

INTRODUCTION

The implementation of programmes and projects are often spread over a considerable period of time and involve a number and variety of procurement activities.

For 8 years I was involved in the Strengthening and Refurbishment of two heritage buildings – Parliament House and the Parliamentary Library Building. They were key buildings in the Parliamentary Complex. Being historic buildings of national importance their refurbishment required a higher standard workmanship. The procurement process had to be tailored to achieve that requirement. Other unusual features included the supply and installation of seismic base isolators.

While the procurement processes were repeated over and over again, the principles that apply are common. They are adapted to the particular circumstances and applied in many different ways.

The strengthening and refurbishment of Parliament Buildings was a large project involving the engagement of 20 consulting firms, 3 major construction contracts of \$122m, \$9m and \$850,000 NZD, and the letting of xx contracts for the purchase and installation of furniture, fittings and equipment. For your information I will circulate a history of the project. These are specialist buildings with unusual requirements not unlike the case study of the National Laboratory which we will discuss later.

TOPIC 1: PREQUALIFICATION

Used by programme sponsors to investigate the capability of the industry or prospective tenderers - (general purpose)

- Registration of Interest
- Scoping and sizing of tender packages
- Establishment of a register

Comment: A register is a good way to process any unsolicited enquires and avoid the meetings.

Used by project project managers - (specific purpose)

- when a specialist skill or expertise is required
- to ensure high quality of workmanship
- to ensure satisfactory performance (capability and delivery)
- to limit the numbers tendering - production of documents or
- restrict numbers on projects

Comment: The basis for Selecting Tenderers for major projects, problem trades and specialised products.

The Prequalification process

1. Publically advertise for Interest setting out in general terms the scope of the intended tender(s) and where to direct inquiry.
2. Provide a questionnaire to all who respond and set a time for the return of completed questionnaires.
3. Analyse and process the responses
4. Establish a Register or notify the registrants of any selection.

Issues - maintaining confidentiality (Privacy Act)

- keeping information up to date (Integrity of the Register)

Examples - (5 Overheads)

- The Proforma for the Parliamentary Service Register of Consultants
- The advertisement and questionnaire for select of the main contractor for Strengthening and Refurbishment of Parliament Buildings.
- The advertisement and assessment sheet for furniture and equipment for the completed Parliament Buildings.

Who should get the prequalification documents?

ALL as this the first step in the tender process

SOME having received them, will not submit because they have a clearer picture about the contract and may realise that they are unlikely to meet the criteria or any special conditions required.

The cost of advertising will limit the amount of information that be provided so often the registration form or questionnaire will include additional information about the contract(s) and the process of tendering. You can include as much as you wish at this stage. The more that is included the less the drop out rate at a later date.

You can see from the examples that the prequalification documents (or questionnaire) require the following information:

- Identification and contact information - address, telephone, fax etc
- Factual data - banker etc
- Questions relating to past experience and performance - used for assessment of criteria.
- Specific requirements for the contract being tendered
- When and how the completed submission is to be delivered

Some Criteria for Prequalification for Building Consultants and Contractors

For Contractors and Consultants

- Technical resources and capacity
- Financial Capacity
 - Bond (Contractors)
 - Professional Indemnity Insurance (Consultants)
- Quality Assurance Plan
- Time Performance
- Relationships with others - Partnering approach v confrontational

For Contractors

- Health and Safety Record
- Human Resource Management
- Skill formation
- Project Organisation

For Consultants

- Creative and innovative ability
- Life cycle costing

The setting of criteria is part of the initial planning for the procurement and is carried out by the project initiator and advisors. They know what they are looking for.

The assessment would be carried out applying weightings that are appropriate to the purpose of the tenders. However it is difficult to avoid some subjective evaluations.

Their decisions could be made subject to review by an experienced independent panel.

In the Parliamentary Service we formed a Tenders Review Board - “wise old heads asking hard questions”. Members of the Tenders Review Board are the General Manager, Parliamentary Service as major stake holder, and two experienced external professionals.

The purpose of the Board is to:

- supervise the tender process to ensure fair treatment,
- provide technical understanding of any issues and experience to ensure that all relevant questions are asked and considered by Consultants or the Parliamentary Service and;
- provide assurance to the building industry, the Speaker, and the Parliamentary Service Commission that tenders had been handled properly.

Example - a challenge to the non-selection of a main contractor – Ombudsman’s ruling

Timetable for Prequalification

Prequalification should be carried out well in advance of calling tenders. Tendering for large projects can be very disruptive to a firm’s operations. Therefore as much time as possible is desirable to allow for preparation and to obtain information from sub contractors/ suppliers. It may be convenient to include a proposed timetable in the prequalification document. This would enable firms to feedback views as to whether the times allowed are too short or too long. Unreasonably short times for tender do not produce the best prices.

Normally a week is sufficient to respond to an advertisement. You might choose to advertise twice (normal if there is plenty of time). To this is to be added sufficient time to complete and return the questionnaire (normally not longer than two weeks) While it is good practice to have

closing date, its enforcement need not be as strict as it would normally be for tenders. (if questions are asked about timely delivery most firms will endeavour to create a favourable impression by meeting your closing dates).

TOPIC 2: THE CALLING OF TENDERS (SOLICITATION)

Tenders are invited by:

- Notices in newspapers - (public)
- Advertisements in tendering magazines
- Through agencies such as Crown Agents, NZ Industrial Supply Office or Government Supply Brokerage
- Letters of invitation - (private)

The invitation to tender should provide the following information:

- The purpose for calling tenders
- What goods and/or services are to be provided by the contractor
- List of documents
- The terms of contract to be used
- What unusual circumstances could affect the contract
- What delivery time is expected
- How the services and/or goods are to be delivered
- What access for inspection of the site
- Procedures for asking questions - ambiguity of documents, clarifications
- Any special conditions of tender - validity period
- Form of submission of tenders
- Delivery of tenders and closing time/date

While letters of invitation can cope with all this information, newspaper advertisements have to be more selective. Consequently the information has to be provided by other means.

After prequalification at the commencement of the tender process, the selected tenderers will be advised (normally in writing) when and where to uplift the tender documents. The documents usually contain the conditions of tender. They can be part of or separate from the conditions of contract.

On the Strengthening and Refurbishment of Parliament Buildings, a pre-tender meeting was held to which representatives of all tenderers were invited. It was held in the building that was part of the tender. A presentation was made on the contents of the Tender documents and the objectives of the project.

Language of Invitation and Documents

Any invitation should be in the same language as the contract documents. Good communication (Clear drawings and/or well written specifications and conditions of contract) is a key factor in a successful contract.

Those calling the tenders are setting the rules. They will only have good tenders if they have pitched the rules appropriately.

All contracts let by the Parliamentary Service are written in English and require compliance with NZ law and prices in NZ dollars.

Budget or Bottom Price

Prior to calling tenders the procuring entity should have established some idea of the likely cost outcome.

For construction work there will be Firm Estimates of Cost. These are derived from a non-competitive pricing by one of the consultants (usually the Quantity Surveyor) of the tender documents. It will be used to compare the prices received from the tender.

Approval accept tenders may have been given on the basis that an acceptable tender is received within say 10% of that estimate.

Bottom Price discussed in respect of:

- Consultancy services – price not as important as the services
- Furniture & equipment – difficulty in determining & more variable outcome

Ultimately it is the procuring entity that will decide whether it can afford to accept the offer. It is important that the conditions of tender legally allow all tenders to be rejected for any reason. The following words “The lowest or any tender will not necessarily be accepted” should be included in the letter of invitation or the conditions.

Modification

The names and addresses of those uplifting tender documents should be registered so that if there are changes or clarifications to be made to the tender documents then it is possible to notify all tenderers in writing. Such modifications should be notified in sufficient time for the tenderers to include them in their tender.

Building tenders have a very formalised procedure for dealing with a tenderer’s enquiry, the subsequent issuing of ‘notice to tenderers’ and require the tenderers to acknowledge their receipt with their bid.

Some conditions (particularly conditions for design competitions) permit questions to be asked. They must be submitted by a certain time. The questions and answers are then sent to all tenderers/ competitors.

The impact of modification can cause the tender period to be extended. Any extension is itself a modification. If the modification is large it could cause the tenders to be abandoned altogether.

Ideally modifications should be avoided because they send the wrong signals to those bidding. Any uncertainty can cause the tendered prices to be increased to cover that uncertainty.

TOPICS 3&4: TENDER PROCEDURES

The requirements for the delivery of the tenders should be set out in the conditions of tender.

- Time, Date and Place - (4pm midweek is preferred)
- Whether it is to be placed in a Tenders Box or delivered to a person.
- How it is to be identified - (in a sealed envelope marked 'Tender for ..')
- The form of submission specified
- Method of payment of any tender deposit(Bid Bond) required - (cheque)

Issues: - *Telephone Tenders*
 - *Faxed tenders*

Tender deposits (**Bid Bonds**) are generally required with all tenders. Sometimes they are required when the tender documents are uplifted but almost always when tenders are submitted. Their purpose is to guard against irresponsible uplifting of documents and to cover the cost to the entity of any withdrawal before the award of the contract. It encourages 'bona fide' tendering and is considered good practice.

The deposits are placed in a trust (or separate) account and are returned to the unsuccessful tenderers when a contract is awarded. It is not to be confused with a Performance Bond which is normally required from the successful tenderer within a specified period of acceptance of the Contract.

The Opening of Tenders

- The scheduling of receipt of tenders – witnessed & tags noted
- The shortcomings of public openings – not necessarily the true picture
- Modification & Withdrawl by tenderer (Q2/T3 ,Q3/T4)
- Tendering with only 2 – how do they rank? (Q3/T3 – Topic1)
- Negotiated Tender – Prequalification offers justification (Q3/T3 – Topic1)
- Collusion – cheating! (Q4/T3 -Discussion)
- Handling of non complying Bids (Q5/T3 – Discussion)
- Suspension of Tendering Q6/T3

Discussion: Application of Topics 1-4 to the National Laboratory

Qualification(tags) considered as part of evaluation(Topic 5)