

SRA

Commissioning social research a good practice guide

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Terms used in the guide: the term '**researcher**' describes any organisation or individual who might be funded or contracted to carry out social research – a university, research institute, market research company, freelance consultant, government agency, management consultant, and so on.

We use terms like '**commissioning**' and '**buying**' research for brevity, although much of what is said also applies more widely to other forms of research funding.

We have also used terms like '**research buyer**' and '**research supplier**' in this guide, because they describe aspects of the relationship which are central to our theme. However, we do it reluctantly, because such terms conjure up a picture of buying standardised commodities – not at all a suitable model for buying research (see section 1).

Acknowledgements

Thanks are due to:

- All the members of the SRA sub-committee on contractual issues (see Annex A), who collectively and individually contributed so much in the way of ideas, text and comments on successive drafts.
- Heads of Profession from government Departments, ESRC, and others who took the trouble to review and comment on the consultative draft.
- The current SRA chair, Sally Dench, for comments on the final drafts.

The sub-committee hopes the guide will prove useful to both buyers and suppliers. We have already consulted extensively, but experience of applying it to real-life situations will certainly suggest ways of improving it. SRA will welcome future feedback from anyone with an interest in the subject.

Alan Hedges
Chair, SRA sub-committee on contractual issues

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Contents

1	The nature of social research	1
2	Types of competition	1
2.1	Direct and indirect competition	1
2.1.1	Direct competition	2
2.1.2	Indirect competition	2
2.2	Open and closed competition	3
2.2.1	Open competition	3
2.2.2	Closed competition	4
2.3	Formal and informal competition	4
2.3.1	Formal competition	5
2.3.2	Informal competition	8
2.4	Major and long-running projects	9
2.5	Private sector practices	9
2.6	European regulations	10
3	Running a competition	10
3.1	Number of competitors	10
3.2	Cost efficiency	11
3.3	Informing competitors	12
3.4	Improving dialogue	13
3.5	Timing factors	14
3.6	Quotations	15
3.7	Price negotiation	16
4	Other issues	17
4.1	Accountability	17
4.2	Value for money	18
4.3	Continuity and change	19
4.4	Intellectual property	21
4.5	Mutual commitment	22
4.6	Publication	24
4.7	Terms of payment	25
4.8	Handling corporate requirements	26
5	Researcher originated projects	26
Annex A	The sub-committee	

This guide

Aims: This guide discusses ways of choosing researchers and commissioning or funding social research projects, and makes recommendations about good practice.

The way in which research customers and funding bodies go about commissioning research is important, because it affects the quality and nature of social research provision – not only in the immediate project but also more generally and in the longer term.

Research buying practices vary considerably, and there is widespread concern among both buyers and suppliers of research about various aspects of the process. But public debate has hitherto been limited, and there has been no general statement of good practice. Against this background the SRA felt it would be useful to consider the process in more depth. A sub-committee containing both buyers and suppliers was set up to review the process (see Annex A), and the present guide is based on their discussions.

This guide looks at the implications of different approaches for customers and for researchers and recommends practices which are in the mutual interest of both.

Limitations: While many research buyers are experienced professionals, others may be relatively new to social research. The guide is *not* meant as a cookbook giving step-by-step beginners guidance on how to buy research. It simply suggests principles for fair and effective buying, and discusses some of the underlying issues.

Of course, research buyers have to operate within their own organisational contexts, and some of our good practice recommendations may not be feasible if they conflict with corporate requirements. We hope nevertheless that raising the issues will encourage them to use their discretion as productively as possible, and perhaps to influence the organisational framework in the longer term.

Inevitably the guide is addressed mainly at research buyers, since they largely control the contractual processes. Nevertheless, we also make some recommendations about the role of research suppliers.

Two kinds of social research: Social research projects are of two kinds:

- (a) **Customer originated:** our guide relates to projects originated mainly or entirely by the research customer, who identifies a research need and then goes out to buy services to meet it.
- (b) **Research originated:** some projects are originated by the researcher, who has a set of research interests, ideas or capabilities, defines a project and then seeks funding for it. We welcome and encourage this approach but it is not the main focus of the guide. A few very brief comments about researcher-originated projects are in Section 5.

1 The nature of social research

Research projects vary widely, but buying research is usually fundamentally different from buying materials, projects or more cut-and-dried services.

Research involving human populations is intrinsically difficult:

- people are highly complex, and language is imprecise
- human beliefs, attitudes and motivations are hard to pin down
- memory is fallible, and research respondents are not always able or willing to report their feelings or behaviour accurately or honestly
- there are considerable statistical problems in drawing valid inferences about large and shifting human populations.

Researchers have to grapple with these problems in every fresh project. Research therefore cannot normally be reduced to a mechanical formula – good research needs craft skills and intelligent creativity in the way they are applied.

Very few aspects of research are capable of being specified to a point where different suppliers could work almost interchangeably with price and timescales as the only significant variables. If we drew a parallel between the social research industry and the construction industry we would conclude that researchers operate more like architects than like building contractors. They often design the research as well as carrying it out – and even where the overall project design comes from the buyer, there are typically many design-like features in its practical implementation.

2 Types of competition

Competition between research and suppliers is welcome and healthy, providing it is sensibly handled. The *right* kind of competition:

- provides buyers with a good range of expertise
- helps to ensure that research costs remain competitive
- stimulates suppliers, and keeps them on their toes
- opens up access to new research suppliers
- reduces the risk of researchers getting stale or complacent
- prevents customers and suppliers from drifting into cosy long-term relationships based more on habit than on objective appraisal of needs.

On the other hand, the *wrong* kind of competition can lead to:

- lack of early dialogue between buyers and suppliers
- lower standards and corner cutting
- relegation of research skills in favour of selling skills
- choosing inappropriate suppliers
- fewer suppliers.

2.1 Direct and indirect competition

Competition may be direct or indirect:

- in *direct* competition, two or more possible suppliers are asked to engage in a specific competitive process as a basis for awarding a particular contract

- *indirect* competition operates through general market mechanisms where there is no specific competitive process.

2.1.1 Direct competition

If there are at least two suppliers who might be capable of carrying out a particular project equally well, then some form of direct competition between them will often be desirable¹.

On the other hand, there may sometimes be circumstances where direct competition for a particular project is unlikely to be the best way forward – for example, where it would clearly be advantageous to use one particular supplier on grounds of:

- unique expertise or relevant experience
- distinctive competence or special facilities
- timetabling
- access to confidential information and/or
- momentum or continuity in a particular study (or series of studies).

In these circumstances, it should be possible to justify a decision to use a single supplier who is clearly right for the job in hand (see Section 4.1). If that were the situation it would be counterproductive (and unethical) to set up an *apparent* competition merely in order to be *seen* to be operating on a competitive basis.

There may of course be risks in suspending direct competition for an extended series of projects (see 4.3). It is part of a research manager's skill to judge where quality and cost-effectiveness is better served by direct competition – but it should not automatically be assumed that this is always the most appropriate way forward.

Competitive tendering is one form of direct competition – but by no means the only form, or necessarily the best (see 2.3.1, 2.3.2).

<p>Good practice: direct competition</p> <ol style="list-style-type: none"> (1) Decide whether there is an obvious and clear choice of researcher for that project, or whether you need to go to direct competition (2) Avoid spurious competitions where there really is only one obvious supplier 	A
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2.1.2 Indirect competition

A healthily competitive environment does not necessarily depend on subjecting every project to *direct* competition. Markets commonly work mainly through *indirect* competition.

Buyers build up a store of information about their markets²:

- general awareness of research costs, which enables them to judge whether a particular price is fair even when suppliers are not competing directly; and
- knowledge about the competences and characteristics of available suppliers.

Suppliers have a marketplace incentive to perform well because they hope for future work from the research customer, so they will be constrained to deliver quality and

¹ Some organisations (like most government departments) are obliged to use direct competition unless in exceptional circumstances (4.8)

² Such expert knowledge of market prices and supplier competence can be sharpened by comparing notes with other research managers – particularly useful for less experienced buyers.

value for money even for projects where there is no direct competition. Withholding future work is a powerful sanction, particularly for larger research buyers.

Thus it is perfectly possible to buy cost-effectively in particular instances without direct competition, by using the normal mechanisms of the market place. We are not advocating this as standard practice, but it should be seen as a respectable and effective option.

Good practice: indirect competition

B

- (1) Build up general experience of suppliers and costs as a guide both to developing shortlists and choosing suppliers
- (2) Exchange notes with other buyers
- (3) Do not assume that good buying *a/ways* requires direct competition

2.2 Open and closed competition

Buyers often decide to operate through direct competitions. These may be 'open' or 'closed':

- an **open** competition is advertised, and any interested parties can enter
- a **closed** competition is one in which only invited suppliers take part.

2.2.1 Open competition

Open competition may superficially sound attractive. It gives anyone a chance, opens the door to new blood, and imposes no pre-judgement on the buyer's part.

But in practice through going open competition is not usually a good way of commissioning specific research projects³. The list of people expressing interest may sometimes be very long, which means that a great deal of supplier time is consumed in formulating proposals, and buyer time in evaluating them. This makes it an expensive and unwieldy process (see 3.2). Good researchers (whose time is likely to be in demand) may well be put off by the prospect of a free-for-all between many competitors.

Experienced research buyers should know the most likely suppliers in their field, and less experienced buyers should consult colleagues in their own and other organisations if they do not already have this kind of expertise.

There are however some situations in which a sensibly operated open competition can be used effectively. For example:

- a funding body like ESRC needs to make sure that all researchers in its constituency have access to its grants, and open competition meets that requirement
- a researcher funder who is looking at a general theme rather than a specific defined project may invite suggestions from anyone who is interested about how this could be approached.

One of the best arguments in favour of open competition is that it keeps the door open to new blood, which is certainly vital (see 4.3). However, there are various other ways

³ However a 1993 EC directive lays down open forms of competition for certain kinds of government contract (see 2.6)

of achieving this other than through full-blooded open competition. For example, some buyers:

- (a) issue **open invitations for people to express interest** in a competition or a topic, and perhaps give a brief account of their ideas and credentials. This may aid shortlisting, and can help to improve access to projects for new contenders without involving large numbers of research suppliers in extensive work
- (b) publish helpful programmes outlining their research interests, and invite suppliers (without commitment) to say which topics or projects they would like to be considered for, or to suggest other items for inclusion in the programme. However, individual projects are then usually commissioned through closed rather than open competition.

Both these approaches should be encouraged and extended⁴.

However, it is important if the initial invitation is open that:

- (i) the amount of work that contenders are required to do at the initial stage is kept to a minimum
- (ii) a shortlist is drawn up before detailed proposals are asked for
- (iii) the authorship of ideas which emerge at the open stage is respected (see 4.4).

2.2.2 Closed competition

Closed competitions are restricted to a short-list of invited contenders. These are recommended for most purposes on grounds of cost-effectiveness and efficiency (see 3.2). However, thought does need to be given to ways of opening access and encouraging new talent (see above, and 4.3).

Good practice: open and closed competition

C

- (1) Generally avoid open competitions for specific projects, since these:
 - involve a lot of unproductive time
 - may not attract the best candidates
- (2) Encourage new blood by:
 - publishing advance programmes of research interest and
 - issuing open invitations to:
 - express interest in projects; or
 - make brief outline submissions
 - then shortlisting for more detailed proposals

2.3 Formal and informal competition

If competition for a particular contract is to take place, it may be conducted either formally or informally:

- **formal competition** uses fixed procedures designed to produce a winner from a list of contenders
- **informal competition** proceeds by making less structured soundings of competences and costs as a basis for professional judgement.

⁴ Such approaches can be time-consuming and labour-intensive for buyers but much less so than a fully open competition. They should also pay dividends, not only in improved access, but also in research quality.

2.3.1 Formal competition

In the public sector ‘tendering’ tends to be the main (sometimes the prescribed) approach. Government departments work mainly through tenders, and the concept has therefore been widely influential – sometimes even seen as the ‘proper’ model from which departures need to be justified. Indeed the word ‘*tendering*’ is sometimes used loosely as a synonym ‘*competition*’, but the two concepts need to be distinguished⁵. Formal tendering is only one form of direct competition.

Many researchers and research buyers alike have serious misgivings about tendering as a model for buying something as amorphous as research, if applied strictly according to the formal model.

It may be helpful to distinguish three kinds of approach to formal direct competition:

- (1) **strict tendering:** competitors are asked to make sealed bids for a tightly pre-specified piece of work. In its purest form it involves:
 - giving a tight standard specification to a number of potential suppliers;
 - asking the to cost this specification in circumstances of confidentiality;
 - maintaining an arm’s length relationship in order to keep the playing field level; and
 - awarding the contract to the supplier who puts in the lowest tender while showing they are competent to carry out the work satisfactorily.
- (2) **modified tendering:** the same basic tendering model, but applied more flexibly and informally – encouraging discussion with competitors, and allowing them to suggest alternative methods. This is probably in practice the more common approach, although the extent of departure from the strict model varies
- (3) **problem-based brief:** the brief specifies the research objectives and leaves it to the researchers to propose and cost whatever methods they recommend.

The advantages and disadvantages of these three approaches are as follows:

- (1) **strict tendering:** strict tendering is one of the most rigorous types of formal competition. This model derives originally from industries in which suppliers provide standardised products with measurable specifications and little qualitative variation. It rarely fits the research process at all well (see Section 1), and can be seriously inadequate. In practice, social research buyers do not often apply formal tendering in its purest form, but their assumptions and attitudes (or the systems imposed by purchasing officers or others) nonetheless often reflect the basic model, which has therefore had an important influence on the way public sector research contracts are awarded.

Strict formalised tendering after the classic model has two important characteristics:

- (a) the buyer has to give the supplier a **detailed specification** to cost. This has two effects:
 - (i) the approach tends by nature to produce a **method-oriented brief** rather than problem oriented – suppliers are invited to say how much they would charge for carrying out a defined process, rather than how they would tackle a given problem. This may be suitable in situations where the buyer actively wants to control the method, but not where there may be a variety of ways forward worth exploring

⁵ It is unhelpful to use ‘tendering’ as a generic term for competition, because it is laden with procedural assumptions which might not always be appropriate.

- (ii) a tightly pre-specified project tends to **limit the supplier's involvement with the study design**⁶. This is a loss, because researchers should normally be able to make an important design contribution – practitioners know the possibilities and limitations of their own techniques, and they can also bring to bear experience from other fields
- (b) potential suppliers tend to be held at **arm's length** until the contract is actually let. An arm's length relationship may:
 - **minimise free discussion** and hence
 - **limit researcher understanding** of the underlying information need and its policy context⁷.

This is important because such understanding is necessary if researchers are to do their job properly. Research is a non-standard product, and the way it is carried out is at least as important as the amounts of work completed and the nominal specification (see section 1). A good brief of course states the problem and gives the background to it, but full understanding can only be achieved through dialogue, which the formal tender process tends to suppress⁸. Thus, the arm's length principle often stops researchers getting to grips with the real problem.

Strict tendering is also sometimes shrouded in legalistic procedure (see 4.5), which can get in the way of effective research dialogue. These elaborate rituals are rooted in the concept of fair and objective competition on a level racecourse. Yet many researchers suspect that the impartiality is more apparent than real, and that the horses actually bear secret handicaps. The theory is that all competitors stand an equal chance of selection, depending only on their performance in the competition – but in reality there may be all sorts of other valid pre-existent reasons for preferring a particular competitor, like relevant experience, or previous performance (see 4.1). Sometimes, supplier even wonder if the outcome is largely pre-determined and the 'competition' staged mainly for external show, or in compliance with organisational requirements – or whether the competitors have been chosen to produce the desired result. If 'makeweight' contenders who invest resources in a competition which (unknown to themselves) they have little real chance of winning⁹.

⁶ Buyers often try to get round this limitation by inviting tenderers to suggest alternative schemes of their own as well as costing the scheme in brief. This is sensible (and recommendable), but it does not entirely answer the case. It breaks down the apparent comparability which formal tendering is based on. If different suppliers offer alternative methods are these judged on their own merits, or is the choice still based on the standardised submissions – which may no longer bear much relation to what is actually going to happen? And do suppliers have enough understanding of the problem to make alternative suggestions if the tender is operated on an arm's length basis?

⁷ The argument is that having levelled the field by giving everyone the same brief, too much further dialogue with individual suppliers would prejudice impartiality. Sometimes buyers even feel constrained to report all exchanges of information to all tenderers, for example, so that if one competitor asks questions the replies have to be passed to everyone else. This can discourage questions, because if these reflect their diagnosis of the problem suppliers know that it will be shared with their competitors (section 4.4).

⁸ In the absence of in-depth pre-tender discussions, researchers often find that it is only *after* they have won a contract that the real dimensions of the problem under study begin to come clear in the more relaxed dialogue that then takes place – but by this point they may be locked into what has been agreed at the tendering age.

⁹ This is not necessarily to impute bad faith or corrupt practices. A 'rigged' competition is, of course, against the principles of fair competitive tendering, but research managers may sometimes be torn between professional criteria which argue for choosing a particular supplier and procedural requirements which demand a formal tender.

The tendering model tends to be more appropriate where a project:

- is tightly specifiable;
- has little or no design or creative content; and
- could be as well carried out by any one of a number of suppliers.

Conversely it is least suitable for projects which are hard to specify in advance; need a creative or design input; or are particularly suited to a certain supplier.

- (2) **Modified tendering:** in practice, the strict approach to tendering is often modified to one degree or another – for example by enabling researchers to discuss the issues before submitting tenders, and by allowing them to propose methods other than those specified in the brief.

Where formal tendering is practised, these modifications are much to be recommended. Both buyers and researchers should look for ways to reduce the distancing which formal tendering procedures can create. Buyers should invite contact, and researchers should follow up contacts to get a better understanding of the research need and its context¹⁰. It is of course important to make it clear in the brief how far there is scope for pre-tender discussion, or for proposing alternative methodology.

Even so, formal tendering can still have limitations – for example, it tends to discourage design-stage discussion with researchers before a brief is written, because the brief is the natural starting point for the tender. A broader approach will sometimes seem preferable.

- (3) **Problem based briefs:** here competitors are briefed about the *problem* rather than the *solution*, and largely left to make their own recommendations about method. This is often likely to be a preferable approach unless the buyer has a good reason for wanting to define methods in advance. Of course buyers then have to choose between diverse packages – but that diversity reflects the real world. The apparent comparability of the formal tender is largely artificial – in reality different suppliers *would* probably want to take different approaches, and have different skills and resources to bring to bear. It is a normal marketplace decision – which of the different packages offered is best value at its price for the purpose in hand.

The choice of competitive approach should, as far as possible, be driven by the research need and situation, but it should be handled flexibly and with as much scope as possible for early-stage dialogue, mutual understanding and researcher involvement in design. There may, of course, be a range of situations in which buyers will need or choose to specify a particular method – but they should guard against automatically slipping into this mode.

¹⁰ Pre-tender discussion consumes time and resources for both buyer and supplier, but this should pay dividends in terms of enhanced understanding and commitment. It is, however, another argument for limiting the number of competitors (see 3.1).

<p>Good practice: formal competition</p> <ol style="list-style-type: none"> (1) Be aware of the problems and limitations of strict formal tendering (2) Do not automatically use formal tendering unless either: <ul style="list-style-type: none"> - it really meets the needs of the project; or - there is an overriding requirement to do so (3) If tendering is used, make it as flexible and 'supplier-friendly' as possible by: <ul style="list-style-type: none"> - breaking down the arm's length principle - facilitating full discussion of the issues before submissions are prepared - minimising formality in procedures (4) Invite suppliers to collaborate in problem definition and design where possible; <ul style="list-style-type: none"> - involve them before the brief is finalised - encourage them to suggest alternative methods (5) Researchers should take up opportunities for early discussion and involvement 	D
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2.3.2 Informal competition

In informal competitions, buyers still look at several possible suppliers for a particular project, but make informal investigation of their merits, qualifications and charges for the job, rather than making them all perform a standardised task in response to a detailed specification.

Potential suppliers may be invited to come and discuss a problem – as a basis either for shortlisting or for making a final choice. Meeting face-to-face makes it possible to discuss their approaches and assess capabilities. It is also likely to be a useful way of achieving mutual understanding and an exchange of ideas about the best research design for the problem¹¹.

Research buyers should expect to see in such meetings the people who would be likely to work on the study, not just management representatives from the research organisation – otherwise they cannot assess the capabilities and ideas of the people they would be dealing with¹².

It is not normally good practice to invite a large number of suppliers to come for interview as a basis for shortlisting, and shortlisting interviews should be used particularly sparingly for small-scale projects.

Public sector commissioning bodies are sometimes nervous of using more informal approaches because they are anxious about accountability and demonstrable fairness. It should however be possible to document contacts to show that the process has been genuinely competitive and fair to all participants, and that the decisions taken are professionally defensible (see. 4.1).

¹¹ It is tempting for buyers to invite all contenders to the same meeting, because this is more economical of their own time. It is not likely to be productive, however, because suppliers may be reluctant to expose their thinking to competitors.

¹² Buyers should however bear in mind that the availability of specific individuals cannot be guaranteed until a definite commitment is made (see 4.5).

Good practice: informal competition**E**

- (1) Consider using informal approaches to competition where possible
- (2) Discuss the research with potential suppliers rather than keeping them at arm's length
- (3) Meet the key people who will actually be working on the project
- (4) Document contacts with suppliers to demonstrate the fairness and correctness of decisions.

2.4 Major and long-running projects

For major or long-running projects some kind of staged commission may be practicable. A supplier may be asked to carry out a feasibility study or pilot, with award of the full contract depending on performance at the preliminary stages. This gives the buyer a chance to assess performance and potential in advance of full commitment.

This can even provide a basis for direct competition – several researchers can be commissioned to work on preparatory projects, with the full contract then awarded to the best performer.

Another option for long-running projects is a rolling programme, in which one supplier is commissioned for (say) the first two to three years, with the possibility of going out to competition again at the end of that period.

If the outcome of the work is unusually important (and the budget large enough and timescale long enough) more than one researcher could be commissioned to work simultaneously and independently, using different approaches. This makes it possible to compare findings as well as hedging bets on choice of supplier.

Good practice: major long-running projects**F**

- (1) Consider using feasibility studies and pilot studies where you need to satisfy yourselves about suppliers before awarding major contracts
- (2) Consider separate researchers working in parallel for unusually important and difficult studies.

2.5 Private sector practices

The commercial world (highly competitive, and often held up as a model by the government) is more sparing in its use of full-blown formal tendering except perhaps for very large continuous projects. Research buyers often draw on their general knowledge and experience of prices, practices and the competence of different researchers and use this either to choose a particular supplier, or to help choose between several responses to a brief. Again, general awareness of the 'going rate' for different types of research should be part of a manager's normal professional expertise.

The brief is typically problem-orientated rather than method-orientated – it may or may not specify a method. The process is competitive – not because each commission is always based on a direct competition, but because suppliers know that their general standing with customers is based on price and performance project by project (see 2.1.2).

Private sector research managers are of course also accountable for their actions – they may lose their jobs if they do not perform well. But their performance tends to be judged against outcomes rather than procedures.

In contrast, public sector research-buying procedures sometimes seem to reflect the assumption that their main task is to counter the risk of inefficiency or dishonesty. Public expenditure must of course be safeguarded and monitored (see 4.1) – but it seems strange when (as sometimes happens) an invitation to tender contains more information about the logistics of the tendering process than about the research problem to be addressed. Overly formal and legalistic language and conditions can get in the way of good understanding and co-operative relationships (see 4.5).

<p>Good practice: private sector experience</p> <p>(1) Build up experience about:</p> <ul style="list-style-type: none"> - the costs of different types of research - the competences of different suppliers <p>(2) Provide problem-orientated rather than method-orientated briefs where possible</p> <p>(3) Make briefs and details of competition as ‘user-friendly’ as possible</p>	<p>G</p>
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2.6 European regulations

The EC has now issued a directive about public sector purchasing which requires projects worth ECU 200,000 or more to be advertised, put out to formal tender and made available throughout the community. This seems a regrettable approach to research buying in the light of the points made in this guide. It could well lead to more arms-length operation, longer (and multi-country) tender lists, more protracted and expensive competitions and a considerably larger (and often largely wasted) load on research buyer and supplier time.

The scope of the new directive is not entirely clear¹³, and remains to be tested. We are not in a position to offer guidance about this.

Research managers are urged to study their options under the new rules, and to make sure that these new procedures:

- (a) are not followed except where their use is inescapable – they should not become a new *de facto* standard for all research buying; and
- (b) are applied as sensibly, humanely and economically as possible when they must be followed.

<p>Good practice: EC guidelines</p> <p>(1) Do not take the EC directive as a good practice guideline</p> <p>(2) Explore whether it is mandatory in your situation – and do not apply it if you have latitude</p> <p>(3) Apply it as sensibly as possible where you are obliged to do so</p>	<p>H</p>
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3 Running a competition

3.1 Number of competitors

In closed competitions it is good practice to keep the number of competitors to a reasonable minimum. There would rarely be a case for approaching more than three or four even for a fairly large project, and this should be kept down to two (or at most three) for smaller projects.

¹³ Whether the directive applies in particular cases may hinge on factors like the definitions of ‘research’ and ‘researcher and development’, for whose benefit it is being done, and who is paying for it; the status of ‘consultancy’ projects, and so on.

Inviting larger number of submissions:

- is not cost effective (see 3.2) because it:
 - inevitably wastes a lot of supplier time by ensuring there are a lot of unsuccessful competitors
 - consumes a lot of resources at the research buyer's end in managing and evaluating the competition
- may well deter good researchers who feel the chances of success in a large competition do not justify the cost and time involved; and
- tends to deter early dialogue, because of the time involved at the buyer's end (and the low probability of success at the supplier's).

It is not good practice to involve a lot of people simply because the buyer does not know the field well – in this case it would be better to have a preliminary informal short-listing process, or to take advice from more experienced colleagues. Nor should buyers simply throw in names to make up numbers.

Buyers sometimes use longer lists because they are not sure whether those invited will actually submit proposals until it is too late to invite further bids if some drop out. This seems unsatisfactory from both parties' point of view. It should normally be possible for researchers to say fairly quickly whether or not they will be competing, and they should be asked to declare their intentions early enough for the buyer to replace any drop-outs¹⁴. Some may still have to withdraw at a later point, but this should be exceptional – although the notes on mutual commitment in 4.5 should also be considered.

Good practice: number of competitors

- (1) Limit the number of competitors:
 - normally 2-4, depending partly on project size
- (2) Ask those invited to state early on if they do not intend to compete
- (3) Researchers should state their intentions as early as possible

3.2 Cost efficiency

The process of letting a contract in itself involves cost. The more players, and the more elaborate the process, the higher that cost will be. At 1994 prices it might cost a research supplier anything between £1,000 and £5,000 to submit a fully worked out and costed proposal, depending on the nature of the project. Taking a mid-range cost of £3,000, this means that inviting four suppliers to compete would in gross terms absorb £12,000 of researcher resources, inviting 10 people would absorb £30,000 – of which nine-tenths would by definition be wasted¹⁵.

In the long run, research customers have to foot the bill for abortive as well as successful proposals, since suppliers must build a margin into their costs for preparing unsuccessful proposals.

It cannot be right or efficient to adopt a competitive process in which the costs of running the competition exceed the value of the contract – as much often be the case where small, one-off contracts get caught up in cumbersome tendering mechanisms

¹⁴ This should be easier if contenders are given advance notice of the invitation, and plenty of time to prepare their proposals (see 3.5).

¹⁵ This does not count the costs of running a competition at the buyer's end, which can also be considerable. The lengthier the process and the more competitors involved the higher these costs will be. These factors are not always costed – but they represent a real consumption of resources.

modelled on multi-million pound government projects from completely different fields. In such circumstances, the form of competition clearly reduces cost-effectiveness rather than enhancing it. The aggregate costs of running a competition should be no more than (say) 5% of the contract value at the outside. Care should be taken to tailor the scale and form of a competition to the scale and nature of the contract.

All this again argues strongly for keeping the list of competitors short, at least at the point where detailed formal proposals are produced.

<p>Good practice: cost effective competition</p> <p>(1) Be aware of the likely costs of competition:</p> <ul style="list-style-type: none">- to your suppliers- to yourselves <p>(2) Choose a form of competition which matches the likely costs of letting the contract to the size of the overall budget</p> <p>(3) Keep the list of competitors as short as possible to avoid wasting resources</p> <p>(4) If you need to start with a long list, avoid asking for expensive detailed submissions until you have narrowed it down</p>	J
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3.3 Informing competitors

Where researchers are taking part in a competition (particularly a formal one with rigid procedures), it is important to tell them that this is the case – and to explain the rules clearly, so they know:

- what is expected of them; and
- how their submissions will be judged.

Competitors should be given fair and equal access to information about the project and its background, and encouraged to ask questions. But a common issue is whether information requested by one competitor should automatically be passed on to others. This can be a tricky decision. Some information clearly *does* need to be shared between competitors, certainly if it materially affects the brief – but automatic circulation of any information requested by any competitor simply discourages dialogue. The ability to analyse problems and ask penetrating questions is part of a researcher's stock-in-trade, and insights should not be handed to competitors.

When invitations are issued to enter a closed competition it is good practice to tell potential competitors how many suppliers are being approached. Contenders need to be able to judge the chances of success before committing themselves to the time-consuming and expensive process of entering a competition (see 3.2).

In some cases (for example in very large or diverse projects) it may be helpful to divulge the names of contenders¹⁶, so they have a chance:

- to assess the competition
- to form partnerships or consortia to complete the work more satisfactorily.

It is good practice to give competitors some idea of scale and/or budgetary constraints¹⁷, otherwise there must be a large element of guesswork by suppliers. It is unproductive and wasteful for both buyers and suppliers if submissions are simply not affordable, or not appropriate in scale. This may be done in various ways:

¹⁶ Some government departments object to identifying competitors, for fear of inviting collusion.

¹⁷ Time constraints may also sometimes be relevant to scale.

- a maximum budget
- broad or narrow budgetary ranges
- some idea of scale (e.g. sample size, questionnaire length, etc).

If the situation is genuinely very open such yardsticks may be unnecessary – but it seems sensible to declare any constraints or requirements. Indicating scale or budgets in this way does not reduce competition, because suppliers still need to provide optimum value for money within the given parameters in order to win.

After the competition it is good practice to notify both successful and unsuccessful contenders as soon as possible, since this is important to their workload planning. Any suppliers ruled out before a final decision is made should be told at once, rather than being kept dangling until everything is settled.

It is good practice to give feedback to unsuccessful competitors, telling them frankly and clearly *why* they did not win the contract, because this helps them to develop and improve their service. But researchers should accept that competitive judgements are inherently relative – the fact that another submission was preferred does not necessarily mean that there was anything definably wrong with their proposal.

<p>Good practice: informing competitors</p> <ol style="list-style-type: none"> (1) Make it clear whether suppliers are involved in direct competition (2) Clarify the rules and timescale for the competition (3) Tell those invited how many other contenders there are (4) Consider identifying the contenders, at least for large or complex projects (5) Give every competitor the same basic brief, and notify them all if this changes (6) Give competitors fair and equal access to information, but also enable them to develop their ideas with you on a confidential basis (7) Give general yardsticks of scale or budgetary constraint where relevant (8) Inform both successful and unsuccessful competitors as soon as possible (9) Give feedback on the quality of submissions, and tell unsuccessful competitors of any particular reasons why they did not win 	<p>K</p>
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3.4 Improving dialogue

It is important to find ways of encouraging dialogue between potential suppliers and buyers from the outset, because this will improve:

- mutual understanding;
- the quality of design;
- supplier involvement; and
- assessment of the capabilities and approaches of possible suppliers.

We have suggested that highly formalised tendering tends to discourage fruitful dialogue (see 2.3.1). Buyers will often do better:

- (a) to recognise that they are buying highly variable packages of ideas, experience, skills and resources; and
- (b) to *benefit* from those variations rather than trying to minimise them.

Unless the project is unusually cut and dried, the chosen form of competition should allow for direct dialogue as early in the process as possible, and certainly before making binding decisions about methods or suppliers. Face-to-face dialogue is usually much more satisfactory, although inevitably more time consuming.

Really fruitful dialogue is only likely if the relevant people are present on both sides of the table. Buyers should expect to meet the people who would actually be working on the research from the supplier's side; and on their own side they should consider whether the involvement of policymakers or other end-users of the research findings would help clarify the problem and its background.

Good practice: improving dialogue

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- (1) Choose forms of competition which promote early dialogue between buyer and researcher
- (2) Encourage discussion from the outset
- (3) Involve researchers in problem analysis and design where possible
- (4) Involve the end users of the research where possible

3.5 Timing factors

The tempo of much public sector work has increased in recent years, resulting in more pressure on timescales. Insofar as this results from policymakers wanting to take prompt action on the findings it may be welcome, but it can put the research programme under stress. Researchers (managers as well as practitioners) have a duty to speak out if they think the allotted timetable will compromise quality. Buyers should do their best to ensure that end-users of research realise how long it takes to do a proper job.

(a) Time for proposals and competitions: Formal competition takes time to carry out. If there is a tight timetable, care must be taken that the time spent letting the contract is not disproportionate to the time available for carrying it out. The period allowed for preparing proposals should also be adequate, and proportionate to the time allowed for buyer decision-making. It can again be frustrating to have to prepare proposals very hurriedly, and then have to wait a long time for a decision – particularly if a lengthy competition leaves even less time to do a proper job.

If researchers are given little time to prepare proposals, they cannot think them through properly. This may damage the quality of their recommendations – and may even result in invitations being turned down¹⁸. Thinking time is one of the most important aspects of any research project. You should normally allow reasonable time for proposals to be developed and discussed – at least 3 weeks even for fairly small and straightforward projects, and 5-6 weeks for large or complex ones¹⁹.

Researchers need to be given a reasonably firm date when competitions will be decided and contracts awarded, because they need to plan their own workloads and revenues. Sometimes buyers insist on an early deadline for proposals, but then fail to make a decision themselves by the stated date. Workload planning is then difficult for researchers, since they still have no idea whether they will win the competition, or when they will be able to start work if they do.

Good researchers are in demand. The best people for a particular project may well not be available at short notice. Some degree of mutual advance planning is advisable –

¹⁸ Giving advance notice of a request for proposals helps – an invitation arriving cold may catch researchers unable to respond at a busy moment.

¹⁹ Sometimes you may need for unavoidable practical reasons to get things moving more quickly. This should be exceptional. Ring your researchers to explain the situation and see what they can deliver. You need a rapid form of competition – or even to suspend direct competition if speed is paramount.

and unless the timescale is generous this does not sit easily with the notion of submitting everything to direct competition²⁰.

(b) Time for projects: Allowing time at the commissioning stage is important, but realistic timescales for actually carrying out the work are also necessary. Too much pressure on time (as on cost) is likely to damage quality – less thinking and creativity, more shortcuts. Rushed work may often be poor value, and promising more than can be delivered to the end customer only gets research a bad name.

A brief should indicate how far timetables are tightly constrained by external needs, or how far there may be flexibility. However, researchers should not interpret “flexibility” as a licence to procrastinate.

Good practice: timing

M

- (1) Anticipate future research needs as far as practicable
- (2) Give researchers as much advance notice as possible
- (3) Be realistic in setting competition timetables – about what can be expected both from suppliers and from your own organisation’s response to them
- (4) Allow reasonable time for proposals to be developed and discussed:
 - at least 3 weeks even for fairly small and straightforward projects
 - 5-6 weeks for large or complex ones
- (5) Don’t spend so much time on the competition that the actual work gets rushed
- (6) Specify contractual timetables in advance – and stick to them
- (7) Be realistic about the amount of time necessary to carry out the work properly, and be prepared to justify this to your final customer
- (8) Indicate how far timescales are rigidly constrained

3.6 Quotations

There needs to be clear mutual understanding about various aspects of price estimates submitted by researchers:

- how far ahead a price holds good if work is only commissioned after a delay
- how price will vary over the life of long-running or repeated projects²¹
- how far component parts of a proposal can be separately commissioned without affecting price – if only part of the proposed work is authorised the project’s fixed costs have to be recovered from a narrower base.

The most common practice is to work with *fixed-price contracts*. This is likely to suit most cases, although other arrangements might sometimes be appropriate. However, many aspects of the research process are difficult to cost precisely in advance, and there is always an element of approximation. Clear mutual understanding of the circumstances in which the quoted cost may vary is therefore important. The following factors may be relevant:

- (a) It would normally be accepted that prices should rise if the customer changes the specification or makes unforeseen stipulations which increase cost – although where possible these effects should be pointed out by the supplier and agreed by the buyer before the variations are implemented, rather than

²⁰ Bid deadlines in formal tender invitations are often specified to the hour, to protect the confidentiality of bids. This may be justified for larger contracts, but it makes even arbitrary deadlines seem immutable, which could deter good contenders.

²¹ Bearing in mind that researchers’ costs (like those of most professions) have tended to increase faster than RPI.

- left to later negotiation. The same would be true in reverse if specification changes reduce costs.
- (b) It is often less clear how far charges may be increased if the work simply becomes more difficult than could reasonably have been foreseen; or who bears the risk of unforeseeable contingencies (like booked fieldwork being wiped out by freak weather). Researchers should clarify points like these as far as possible in their proposals and terms of business, and both parties should ensure that they have a common understanding of these matters.
 - (c) It would not be reasonable for suppliers to increase charges simply because they had underestimated the cost, where neither of the above circumstances applied²².
 - (d) Because research costing is inevitably approximate, the actual costs on a particular project may be higher or lower than anticipated even given competent costing and no shifting of goalposts. Over a series of projects these fluctuations will tend to even themselves out. If a fixed price has been fairly agreed, the buyer should not expect price reductions because of cost under-runs any more than the supplier should expect to increase prices because of over-runs – except as in (a) and (b) above²³. It is perfectly possible to work instead on a variable price or cost-plus basis if this suits both parties, but if so it should be clearly agreed in advance – and should operate fairly and equally in both directions.

Research customers sometimes ask suppliers to cost several alternatives. This is reasonable, and can be useful – but the number of options should be limited because estimating is a time-consuming (and therefore expensive) process. This also applies to breakdowns of the quoted price.

It is reasonable for buyers to ask for the charging rates of different grades of staff and the amounts of time to be spent by different grades.

It should be made clear whether any budgets include VAT. Different suppliers may have different obligations about charging VAT. It is therefore more equitable to compare VAT exclusive prices – but where buyers cannot reclaim VAT the inclusive figure represents the real resource cost. Policy should be clarified. It should also be clear who bears the risk of a change in VAT rates during the project.

<p>Good practice: quotations</p> <p>(1) Clarify:</p> <ul style="list-style-type: none"> - the basis of prices; - the grounds on which charges may rise above or be held below estimates; - who carries the risk of unforeseeable difficulties (or benefits from unforeseen savings); - the VAT situation <p>(2) Do not expect suppliers to cost a lot of complex options</p> <p>(3) Researchers should ask approval for overruns before incurring extra expenses</p>	N
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3.7 Price negotiation

It is of course possible to negotiate about prices even if there is no direct competition, or if competition is purely informal. Price negotiation can be effective even if only one supplier is involved (perhaps in some ways *more* effective).

²² It is not acceptable for suppliers to underquote in order to win contracts which they then intend to renegotiate.

²³ This is even more true if applied to parts of the project, where buyers have asked for costs to be broken down into separate processes.

However, if a project is awarded after formal tender, then it is unreasonable to negotiate subsequently with the aim of reducing price, unless:

- *either* it has been made clear from the outset that this will happen
- *or* the prices quoted seem unreasonable.

EC regulations say that even in these cases post-tender price negotiations should only take place if *all* competitors are allowed to resubmit.

If this practice became common, researchers would have to respond by either:

- increasing their initial prices in order to make room for subsequent negotiated reductions; and/or
- cutting corners to match the reduced resources²⁴.

Conversely it is unacceptable for researchers to try to win a tender by putting in a very low bid (or unrealistic timetable) which they then seek to increase once the project is commissioned.

Good practice: price negotiation

O

- (1) It is reasonable to negotiate over costs where there has been no formal competition
- (2) But it is not normally acceptable to try to negotiate cost reductions after a formal tender competition unless:
 - this has been made clear from the outset;
 - all tenders are clearly unsatisfactory; and/or
 - all competitors are allowed to resubmit

4 Other issues

4.1 Accountability

Public sector research customers are quite properly concerned with accountability. Statutory bodies are accountable for spending public money and they must be able to show they are using it wisely and efficiently. Their procedures must protect them from suspicion and prevent corruption or abuse. Decisions on suppliers must be (and be seen to be) fair. It may be necessary to demonstrate to colleagues or to the administrative system in the buyer's organisation (perhaps even to the public) that money has been fairly and wisely spent.

Formal tendering is the traditional response to these needs, but:

- (a) spurious competitions where there is a compelling (but unacknowledged) reason for choosing one particular supplier are *not* fair (see 2.3.1)
- (b) less formal methods of competition than tendering can be both effective and fair – but need to be documented carefully by the commissioner in order to satisfy accountability (see 2.3.2).

Choosing a research supplier is inevitably a complex affair in which intangible factors have to be weighed and balanced. Cost comparisons may be fairly obvious, but much more subjective judgements have to be made about factors like:

²⁴ In a creative field like social research, corners could be cut which might not be easily visible to the buyer, but would seriously damage quality.

- craft skills (questionnaire and sample design, interviewing, analysis, reporting)
- analytical power and insights
- creativity and originality
- experience (general and within the field)
- quality and quality control
- integrity
- reliability
- ability to deliver to time and budget
- credibility and reputation
- ability to communicate.

Buyers who make a practice of accepting the lowest tender come what may will overlook these factors – and this policy is not likely to deliver long-run quality or value for money. Cost effectiveness, not cost, is the right criterion.

Decisions based on such factors (although extremely important) may sometimes seem difficult to justify to someone who is not familiar with the parties involved, and who may be influenced primarily by cost considerations. But making professional judgement is a key part of the research manager's role and expertise. If decisions are honest and sensibly arrived at, they should be defensible, even where they are not reached through direct competition. There should be no inhibition about defending a justifiable decision to award a particular contract to a particular supplier without competition on grounds such as that they have been used before, have produced excellent work, are acknowledged experts in the field, and so on.

One way of providing support for the professional decisions of research managers is to submit proposals to referees or to peer review²⁵. This can be particularly useful where:

- choice of supplier seems unusually important and/or unusually difficult;
- it is particularly important to be able to demonstrate the fairness of the process or justify the decision (for example where only one supplier is approached);
- research expertise within the buying organisation is limited; or
- grant applications are being evaluated.

Going to referees consumes time and resources for the buyer, and is therefore mainly suitable for major projects.

Referees can be used with formal or informal types of competition. Even where there is no direct competition references can be taken, and samples of previous work requested, where the supplier is not already familiar.

Good practice: accountability	P
(1) Be prepared to justify awards based on limited or informal competition	
(2) Use referees, peer reviews and/or references where second opinions are needed	

4.2 Value for money

Much emphasis is rightly placed on getting value for money. However in practice the phrase often tends only to mean exerting downward pressure on prices²⁶.

²⁵ Referees can also have a useful role in quality control once projects are commissioned, and subsequently in post-project evaluation (which should provide guidance for future contracts).

²⁶ Government purchasing guidelines state that contracts should not be awarded solely on a lowest price basis, but there may nevertheless in practice be pressures in that direction.

However, cost is only one component in value for money. The quality, performance and ultimately the usefulness of research is the other part of the equation – at least as important, but harder to assess, and often harder to demonstrate publicly. Cheaper research may be *less* cost-effective if quality or usefulness are sacrificed to price. It is often better to do a smaller volume of good research than to compromise quality.

More attention needs to be paid to ensuring cost-effectiveness by optimising the balance between low prices on the one hand and the value, productivity and reliability of the information on the other. *Increasing the value of the output* is as important to cost effectiveness as *keeping the cost down*. Research suppliers (and methods of competition between them) should be chosen with *both* sets of factors in mind.

Research quality is particularly threatened if corporate cost-control systems apply crude quantitative criteria to research buying – for example by setting unit cost targets, which can most easily be met by sacrificing quality. Decisions may then be made to satisfy unit cost standards, rather than to ensure true cost-effectiveness. Research is not a commodity which can be bought effectively by the yard (see section 1). In these circumstances it is particularly incumbent on research managers to defend and give voice to the need for basic quality – which, because it is not easily measured, may otherwise lose out to inappropriate cost control pressures.

Good practice: value for money

Q

- (1) Look for ways of increasing the productivity, performance and value of research rather than just cutting cost
- (2) Be prepared to defend research quality
- (3) Do not maintain research volume at the expense of quality
- (4) Do not accept the cheapest bid unless it offers best value
- (5) Resist inappropriate cost control pressures – like unit cost indicators

4.3 Continuity and change

How far is it desirable to develop long-term relationships with particular research suppliers? This is a difficult issue, which customers must decide in relation to their own situation and needs, trying to balance the factors listed below.

(a) Advantages of long-term relationships: There are various advantages in long-term relationships, for example:

- good working relationships between supplier and customer take time to develop – and once developed can be extremely productive
- expertise in the topic or field is valuable
- continuity can build up valuable momentum
- comparability over time may be served by continuity of supplier
- using familiar suppliers cuts the risk involved in going to an untried source
- familiarity with the field and with each other may keep costs down because it takes less time to get up to speed.

(b) Rewarding good work: It seems both equitable and efficient to reward suppliers who do good work with further projects. It is clearly in the customer's interest to go back to someone who has performed well, and this is in turn likely to motivate good performance by suppliers. This seems common sense, and is an important part of the way in which true market-place competition works. Any method of competition which inhibits it is neither fair nor cost effective.

However, this notion seems to worry some buyers who:

- feel that fair competition means that all competitors must be judged purely on their proposals and not on their records; and
- are anxious to avoid being seen to favour a particular supplier.

Such views can in effect penalise those who do good work.

(c) Disadvantages of continuity: There can also be disadvantages in too much long-term continuity:

- familiarity may turn to staleness – researchers may lose their edge if they
 - feel they know the answers already; or
 - become complacent about being reappointed to future contracts.
- new influences and ideas may be locked out
- customers who are publicly accountable for their choice of supplier may feel embarrassed at awarding a long stream of contracts to the same few researchers
- researchers who depend on one funder may be more vulnerable to pressure.

(d) Access to research projects: Another important problem with long term relationships is that they can limit new suppliers' access to contracts. If access is restricted to those already on the inside track then:

- new researchers have little chance to break in
- there will be little new blood (and a consequent risk of staleness); and
- even established researchers may find it hard to move into new fields.

Whatever method of competition is chosen, thought should be given to ways of opening the door to new talent²⁷. Simply lengthening the list of competitors is *not* a good way of doing this (see 3.1). Open competition (which allows anyone who is interested to take part) also has drawbacks, although again open invitations to express interest in forthcoming projects can be valuable (see section 2.2.1).

Some buyers invite a range of possible suppliers to submit their own suggestions about future work – either as specific projects or broad themes. This also can be valuable. It not only provides research customers with a range of new ideas about developing their research programmes, but also makes possible some meshing of interests between buyers and suppliers.

Keeping eyes and ears open for new suppliers is important. Customers could make a practice of inviting someone new to compete alongside more familiar names – as long as this does not become merely a token gesture, or swell the number of competitors. Small projects may offer an opportunity to try out new suppliers.

²⁷ For example, by consulting colleagues from other fields; attending conferences and reading papers; visiting or inviting new suppliers; inviting expressions of interest; consulting directories; and so on. However, researchers who want to break into a new field should make themselves known to buyers, and make sure that their capabilities and credentials for the work are known. It is unrealistic for researchers without a track record to expect buyers to seek them out if they do nothing to market their abilities. Buyers are also under time pressure and may have limited scope for hunting out hidden talent.

Good practice: continuity and change**R**

- (1) Reward good work by taking past performance into account when:
 - deciding whether to stage a competition;
 - drawing up shortlists; and
 - assessing proposals
- (2) Develop fruitful long term relationships; but also be alive to:
 - the risks of staleness
 - the need to allow access to newcomers
- (3) Promote access for new suppliers by:
 - publishing future projects and programmes widely and inviting expressions of interest
 - looking for ways of involving new talent

4.4 Intellectual property

Intellectual property problems can arise when various suppliers put time into formulating attractive solutions to research problems but then don't get the contract. Who owns those ideas? Are buyers entitled to use ideas from unsuccessful suppliers?

Clear mutual understanding about these matters is important. Researchers often fear that a customer who approaches a number of potential suppliers may in effect (even if unintentionally) be picking their brains free of charge, and that the ideas they submit may be used by the buyer even if they do not get the work.

If the brief calls for original thought by the researcher, the shortlist should be kept very short and customers should respect the sources of ideas.

However, this problem can arise even where the brief does not seem to ask for original thought. Unless projects are unusually cut and dried, researchers often are (and should be) asked to make methodological suggestions. One contender might make a major contribution to methodological thinking about the project, which should count heavily in their favour in the final decision about the contract – but will not always be decisive. For example, one competitor may seem to have better ideas but less competence to carry them out – which faces the buyer with a difficult choice between:

- giving the contract to the researcher who came up with the idea, although not otherwise apparently suitable;
- passing the idea on to a more favoured competitor and keeping quiet about it;
- negotiating a payment to the unsuccessful researcher for the idea;
- ignoring a good idea altogether on the grounds that it would be unethical to “steal” it from an unsuccessful competitor.

There is no simple answer – but buyers should be sensitive to the problem and fair in their dealings. They should be aware that researchers are in the business of selling ideas and experience at least as much as facilities for actually carrying out research. While it is reasonable to expect suppliers to display “samples” of their ideas before purchase, it is not reasonable to make free use of these without acknowledgement or compensation.

On the other hand, researchers themselves must be clear and consistent. If they want to be judged on the quality of their thinking, they must be prepared to display it – and face up to any “intellectual property” problems involved. They should expect to cast a certain amount of intellectual bread on the waters. But this does not mean that buyers should expect suppliers to do substantive work in advance of a commission. If they

want this they should be prepared to pay some kind of development fee. Thus fully detailed questionnaires, sample designs or topic guides should not be expected at the stage of writing speculative proposals. Suppliers should simply be asked to provide outlines or broad approaches at that point.

Research buyers may of course want to tap the ideas and experience of a number of researchers, if it is an important and difficult project where the development of suitable methods and approaches is critical. In such cases they should buy consultancy time from the researchers, without prejudice to any subsequent contract which may be awarded. It could then be understood from the outset that the customer would “own” the ideas and have a subsequent right to use them.

It is *not* fair or reasonable to develop a methodology in dialogue with one researcher, and *then* decide to put it out to competition, unless

- the situation is made clear from the outset; and
- the costs of the first researcher’s development time are met.

Good practice: intellectual property	S
(1) Discuss issues affecting the ownership of ideas with suppliers	
(2) Compensate unsuccessful competitors if you use their ideas	
(3) Commission small consultancy projects (or offer to pay for proposals) if you want several suppliers to do development thinking in parallel	
(4) Do not go out to competition <i>after</i> getting one supplier to do extensive development work – unless that was explicitly a separately commissioned project	

4.5 Mutual commitment

In any contract negotiation there comes a point where the parties are committed to each other. The exact point is not always explicit or precisely definable and the two parties may sometimes have different expectations. It is important to avoid misunderstandings.

For example, there is often a point in advance of a firm written contract when it is assumed that a commitment has in effect been made and work is scheduled or begun. Such assumptions should be explicit and shared by both parties.

Government departments typically (but not invariably) have a formal exchange of legal contracts. If legal processes are protracted, real world activity may need to begin well before exchange of contracts, on the basis of an informal statement of intent from responsible officials. Yet some contract terms contain explicit warnings that no liability is accepted for work done before formal exchange. Researchers may then find themselves asked to do things on the informal level that they are warned not to do on the formal level. They must then either:

- go ahead, and put themselves in a legally untenable position; or
- refuse to move in advance of a firm contract, which delays the work and may offend their client.

It is of course good practice to spell out specifications and mutual expectations very clearly on paper and to record any departures from these²⁸ - but working detail is best kept out of any formal legal contracts, since otherwise even minor procedural changes can entail cumbersome contract variations. Formal legal contracts are not normally

²⁸ Such records form a legally binding contract whether or not a formal contract document exists.

necessary unless required by the buyer's organisation. Many research projects proceed quite happily with a simple exchange of proposals and letters²⁹.

At some point, costs of various kinds begin to be incurred. Researchers accumulate time costs once they start work and may have to commit themselves to external costs once interviewers, subcontractors or other suppliers are firmly booked. Once this point is reached, cancellation charges may be involved if the contract does not subsequently proceed. Again both parties need to be clear about this.

An expression of commitment in principle can enable work to begin in advance of a formal contract, although again it is important to establish how far responsibility for costs is accepted in the event of a breakdown. A buyer may be happy to authorise limited expenditure in order to get things moving, but still reserve the right to decide not to proceed with the whole project. Once more both parties need to be clear just what is and is not authorised at different points in time, and on what basis.

If competitions for research contracts typically involve three or four suppliers, then clearly researchers typically need to enter three or four competitions for every one they expect to win. Because they cannot afford to fall idle they may therefore make simultaneous submissions for more contracts than they could handle if they won them all. Suppliers offer to do work to a specified timescale in their submission, but the length of the competitive process may mean that by the time a decision is made they may have received other commissions which affect availability. The more people involved in competitions and the longer the competitive process, the more of a problem this is likely to be.

Buyers should not expect researchers to commit themselves finally to being able to do the work to a particular timescale until they are ready to commit themselves to asking the researcher to go ahead.

Buyers increasingly ask suppliers to specify in their submissions which staff will work on a project. This is understandable (and indeed desirable in itself), because what they are buying is largely the people and their skills and experience and they need to ensure that the team is not weakened by inappropriate delegation or substitution (see 3.4). However, it means that research organisations have to juggle their professional resources – offering to make specific allocations of personnel before they know what the workload will be.

It is hard to guarantee that named individuals will remain with the organisation throughout the life of a contract – in which case there should be a commitment to replace with someone of equivalent competence and standing. The issue of what happens if uniquely qualified staff leave is ultimately insuperable, but:

- suppliers should make it clear at the outset if there is any serious doubt about the continued availability of staff; and
- efforts should be made to secure continuity if key people do leave during the run of a contract.

²⁹ Formal contracts are unusual in private sector research. Decisions tend to be made rapidly and work often begins as soon as oral agreement is reached. The absence of extended formal competitions tends to increase flexibility for both parties and rigid contractual processes would inhibit this. At all events the contractual tail should not be allowed to wag the operational dog. Any contractual material should be relevant and user-friendly. A three-page brief accompanied by 20 pages of standard contractual detail does not strike the right note – particularly if parts seem irrelevant, obscure or even threatening in tone.

The best researchers tend to be in demand and buyers who want good people working on their projects should try to give as much notice as possible and commit themselves at an early stage.

Cases have been reported where a competition has been run and a supplier chosen for research which had no approved budget and for which funding could not subsequently be found. It should always be made clear from the outset if a project is purely speculative in this sense.

There should be shared expectations about what would happen if commissioned projects are cancelled. There are two main situations:

- (a) where cancellation does not arise from any incompetence on the supplier's part it would normally be reasonable to expect the buyer not only to meet all costs expected or committed up to that point, but also to pay some compensation for loss of business (depending on the situation and its likely effects on the supplier).
- (b) where cancellation arises from the supplier's inability to complete the work satisfactorily the issue of compensation is not likely to arise and liability for outstanding costs would need to be negotiated according to circumstances³⁰.

Good practice: mutual commitment	T
(1) Make it clear to researchers how far you are committed to them at different stages	
(2) Give early authorisation to incur limited costs if it is important to get things moving	
(3) Recognise that <i>both</i> parties can keep their options open until they are <i>both</i> ready to make a mutual commitment – researchers should not have to commit themselves to being available until you are ready to commit yourself to offering them the contract	
(4) Avoid unnecessary formalities in contracts where possible	
(5) Minimise timing conflicts between formal contracts and real world needs	
(6) Make it clear from the outset if funding is not already secured	
(7) Researchers should	
- be prepared to specify who will work on the project	
- make substitutions only:	
• with the buyer's agreement; and	
• by staff of equivalent quality and suitability	
- make clear in advance any likely limits to the availability of key staff	
- do their best to secure continuity if key staff do leave	

4.6 Publication

Whether or not the report is to be published (or when, by whom and on what terms) is not in itself a matter for particular guide. However, this should be clarified in principle at the commissioning stage – because it may have cost implications, and is important to many researchers.

The extent to which reports are expected to be submitted in draft and then modified in detail can affect costing assumptions, since extensive redrafting can be an expensive process³¹. Clearly no-one can foresee the need for redrafting due to supplier

³⁰ It is clearly in the interests of both parties that unsatisfactory performance is discussed and (where possible) rectified as early as possible and that costs which buyers are unhappy to meet should not be allowed to go on mounting.

³¹ Costs can also rise if it takes a long time to approve drafts, because researchers lose momentum.

incompetence and researchers should bear any costs which might arise for this reason – but there should be a clear understanding from the beginning about:

- general expectations and procedures for report approval;
- any particular requirements about format and style of presentation.

Extensive redrafting requirements also raise the question of authorship. The report will normally go out under the researcher's name and its contents should remain the researcher's responsibility. It is reasonable for the buyer to make sure that the report is clear, unambiguous and to the purpose, but changes in substance should only be requested on valid research grounds³².

Good practice: publication

U

- (1) Clarify and harmonise expectations about:
- submission of draft reports
 - any specific reporting requirements (including format and style)
 - publication

4.7 Terms of payment

General terms of payment should be made clear to both parties in advance, although arrangements may be left flexible in detail.

Costs start to clock up as soon as work begins. It is reasonable to expect researchers to have a certain amount of working capital in order to fund work in progress, but they should not be expected to be out of pocket for long.

A common arrangement in the private sector is to pay a proportion of costs on commissioning, a proportion on completion and one or more instalments at agreed interim stages. This is satisfactory, but not always workable for Government departments, who may be obliged to pay in arrears. In this case monthly payment in arrears seems a good general model. Payment by stages when defined targets are reached is another possibility. Whichever approach is taken, the arrangement needs to be clearly understood by both parties.

It is reasonable to retain some of the cost until the work is satisfactorily completed, but the amount retained should not be disproportionate to the balance of risk. If the work is all but complete and there is no reason to doubt that it is satisfactory, then only at most a nominal retention is justified. If the report seems seriously unsatisfactory, a larger retention may be in order, but it is not right to keep back a large sum for minor fine tuning – particularly if the buyer takes a long time to approve the draft.

If agreed invoices are not paid promptly, this causes financial strain for the supplier and ultimately increases costs. Payment within a month of receiving a due invoice should be normal practice. It is certainly not good practice to hold up invoicing or payment to meet quarterly departmental cycles.

Buyers can experience budgetary problems if work is not invoiced to time.

³² Researchers should of course resist any pressure to make valid findings or conclusions more congenial to the buyer – but they should be aware of the policy context and present their material with reasonable tact and sensitivity.

Good practice: payment terms**V**

- (1) Clarify terms of payment in advance
- (2) Do not expect researchers to carry large costs for long periods
- (3) Make sure that any retention of funds at the end of a project is commensurate with the outstanding work
- (4) Agree how quickly invoices should be paid when due – and stick to that
- (5) Suppliers should invoice promptly at the agreed times or stages

4.8 Handling corporate requirements

Most of this good practice guide assumes that procedures for letting research contracts are entirely at the discretion of research managers, but this is clearly not always the case. There may be laid down corporate requirements (particularly in Government and large organisations) within which managers have to operate.

Research managers should try to ensure that any such laid down procedures are conducive to good practice. Where this is not the case they should do their best to change them if possible. So long as unsatisfactory procedures exist, research managers should explore how much latitude they have to vary them – and if they must use the procedures as laid down they should at least try to operate them in a sensible and friendly way. It may be wise to make suppliers aware of any corporate requirements which might stand in the way of good practice.

Good practice: corporate requirements**W**

- (1) Try to influence organisational buying policy if necessary so that it recognises the special needs of research buying
- (2) If this is not possible, explore how far laid down procedures are mandatory and inescapable
- (3) Where there is little latitude try to operate the set procedures as flexibly and openly as possible
- (4) Be frank with suppliers about any difficulties of this kind

5 Researcher originated projects

This guide has mainly been concerned with projects originated by the research buyer. However, customer funding of researcher-originated projects is much to be encouraged. It is important for funders to enable researchers to pursue their own interests as well as taking a tightly goal-directed approach. Both can benefit from a meshing of research interests.

Little need be said about projects of this type in the present context, apart from encouraging research sponsors to be alive to this kind of opportunity. There are two points worth making:

- (1) As noted, some research customers publish their general research interests in advance, explaining not only what projects they propose to fund, but more broadly what information needs and interests they have. This is good practice – it enables researchers to take account of these needs when shaping their own research programmes; which in turn can lead to the “meshing of interests” referred to above and makes it more likely that the researchers will develop programmes which users think worth funding.
- (2) Access to funds for this kind of research could usefully be broadened.

Annex A: The sub-committee

Membership of the SRA sub-committee set up to look at contractual issues were:

Bob Barnes	(OPCS)
Alan Hedges	(Freelance research consultant)
Roger Jowell	(SCPR)
Keith Kirby	(DOE/SRD)
Susan McRae	(PSI)
Nick Moon	(NOP)
Michael Warren	(COI*)
Justin Russell	(Mental Health Foundation)

Alan Hedges chaired the sub-committee and was largely responsible for drafting and assembling the guide.

Nick Moon was in the SRA chair when the sub-committee was first set up. Justin Russell joined the group when he in turn became SRA chair. Sally Dench as subsequent chair was also involved at later stages.

The sub-committee was drawn from a useful mixture of backgrounds and types of experience. However, members contributed as individuals rather than as representatives of their organisations.

* Michael Warren was Director of the COI Research Unit while the sub-committee was working on the guide. He has since become Director General of the Market Research Society.

Alan Hedges
July 1994