



# Improving Transparency in Public Procurement

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Head of Procurement TII

A large, stylized graphic of the number 7 is positioned on the right side of the slide. It is composed of several parallel, slightly curved lines that create a sense of depth and movement, extending from the top right towards the bottom center.

*“The award of public contracts has to comply with the principles of the European Union, and in particular ... the principles of ... equal treatment, non-discrimination, and transparency”.*

DIRECTIVE 2014/24/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

## On Reading the “Regret” Letter



A large, stylized white number '7' is positioned on the right side of the slide. The top bar of the '7' is thick and rounded on the right end. The vertical stem is also thick and tapers slightly towards the bottom. The number is set against a light gray background.

# 7 Tips For Improving Transparency in Public Procurement

## Tip 1. Start with the end in mind

Want a competent contractor/consultant for a fair price



## Tip 2. Prepare a Plan



## Tip 3. Check Tender Documents for Ambiguity



## Tip 4. How to Win

Inform bidders how they can win.



- Mandatory requirements.
- Forms to submit.....
- Timelines.....
- Award Criteria, Weighting
- Etc.....

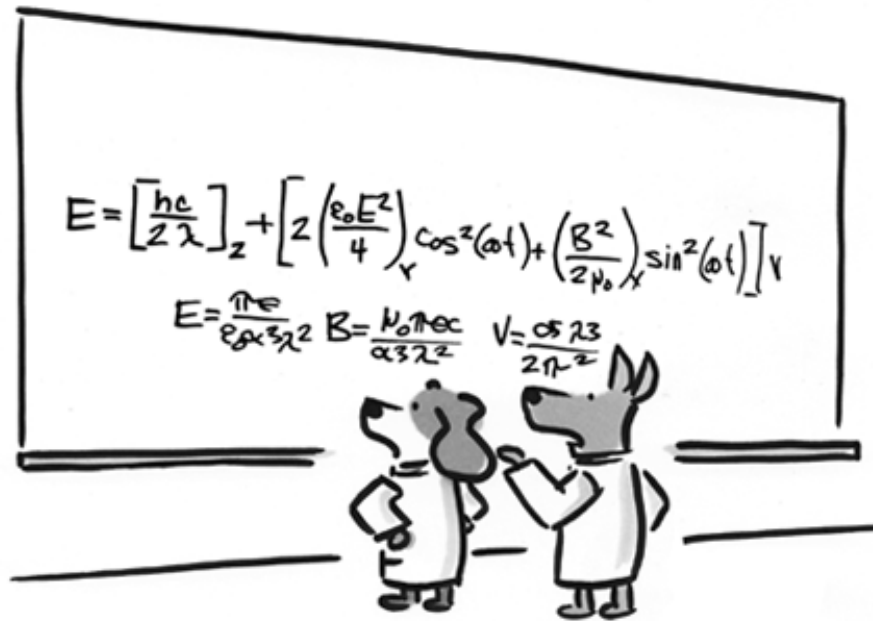


## Tip 5. Agree Marking System – Is it Clear?

Marking system must be understood by evaluators and bidders

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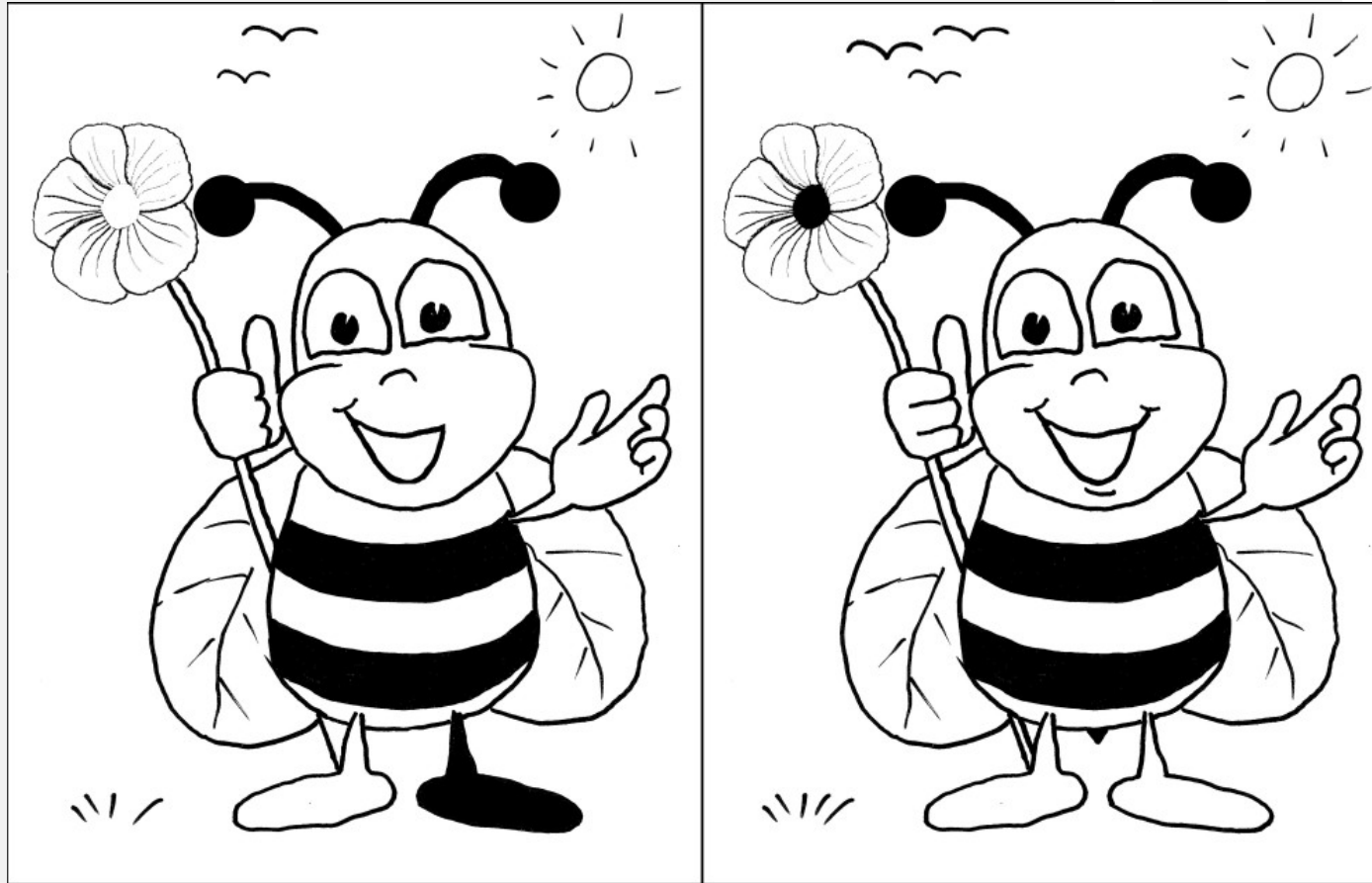
WWW.ANDERTOONS.COM



"There it is. You forgot to convert to dog years."

## Tip 6. Spot the Difference

Difference between what was asked for and what was submitted



## Tip 7. Join the Dots and Provide Feedback



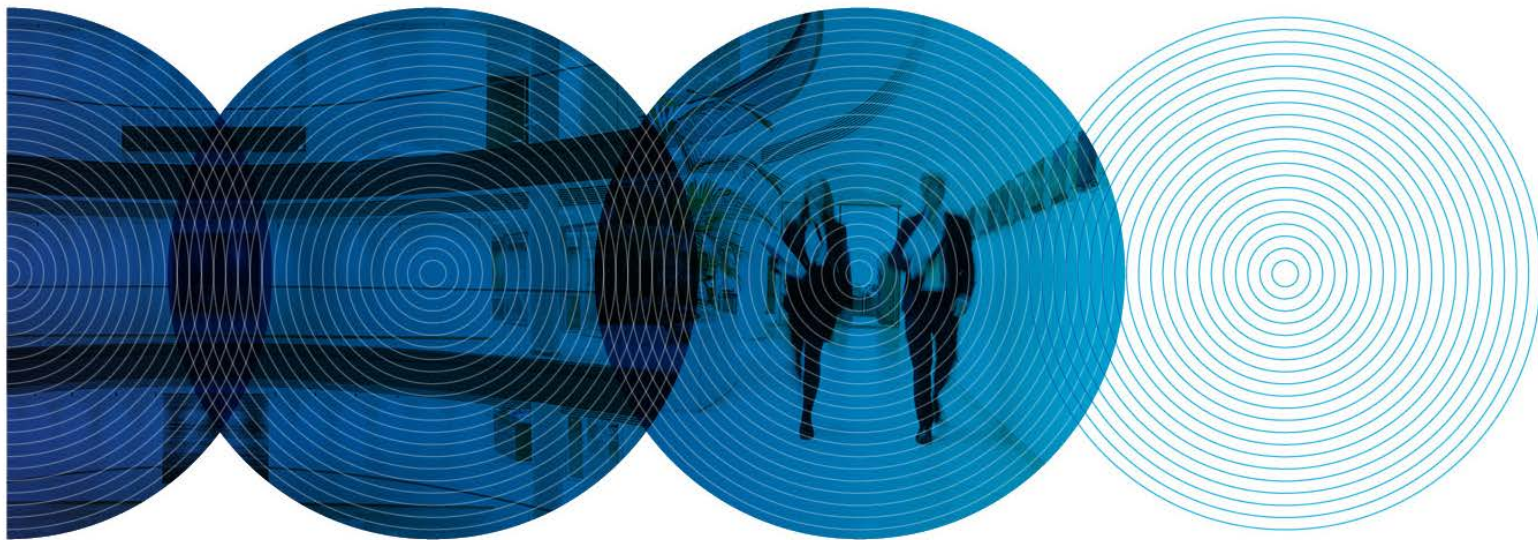
Thank You for listening



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29 September 2017

Jenny Mellerick, McCann FitzGerald



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## Reg 84 Report - Awareness

- Report for every procurement of contract/framework/DPS, kept for 3 years from award (not required for call off with sole supplier/no mini-competition)
- Specific info requirements listed on slides in pack
- Reg 84 also provides authority shall “*maintain documentation to record the progress of all procurement procedures*” and “***to justify decisions taken at all stages***” of process

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# Reg 84 Report - Contents

- Includes
  - *Communications with candidates/bidders*
  - ***Internal deliberations (NB)***
  - ***Preparation of procurement docs (eg pre-procurement planning)***
  - *Dialogue/negotiation*
  - *Selection and award*
- So may cover decisions on weighting of criteria, non-compliance, pass/fail, levelling playing field, conflict of interest/bias as well as scoring

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## Disclosure - General

- Regs suggest report only goes to Minister but NB write on assumption bidder will see it (eg under FOI if various exemptions fail, on discovery)
- Try to prepare report so easy to redact sensitive information if disclosed
- Be mindful about what you are writing down generally – emails, IMs, texts all potentially disclosable. NB especially sending legal advice to other consultants – risks losing privilege



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# Reg 84 Report – Specific Info Requirements

- Details of authority, subject matter and value of contract
- Names of shortlisted candidates and reasons they were shortlisted
- Names of non-shortlisted candidates and reasons they were rejected
- Any bids rejected for being abnormally low and why
- Name of the winner and reasons why successful

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## Specific Info Requirements (2)

- % of contract to be subcontracted by winner (if known) and names of sub-contractors
- If using CD/negotiated procedure, justification for use
- If NP without advertising, justification
- If ultimately no award, reasons why
- If not using electronic communication, reasons why (Reg 22)

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## Specific Info Requirements (3)

- Conflicts of interest detected (if any) and measures taken (Reg 24) (NB wide definition of conflicts)
- Reasons contract not divided into lots (Reg 46(2))
- Reasons turnover test at prequal  $>2x$  estimated contract value (Reg 58(9))
- Measures taken to ensure level playing field where candidate advised authority/involved in design of process (Reg 41)

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