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# Delivering fit for purpose procurement outcomes

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Strategic advice  
practical legal solutions



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## Some global context...





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## When is the procurement deal done?





## When is a process contract formed?

- A Process Contract is more likely to exist if tender documents contain:
  - mandatory language;
  - detailed procedures and criteria;
  - a level of formality for the process.



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## How can breach of a process contract be avoided?

- May attempt to exclude any contract arising in the RFT documents but not fool proof.
- Give careful consideration to express terms of the tender process.
- Apply your criteria and take care in selecting mandatory criteria.



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## Probity during evaluation





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## Probity during evaluation

- Fairness and impartiality
- Use of competitive process
- Consistency and transparency
- Security and confidentiality
- Identification and resolution of conflicts and interest



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## CORRUPTION PERCEPTIONS INDEX 2015

Rank	Country/territory	2015 Score	2014 Score	Rank	Country/territory	2015 Score	2014 Score
1	Denmark	91	92	8	Singapore	85	84
2	Finland	90	89	9	Canada	83	81
3	Sweden	89	87	10	Germany	81	79
4	New Zealand	88	91	10	Luxembourg	81	82
5	Netherlands	87	83	10	United Kingdom	81	78
5	Norway	87	86	13	Australia	79	80
7	Switzerland	86	86	13	Iceland	79	79





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## IBAC Perceptions of corruption



**40%**

*Believed* corruption in public sector procurement is a major or a moderate problem

**34%**

*Said* they had decided not to bid for government contracts because of their concerns about corruption



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## IBAC Perceptions of corruption



Respondents *believed* it was typical or very typical for public sector officials to:

**44%**

Accept gifts

**38%**

Give suppliers unequal access to tender information

**25%**

Leak confidential tender information to competitors



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## Jilted at the procurement altar





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## Achieving the right contract terms



### *DJR Templates*

Services Agreement (Long Form)

Goods Agreement

Goods and Services Agreement  
(Short Form)



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## Social Procurement



Using  
**procurement**  
processes and  
**purchasing**  
power to  
generate  
**positive**  
**social**  
**outcomes**