

EBASS 25, Work Package 5 – Procurement Guidelines

1. Introduction and Background

The purpose of this work package is to engage with procurement professionals from University purchasing consortia and JISC Collections to identify the potential procurement options when establishing a Consortial e-books agreement. It also seeks to provide guidelines for library acquisitions managers who are considering the various routes for procuring E-Books.

Within the HE sector the options for procuring E-Books are as follows:

1. Undertaking a formal procurement exercise, either as an individual institution or as part of a consortium such as the M25 Consortium of Academic Libraries (this does not refer to procurement undertaken as part of an HE Sector Purchasing Consortium).
2. Accessing content as part of collaboratively negotiated deals – this Option is referred to in more detail in Work Package 4
3. Arguing a 'sole supplier' situation and thereby avoiding going to tender.
4. Making use of an existing Framework Agreement for Library Books, such as the Joint Consortia Agreement for Books, Standing Orders, E-Books and Related Material (referred to as the Framework Agreement for Library Books)

This Work Package will evaluate in more detail option 4 for the procurement of E-Books, and specifically for consortia wishing to purchase E-Books.

2. About the Framework Agreement for Library Books

The *Joint Consortia Agreement for Books, Standing Orders, E-Books and Related Material* (hereafter referred to as the Books Tender Agreement) is currently out to tender and will replace the current Agreement which expires in July 2013. Development of both of these agreements has been led by Southern Universities Purchasing Consortium.

As a key procurement method for the procurement of Library books and E-Books in the HE sector, these agreements act as an excellent starting point for members of the English HE regional purchasing consortia who wish to procure E-Books and deliver the following benefits:

- Competitive pricing, with the current Books Agreement offering members an estimated saving of 3% on books prices.
- An OJEU-compliant route through which participating consortia members can purchase books

- A flexible lot structure, with specialist suppliers for areas including E-books
- A collaborative framework used by institutions across England and aggregating leverage across these institutions to ensure value for money throughout the framework's lifetime¹

In the light of these benefits this Work Package will evaluate the Books Tender Agreement and use it to provide guidelines to facilitate decision making for those embarking on E-Books acquisition.

3. E-Book Procurement

The Books Tender Agreement is clearly designed to respond to the different requirements of E-Books, and is designed to be flexible. As part of the procurement agreement there is a specific lot that relates to E-Book procurement. The agreement sets standards for E-Book suppliers and encourages them to take steps in the areas of making textbooks available in electronic format and producing content that is available on different devices.

4. Supporting Patron Driven Acquisitions (PDA)

The BooksTender Agreement supports a range of business models including the PDA model. It states that suppliers must: 'offer flexible purchasing models, e.g. ... Patron Driven Acquisitions (PDA)' (*Joint Consortia Tender for Books*, p.26). It then builds on this to develop a detailed set of requirements for what suppliers should offer as part of Patron Driven Acquisition.

5. Supporting Book Supply options

The Books Tender Agreement is designed for suppliers who are either 'aggregators or booksellers'. Suppliers who only offer goods from one publisher are specifically excluded from the agreement for two main reasons, firstly because this is the specific remit of JISC Collections and also because tender evaluation under OJEU between different publishers is very difficult, if not impossible. Despite this, the fact that Publishers are not included does present a challenge because a number of Publishers, in particular Taylor and Francis and Cambridge University Press, are offering E-Book PDA models, and these types of deals could as a result be excluded from this agreement. This exclusion causes 2 key challenges:

- Currently the evidence-based PDA model is only available directly from publishers. Research carried out at the EBASS 25 Workshop in November 2012 suggested that

¹ Library Books Framework Agreement, <http://www.lupc.ac.uk/cms/site/docs/Briefing%20sheets/Library%20Books.pdf>, accessed on 25 February 2013

this model was the preferred method for consortial purchasing of E-Books. At the moment therefore evidence-based PDA acquisition would not be available under the Tender Agreement.

- E-Books supplied directly by Publishers are less likely to have Digital Rights Management (DRM) issues than those supplied by aggregators.

However, the Books Tender Agreement does state that ‘During the life of the Agreement we expect new business models to evolve and to be offered in response to the considered and mediated preferences of participating consortia, with due regard to publishers’ own development strategies’ (*Joint Consortia Tender for Books*, p.7). This should mean that new models, such as the evidence-based PDA model, will be made available by aggregators or book suppliers to be procured as part of this agreement.

6. Meeting the needs of consortia

The Books Tender Agreement does encourage Consortial purchasing of E-Books, stating that it would be desirable for suppliers to offer ‘models that are favourable to consortium or collaborative purchase’ (*Joint Consortia Tender for Books*, p.26). However, in reality, because only English HE Regional Purchasing Consortia are listed in the Books Tender Agreement then this means that only these groups can use the document. As a result, consortial groups such as the M25 Consortium could not use the agreement as a procurement route.

An option that could be available is for institutions to work together to investigate what E-Books options are available and whether they meet their needs. These institutions could then independently use the Books Tender Agreement to procure the Collections. However even here there is a challenge. Not all M25 Consortium Libraries are in the HE Sector, and so may very well not be a member of one of the University Purchasing Consortia covered by the Books Tender Agreement (SUPC, LUPC etc). The current Books Tender Agreement states that “subject to agreement by the participating consortia (English HE Regional Purchasing Consortia) the Agreement can be extended to cover the other university purchasing consortia ... as well as further education colleges in the UK should they wish to use this Agreement.” So there is potential for the Agreement to be extended to individual libraries in other groups, such as the Museum Librarians and Archivists Group, but this would need to be confirmed.

A further option, which would enable all M25 Consortium member Libraries to use the agreement, is for them to individually become members of London University Purchasing Consortia (LUPC) or one of the other purchasing consortia. Membership of LUPC is not limited only to universities, but is also open to “other not-for-profit, public and third-sector

organisations from our neighbouring sectors in the arts, sciences and education.” Quite a few M25 Consortium Libraries are already members – for example both the British Library and Royal Botanic Gardens at Kew – and a full list of LUPC members is available on their website at <http://www.lupc.ac.uk/about/members-list.aspx>. While membership of LUPC might be too expensive for some smaller institutions it may be worthwhile considering approaching appropriate regional Purchasing Consortia, such as LUPC or SUPC, to see whether Libraries could pay a reduced subscription and opt in to particular agreements. For example, it might be worthwhile exploring whether it would be possible for smaller institutions to just join the library agreements (which would include the SUPC book agreement).

The challenge of ensuring that the membership of two differing Consortia correspond – in this case a sector specific Consortium such as a University Purchasing Consortium and a geographically specific Consortium such as the M25 Consortium – is a significant one. If the members of the two groups do not line up (and, for example, all the members of the M25 Consortium of Libraries are not part of a University Purchasing Consortium) then this option for procurement would again not be valid.

7. Conclusions

In conclusion the Book Tender Agreement provides a robust mechanism for institutions wishing to purchase E-Books. The main issue for institutions wishing to use the Agreement is that it does not support procurement directly from a publisher, which means that alternative procurement options may need to be explored. This is particularly the case with only publishers offering the evidence based PDA option. However over time suppliers should respond to demand and offer this model, which may resolve this issue.

However, the value of the Book Tender Agreement for use by Consortia wishing to carry out collaborative purchase (with the exception of the English HE Sector Regional Purchasing Consortia) is limited. The only consortia who are eligible to use the agreement are English HE Sector Regional Purchasing Consortia. The only apparent route for other consortial groups (such as the M25 Consortium) who wish to use the Agreement to carry out procurement, is to collaboratively carry out investigations but then use the Agreement independently to procure collections. Even this route has challenges, particularly if members of the Consortial group are not part of a University Purchasing Consortium, and are therefore excluded from using the Agreement.

One further comment on the Books Tender Agreement is the need for improved clarity in the area of what is a Consortium. In particular, it should be noted that the term ‘Consortium’ is

used frequently in the Books Tender Agreement but it is referring to Purchasing Consortia only, rather than Consortia more broadly.

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