

Tenders & Contract Documents

By

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BUDGET

It's unwise to pay too much, but it's also unwise to pay too little. When you pay too much you lose a little money, that is all. When you pay too little, you sometimes lose everything, because the thing you bought was incapable of doing the thing you bought it to do.

The common law of business balance prohibits paying a little and getting a lot. It can't be done. If you deal with the lowest bidder, it's well to add something for the risk you run.

And if you do that, you will have enough to pay for something better. . . . John Ruskin (1819 - 1900)

CONTRACTOR QUALIFICATION

There is hardly anything in the world that some man cannot make a little worse cannot make a little cheaper and the people who consider price only are this man's lawful prey.

John Ruskin (1819-1900), British poet, artist

so it's important to choose a good contractor. Let's talk about the various categories for deciding if a Contractor is qualified to complete the project.

CONTRACTOR QUALIFICATION II

- Administrative
- Financial
- Technical

CONTRACTOR QUALIFICATION III

Administrative –

fairly obvious – tenderer legally set up and the tender is properly signed by an authorised representative of the tenderer.

It is compliant with the regulations of the funding institution – EC, EIB, IBRD

CONTRACTOR QUALIFICATION IV

financial capacity of tenderer

Annual turnover: should exceed 10 – 20 times annual cashflow of the project to minimise risk of Contractor bankruptcy

Credit facilities of 6 times average cashflow for the project or working capital of 25% of annual turnover, so that the Contractor can finance the Works and pay his suppliers

CONTRACTOR QUALIFICATION V

Professional capacity of tenderer :

- objective criteria – exists or not

permanent staff:

equipment

QA

health and safety

completed projects in past 5 years

CONTRACTOR QUALIFICATION VI

Selection Criteria

Lowest compliant bid

Most Economically Advantageous Tender
(MEAT)

QBCS Quality Based Consultant Selection

Legal Note 1

Lianakis and recent OGC policy note

- Keep Selection and Award Criteria Separate
- selection criteria are administrative, financial and technical
- award criteria are price, delivery, aesthetic and functional so 'experience' cannot be used as an award criteria.

TENDER DOCUMENTS I

I said it in Hebrew, I said it in Dutch,
I said it in German and Greek:
But I wholly forgot (and it vexes me
much)
That English is what you speak!"

Hunting of the Snark - Lewis Carroll

TENDER DOCUMENTS II

Spell check and then proof read

Adapt the standard Conditions of Contract to match the local law

Civil law procedures – liability cannot be restricted

Lump sum - specify how to process variations or omissions

TENDER EVALUATION

- **Letting International v London Borough of Newham**
 - Do not hide the sub-criteria everything in the open
- **Letting v Newham**
 - Make it plain what will get top marks
- **Federal Security Systems and Lightways**
 - Be precise and clear or withdraw the tender

TENDER EVALUATION

- **Lightways (Contractors) Ltd v North Ayresshire Council**
 - Scoring to be precise
- **Gerald Scott v Belfast Education and Library Board**
 - Once you have set your procedure – stick to it
- **Henry Bros. (Magherafelt) Ltd and others v Dept. of Education for Northern Ireland**
 - Prices must be defined clearly – no percentages

FINALLY

If, despite your best efforts, you arrive at a dispute
remember the words of

George Herbert (English poet 1593-1633):-

A lean compromise is better than a
fat lawsuit.

Unless, of course, you are a lawyer