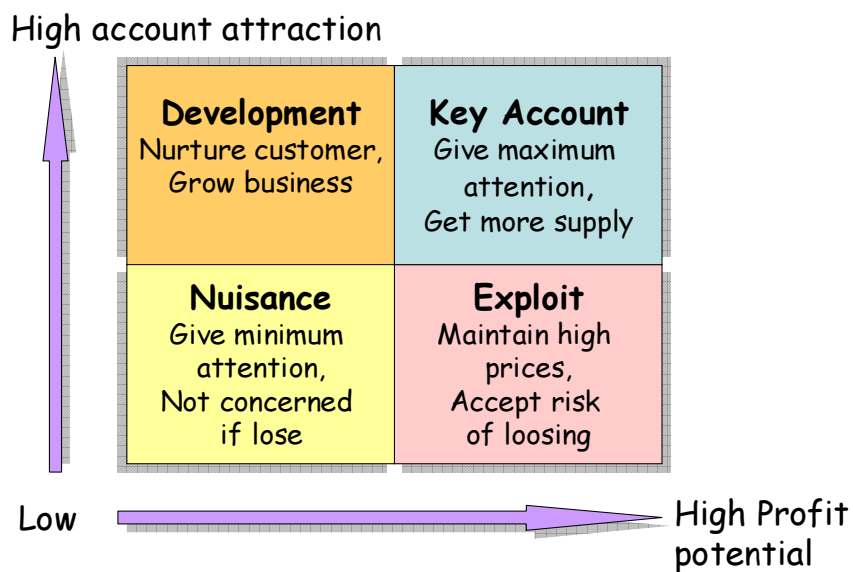
- The buyers standards that need to be met by the suppliers
- The amount of competition for the buyers business
- The investment that needs to be made
- A low profit level
- The expense of any tendering process

Additionally, the number of available suppliers may be large or small, for example, markets may be expanding or contracting and buyers therefore

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need to be aware of the expansion or contraction of the supply market from which they are procuring.

It should therefore never be assumed by buyers that every supplier is "desperate" to supply them with products or service. Suppliers have a view of their market and this will affect a suppliers positioning towards buyers; for example the suppliers view maybe one of the following:



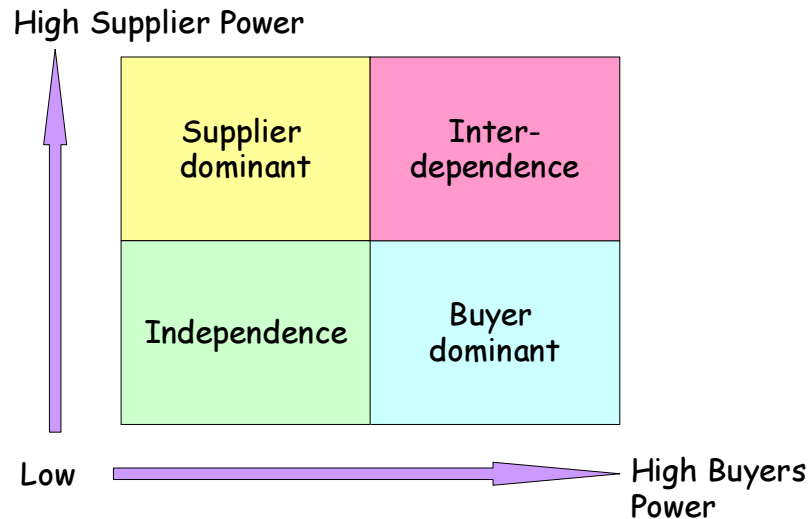
Clearly not every purchase has a supplier who views the buyers business as being a key account for the supplier. In view of these differences then all buyers can usefully consider:

Question 1, just how does my supplier view me?

They may be surprised by the answer and that they are not, universally, going to be seen as being a key account; indeed, they may be seen as a nuisance.

Additionally, related to this, is the power of each party has, for example:

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Where the buyer is dominant there is:

- A small number of big buyers
- Buying of a large percentage of a seller's output
- Ease for buyer to switch
- Many sources of supply
- Low transaction costs
- A "take it or leave it" view from the buyer

Where the seller is dominant there is:

- A small number of big sellers
- Supplying to many buyers
- Difficulty for buyers to switch
- Few sources of supply
- High transaction costs
- An "enforced" view from the supplier

All buyers can therefore usefully consider:

Question 2: what power relationship is there with my supplier?

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The following gives one possible summary from asking and answering the above two questions of the supplier base

Suppliers name	Q1) Suppliers view of us	Q2) Power relationship
Supplier a	Key account	Independent
Supplier b	Exploit	Supplier dominant
Supplier c	Nuisance	Interdependence
Supplier d	Development	Buyer dominant
Supplier etc	Etc	Etc

This matrix shows there will be varied responses and whilst some will "match" (e.g. b), others will not (e.g. c). We can ask:

Question 3: What are the implications of these two views?

Simply here, the answer will reveal that there are varied requirements from buyers and suppliers, some will align, and some may not. We can explore this further by looking at the 5 rights of purchasing related to the well known Kraljic item portfolio. With Kraljic we can see that buyers have a hierarchy of requirements and this is shown below:

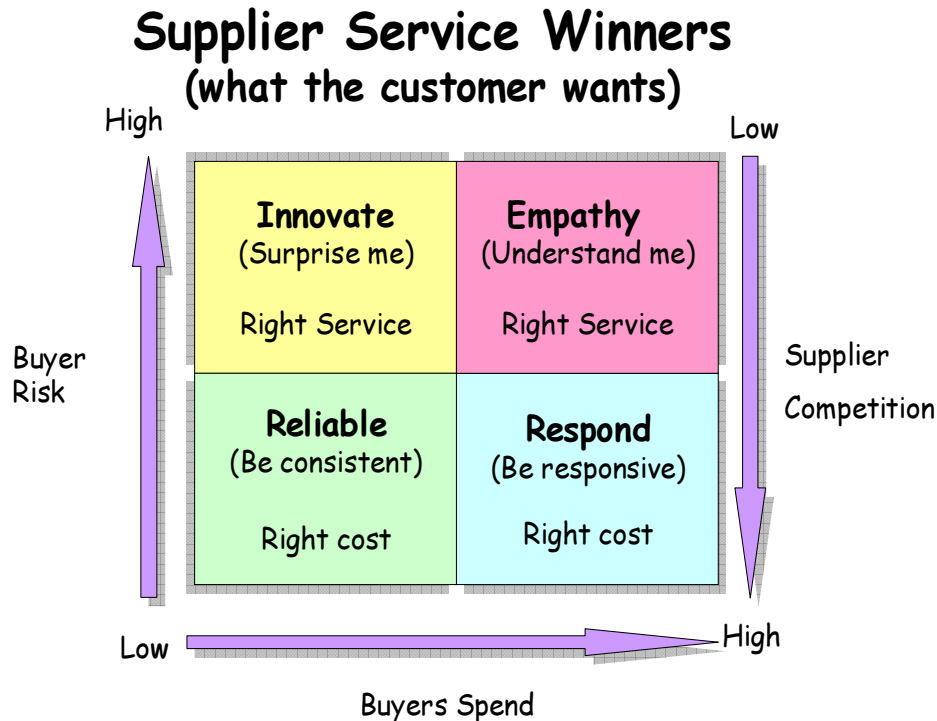
The Right	Bottleneck and Critical items Aim: Secure supply and therefore , lower the risk of non supply	Routine and Leverage items Aim: Reduce price by playing the market, possible outsourcing etc.
Quality	Secondary	Secondary
Quantity	Secondary	Secondary
Time	Number one requirement	Secondary
Place	Secondary	Secondary
Cost	Secondary , maybe last	Number one requirement

From the buyers / customers and demand perspective on the cost / service and the supply balance, then the following ideals are indicated:

- Bottleneck/critical items have service requirements first, (especially the lead time on delivery), with the cost being secondary,
- Routine/leverage items have cost price requirement first and the service aspects are secondary.

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The ideal matching response from the suppliers and supply perspective, related to Kraljic, is then going to be as follows:



This can be amplified further into an ideal typical perspective, as follows:

Service winner	Buyers Strategy	Matching Supplier Behaviour	Suppliers Market position
Responsive	Leverage items with Supplier Sourcing "Plays the market"	React rationally with price cuts	Certainty of competition in the short and long term
Reliability	Routine items with Supplier Outsourcing "Organises and lets go"	React by exploring options and "fit"	Certainty of competition, in the short term, followed by stability in the long term
Innovative	Bottleneck items with Supplier Development "Secures supply and attempts to	Reactive positions when maintaining the monopoly, or, Proactive entrepreneurial	Uncertainties of being able to innovate, high R&D costs, followed by possible

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	diversify"	behaviour with new product designs	monopolistic position
Empathetic	Critical items with Supplier Collaboration "Work collaboratively with suppliers"	Proactive team work and problem solving	Uncertainty initially (forming-storming) followed by norming and long term performing

The question to be asked now is as follows:

Question 4: Will the above mentioned supplier behaviours line up with the buyer's strategy?

Where there is congruence, there is agreement and progress forward will be easier, as both buyer and supplier will have their needs met.

If there is no congruence, then there are possible negotiations options and whilst positions may be then changed, the outcome could be an eventual "no deal." Where however, no negotiation is allowed, then there is really no hope of having a satisfactory relationship and any progress will always be problematic; for example the supplier wants to be innovative and service driven but the buyer is price playing the market and is cost driven. Indeed with tendering, then it is unlikely the supplier is procedurally able to offer innovative alternatives. May be here therefore, the suppliers only hope of winning a tender is to submit a low price that will "fit the tender" and hope that their alternative can be offered at some later time, once they "in".

Clearly here, it will be the appropriate behaviours by either party that are therefore affecting and driving the supplier/buyer relationship. This should be readily easy to accept with for example, the well know scenarios of "you get what you give" or, "what you give you get", and "what you sow, you will reap". However as we will see with our next question, acceptance of this, does not systematically lead to changing behaviour towards making more optimum buying / supplier selections. So our final question for buyers is as follows:

Question 5: if the buyer's strategy is using tendering 100%, will this give them 100% effective results?

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Which is then going to be the best to use, a tendering or a negotiation process? It would seem so far that leverage and routine items may well find a better fit using competitive tendering, whereas bottleneck and critical items are more likely to get better results from with negotiating.

What fundamentally do Suppliers & Customers want?

So now we have seen what fundamentally tendering and negotiations involve and how they relate and vary with each other in a practical way. If we were now to simply view what the supplier and the customer wants, then we can see the following positions: Source: "The Relationship driven supply chain" Emmett and Crocker (2006)

Criteria	Suppliers want:	Customers want:
Orders	The "business"	Delivered/available goods/services that satisfy a requirement
Information	Clear requirements	Wants clear status information
Performance	Feedback (KPI's that are jointly measured and, benchmarked with other suppliers)	"Feed-forward" (Pre-advice and proactive status/alerts)
Relationship approach	"Fairness" Involvement/"Part of"	Relationships may be a reflection of the procurement portfolio and power positions
Price/Cost	A "fair" to a high price	The "best" total acquisition cost, total cost of ownership, life cycle cost, whole life cost (TAC/ TCO/ LCC/ WLC)
Quality	Clarity on what quality means and what is "valued" by the customer	"Fit for purpose"
Delivery	On time, in full (OTIF)	On time, in full (OTIF)
Quantity	Large regular orders	Smaller, frequent deliveries
Time	Acceptable supplier lead time	Shortest supply lead time

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Place	Ex Works (International) or Factory Gate Pricing (Domestic trade)	Delivered domicile duty paid, or Delivered/Carriage paid
Payment time	Prompt	To negotiate

This indicates that there are some very common "wants."

- Orders are the fundamental reason for the relationship as it is the order that drives the supply chain. Customers who are very clear on their specific requirements may generate a response from their suppliers that gives alternative options. Sharing of requirements is useful; after all, suppliers "do not know what they do not know."
- Information is another common objective involving two way communications that gives mutual understanding.
- Performance is another two way process with feedback to suppliers on performance; and feed-forward from suppliers to customers with order status reports and pre-alerts on problems. For example the supplier advising of a delay at least enables the customer to plan; it also builds up trust, understanding and removes uncertainty. Why, for example, should customers need to systematically expedite?
- Relationship; can be combative or collaborative and may reflect the power positions in the buying/selling process
- Price/cost. If total acquisition and total cost of ownership are used in the buyers' evaluation, then there is really little to stop the sharing of the results with suppliers. Again, this can mean that they may be able to better suggest alternatives and options. It will also show "fairness" which after all, is what the supplier looks for.
- Quality. Clarity and understanding will enable the meeting of requirements.
- Delivery has common measures (e.g. on time, in full) for both suppliers and customers and if both parties record these on a per transaction basis and then share such measurements openly on a period basis, they will find this enables better communications and understanding. It also will prevent any "you did / I did not" debates between suppliers / customers, that will eventually lead to mistrust and feelings that "they" are unreliable.
- Quantity; the differences here between the parties are "natural" and will require discussion within the overall negotiations. It may be that allowing

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supplier's access to demand information and forecasts, will enable the suppliers to better plan their production and so then enable the customer requirements for smaller more frequent deliveries.

- Time; this is interesting one as, in principle, the supplier lead time can only "kick off" after the buyers internal process in the total supply lead time. If therefore the eventual users within the customers company report continual delays in supply, it may not be always the "fault" of the actual supplier. An examination of the lead times will indicate all of the process involved in the lead time "chain" and emphasises the need for such an overall view.
- Place; here the assumption is that the supplier is only interested in producing/selling a product and that it is the customers responsibly to "come and get it." Meanwhile, the customers require goods delivered to them including all duties/taxes etc. Of course it is a fact that to enable full comparisons, that goods need to be costed at the place where they are to be consumed/used. Again a negotiation point and one possible area is where some buyers find advantage in purchasing on ex works or factory gate terms as they then get clearer lead time visibility and control of both the transit lead times and freight/ logistics cost prices.
- Payment time. A clear negotiation aspect. Indeed most suppliers are more than willing to discuss this and for example, offer discounts for earlier payment.

By exploring the above common wants, then this facilitates potential mutual benefits and gains. The point here is, will these benefits and gains, come from a tendering, or from, a negotiating process?

Summary

Let us now summarise the relative advantages and disadvantages of tendering and negotiating

Advantages of tendering

Aspect	Tendering	Whereas Negotiations
Openness	Open to all suppliers (in theory) and often with some visibility of results	Open to those approached only and this is usually confidential
Supplier Competition	Competitive between those suppliers invited / submitted	Competitive between those suppliers negotiated with

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Auditable	Auditable	Not easy to audit
Procedures	Procedural and routine , therefore it is more of a rational process	Non procedural and needs skilled trained people. It is an emotional process with some rational judgements
Outcomes	The lowest price or best value for money, and this is "fixed" for the prescribed specification	Easily allows for joint working on solutions for the best deal possible, (for both parties)
Kraljic best fit	Leverage and routine items	Bottleneck and critical items
Power relationship	Buyer is dominant or is independent from supplier	Supplier may be dominant or there is interdependency of buyer and suppliers
Cost/service balance	Cost is usually the prime requirement with possible "value for money" service aspects, (providing these are included in the specification)	Service supply is prime but allows for cost/service trade offs in the negotiation

Disadvantages of tendering

Aspect	Tendering	Whereas Negotiations
Clarifications	Cannot always clarify technical points	Can more easily clarify technical points
Specifications	Fixed specification is given, therefore the supplier cannot easily suggest any better alternatives	Supplier can give better alternatives and jointly work on solutions with buyers
Limited usage	No use at all with a "monopoly"	Can use with a monopoly
Cost and time	Slow and expensive	Expedient and cheap
Approach	Conflicts with "newer" collaboration approaches as is a prescriptive approach	Skilled and varied approach can be used
Suppliers invited	In theory is open but can be "fixed" e.g. only certain	Can also be "fixed" but most suppliers are

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	suppliers are invited. Additionally, suppliers may refuse to be involved in tendering	prepared to talk/negotiate
Suppliers view	Supplier has "one shot" to get it right	Many opportunities and meetings are possible

Conclusion

This raises the final question for all buyers to consider: Which is best, tendering or negotiating?

The answer will be found in the above discussion; it will depend on the circumstances, however it will be seen that the "one size fits all" approach of tendering is just not going to be the most effective.

Whilst the advantages of tendering, in theory, do seem to be rational; tendering remains questionable in practice, for example:

- Buyers are not able to look at suppliers alternatives that could actually offer improvements against the given/prescribed/closed specification
- The open "for everyone" tender approach is only the theory and the practice is so often closed, as some suppliers are not invited, resulting in the same "recurrent club" of suppliers being used.
- Suppliers may feel that the award decision has already been made, so "why bother"
- Suppliers may choose not to be involved in the perceived bureaucratic and expensive tendering process,

Of course, mixed tendering and negotiating may be used, for example some organisations use tender procedures to cover the technical assessment/compliance, and they will then negotiate on the commercial aspects.

However, if we can assume that we will be using honest and ethical negotiators, then it seems very clear that it is negotiating that will offer the overall best approach.

This is further supported by observing, interestingly, that it is the public/government organisations that generally will only tender whereas, the private commercial sector rarely tender and systematically use negotiating. Which of these two sectors is the most commercially efficient?

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For those who choose to believe it is the public/government organisations then please consider that we have seen Government, successively, move the utilities into the private sector in recent decades and more recently, place much of the NHS procurement into the private sector; (all this being done of course whilst retaining some regulation).

One assumes this is done so that they can become more commercially competitive and also benefit, for example from, better procurement practices?

This is not to say that we cannot use both negotiating with some tendering as for example, tendering may be useful for the purchase of leverage standard items. However even here, tendering has been replaced by reverse e-auctions in some leading edge organisations; reverse auctions being a classic application for leverage items and also simplify the award process for the benefit of both parties.

In conclusion, given a free choice between tendering and negotiating, then tendering, overall, is just not going to be the best practice. As far the UK is concerned, the sooner the government realise this and release the talent of procurement people, the better for the tax payer. Indeed in the words of Sir John Egan in "Rethinking Construction" (1998);

"Industry must replace competitive tendering with long-term relationships based on clear measurement of performance and sustained improvements in quality and efficiency."

Clearly this involves replacing tendering with sitting down and talking and negotiating.

It has to be the right thing to do.

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