

ABERDEEN CITY COUNCIL

COMMITTEE Finance & Resources

DATE 17th June 2010

CORPORATE DIRECTOR Stewart Carruth

TITLE OF REPORT Quality and Price Criteria in the Evaluation of Tenders

REPORT NUMBER CG/10/115

1. PURPOSE OF REPORT

The Finance and Resources Committee of the 11th March 2010 requested officers to report back on the use of quality and price criteria in the assessment of tenders. This report details the Selection and Award stages of evaluating tenders and sets out the merits of evaluating on the basis of Most Economically Advantageous Tender ("MEAT") as opposed to Price alone.

2. RECOMMENDATION(S)

The Committee is asked to: -

- (i) Note the content of the report; and
- (ii) Instruct all Services to evaluate tenders on the basis of MEAT, using a price/quality matrix, unless there is approved justification sanctioned by the Head of Procurement and the relevant Head of Service for evaluating solely on the basis of lowest price.

3. FINANCIAL IMPLICATIONS

The Council has a statutory duty to apply Best Value principles in all Service delivery. In procurement, Best Value is described as being the optimum balance between quality and price.

4. SERVICE & COMMUNITY IMPACT

Assessing the whole life costs, as opposed to solely lowest cost, of the Council's needs will better enable Best Value to be achieved. It will also bring added value throughout the supply chain which will enhance value for money and the maximum efficiency in service delivery for all end users and citizens.

Corporate procurement training has been rolled out to all officers with a role in the procurement process. Specific direction is given on the rules relating to contract selection and award criteria and the basis on which tenders can be evaluated.

5. OTHER IMPLICATIONS

There is always a fair balance to be reached between price and quality. The quality element should be assessed against what is actually fit for purpose to achieve the desired outcome. Purchasers should also always be aware of the governance involved with the procurement process and responsibilities in relation to transparency, equal opportunities and equal treatment of all current and potential suppliers.

6. REPORT

Evaluation of tenders must be undertaken in two stages; selection then award. It is a legal requirement that the two stages are kept separate. Where they are mixed it exposes the Council to the risk of legal challenge.

Selection

Under the Public Contracts (Scotland) Regulations 2006 (the “2006 Regulations”), contracting authorities may require bidders to satisfy minimum levels of economic and financial standing, and/or technical ability. Contracting authorities should also check that no bidders meet the mandatory or discretionary rejection factors stated within the 2006 Regulations. The selection process is undertaken by means of the PQQ where the Restricted Procedure is used and within the invitation to tender (“ITT”) when the Open Procedure is used. The selection stage focuses on the supplier’s characteristics and suitability in principle to satisfy the contracting authority’s requirement. Contracting authorities must use the selection phase to identify the bidders who will go on to have their tenders evaluated at the award stage.

Award

The ITT is the award stage. At this point all remaining bidders will have satisfied the Selection criteria and been assessed as being qualified to perform the contract. The Award stage must focus on the tenders rather than the tenderers. There are two grounds for awarding a public contract under the 2006 Regulations: -

1. the lowest price - The lowest priced tender wins. No other element of the tender may be taken into account, or
2. the most economically advantageous tender (“MEAT”) - Factors other than or in addition to price, like quality, technical merit and running costs can be taken into account.

Where MEAT is chosen, award criteria must be linked to the subject matter of the contract and includes:

- Quality
- Price
- Technical merit
- Aesthetic and functional characteristics

- Environmental Characteristics
- Running Costs
- Cost Effectiveness
- After Sales Service
- Technical Assistance
- Delivery Date and Delivery Period
- Period of Completion

The Council should use MEAT for the majority of procurements as there are very few purchases where the Council would not wish to evaluate a quality element. However, when purchasing simple commodities (off the shelf), lowest price criteria may be appropriate where there is no requirement for a particular delivery time, after sales service, etc. Evaluation on the basis of price alone may also be appropriate in the procurement of specific works contracts where the bill of quantities or schedule of rates is so prescriptive and detailed as to the quality standard that lowest price can be applied.

When setting questions for tender evaluation it is important to ensure that there are no questions asked that relate to the selection stage. This is because the use of selection criteria such as experience at Award stage may perpetuate the advantage of an incumbent or previously used supplier, to the detriment of other qualified tenderers.

Evaluation criteria must treat all bidders equally and can be evaluated in a transparent manner. It is also very important to remember that criteria must be proportionate and relate to the subject matter of the contract. It would not be appropriate to include environmental characteristics in a contract for financial consultancy where the consultant had no control over the environmental impact of their work.

Contracting authorities must publish their evaluation criteria and scoring methodology in the ITT and the contract notice inviting expressions of interest. Contracting authorities must ensure that they follow the methodology set out in the ITT and this cannot be deviated from at any point without exposing the contracting authority to the risk of legal challenge. It is important to include any sub-criteria within the ITT.

Tenderers now have enhanced powers to challenge the decisions of contracting authorities. Their success or otherwise in the challenge will be dependant on how robust the Council has been in ensuring all evaluation and award criteria is fair, transparent and proportionate to the need in question.

7. AUTHORISED SIGNATURE

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