

Delivering Best Value with SMEs

The final countdown

In the last in a series of articles, **Eddie Regan** looks at the completion of the tender and award stages.

Once the tender response has been agreed and all questions have been answered, the Tender Manager is charged with putting the various elements of the tender together. Once compiled, the tender team can assemble for one final read-through and discussion. On agreement that the document is finished:

- remove the two unmarked tender document copies from safe storage
- complete and compile your tender response, remembering your supportive information
- check and recheck that you have completed the tender as specified by the client
- check your enclosures and affix a covering letter indicating the order of your presentation and a brief description of each item
- ensure your presentation is within any required word or page limits and note the number used
- seek your client's written permission to include – although not within the actual tender document – any further information on your company which you feel would be of assistance to the client
- check you have signed each page as required and the correct signature is on your tender; if it must be signed by the Managing Director ensure this is done
- pass to a colleague for a final check; all checks should be carried out by at least two key personnel

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stipulated than because of price or quality of work. It is also important that you safely file your duplicate completed copy.

Tender documentation presentation

It is important to ensure your tender response is clearly and precisely displayed:

- avoid handwritten presentations – even the neatest writer tends to lose clarity after a time
- use a type size one point larger than the issuing authority's document, if possible; this displays your response clearly
- when submitting answers to questions asked in the documentation, follow the precise format of the original questionnaire and use the same headings and number sequence as used in the client documentation, for example:

Heading: Environmental Information

Question 1.1 (answer) None

Question 1.2 (answer) Yes, etc

If you are required to respond to multiple questions, ease the client's evaluator's work by displaying your answers page by page, matching exactly the questions and page configuration used by the client.

This allows the evaluators to easily compare the questions and answers. By creating a document which is clearly typed and easily checked you raise your tender presentation above that of the majority.

Part Four

Remember, the client officer (who is possibly responsible for checking a dozen or more presentations) is looking to reject tenders, so as to speedily arrive at a choice of just one, two or three tenders from which to make a final selection. Having read many pages of other contractors' information, often unclearly presented and badly laid out, your presentation will appear all the more impressive if you make that extra effort.

Helpful pointer

If a question states that 'yes' is the mandatory answer, then you must answer 'yes' or you will be rejected. You can always clarify your answer later.

Deliver with care:

- be careful to place your tender presentation in a package which does not name your company and remember to use the label provided by the client. Check that your mail franking machine does not contain the name of your company
- if delivering by courier, ensure they do not affix a label to the package which names any company
- deliver the package in person if possible, ensuring it is delivered to the correct person at the authority and that you receive a timed and signed receipt. Usually, hand-delivered tenders are accepted and signed for on an incoming log – by viewing this log you can see which other companies have presented tenders
- log your delivery in your tender timescale diary
- if submitting your tender electronically, make sure you have an electronic audit of its dispatch and of its receipt
- await the closing date of the award if specified and contact the issuing authority if you do not receive a reply
- keep monitoring until the contract is awarded

The award stage and Alcatel

If the contract was over the EU threshold and advertised through the OJEU then, following evaluation by the

contracting authority, you should be provided with the opportunity of receiving a prompt debrief under the Alcatel process.

EU procurement law requires that contracting authorities now include a minimum mandatory standstill period of ten clear days, which must take place after notification is sent to unsuccessful bidders and prior to contract start. This means that unsuccessful bidders can be informed of the outcome of the tender evaluation and be given the opportunity to obtain a debrief prior to contract commencement.

If any bidder, including the prospective winning tenderer, wishes to request further information, this should be done by the end of the second working day of the standstill period. If a supplier misses the deadline, the normal debriefing requirements which the Directive indicates would apply (purchasers should debrief promptly and within 15 days of receipt of a written request).

The contracting authority is then required to provide additional information as part of the debriefing process.

The additional debriefing should include:

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- the reasons why the tenderer was unsuccessful
- the characteristics and relative advantages of the successful tender, if the unsuccessful tenderer submitted an admissible tender

If a bidder wishes to raise a challenge to the award decision then this must be done on a legal basis. Following the completion of any debriefs there must be an additional standstill period of three working days before the formal award can be made.

If the contract is not covered by the EU Directive, bidders still have the right to request a

debrief from a contracting authority. However, this process is not as formalised and, on occasion, bidders may be required to invoke the Freedom of Information Act/Freedom of Information (Scotland) Act to obtain additional information on an award.

Freedom of Information Act

Any person can make a request under the Act – there are no restrictions on age, nationality, or where you live. All bidders are required to do is write to (or email) the contracting authority detailing the information they wish to receive.

Bidders should ensure they include:

- their name
- an address where they can be contacted
- a description of the information they want

It is not always necessary to use the company details and such a request can be made by any individual.

It is best to describe the information you wish to receive as clearly as possible, as this will help the contracting authority identify the information you require.

Contracting authorities must comply with a request promptly and should respond within 20 days. Should they require more time to locate the information they must write back, advising when they will be able to answer the request and why they need more time.

If the contracting authority believes that the information requested is commercially sensitive or could, for example, be damaging to the public interest, the request could be refused.

If this decision is taken, the contracting authority will provide the enquirer with details of the exemption they are invoking.

If an enquirer views the decision as unacceptable, they should first ask the public authority for an internal review of their decision. This review will be carried out by someone in the authority who was not connected with the initial decision.

If the public authority refuses to review their decision, or an internal review agrees with the original decision, it is feasible to take an appeal to the independent Information Commissioner, who has the power to investigate the way the contracting authority handled the request and the answer they gave. If he agrees that they have wrongly withheld information, he can order them to disclose it.

Using Freedom of Information to access information about an unsuccessful bid should only be used as a last resort, but is an acceptable route to take if a contracting authority refuses to provide you with a debrief.

Parts One, Two and Three of this series can be viewed online at:
www.govopps.co.uk/magazine/previous/0709/openingdoorstosmes.pdf,
www.govopps.co.uk/magazine/previous/0710/openallvalues.pdf and
www.govopps.co.uk/magazine/previous/0711/thewinningbid.pdf



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