

Best practice guidelines for tendering in construction

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In this article, we provide best practice guidelines for construction tenders. Construction projects typically use the tender process to gather information on pricing and capability of the contractor or supplier. We've developed a set of guidelines to assist companies that require an internal documented process to ensure they can deliver best practice in all their projects.

1. Establish a tender team

The first task is to establish a tender team. The tender team is comprised of members involved in formulating and compiling the contracting strategy and the tender pack.

Depending on the complexity of the project, the tender team can be made up of representatives from the following disciplines or roles:

- Engineering;
- Operations;
- Project Management;
- Legal;
- Health and Safety; and
- Contract Management

This team is responsible for activities that include:

- the preparation of the tender pack;

- determining the evaluation process; and
- selecting the preferred tenderer.

A program or timeline of activities should be prepared by the contract administrator to ensure all members of the tender team are informed of the process to be followed and the estimated timeframes of the tender. This helps to set expectations of how much time and effort each discipline or role will encounter during the tender process.

2. Tendering strategy

In this step of the process, the tender team would need to agree on whether the scope of work shall be issued to the market (setting a wide net of potential tenderers), or whether they will use a single provider/sole source approach.

3. Confidentiality agreements

Many construction projects contain sensitive information which is not publicly available. This may include information relating to:

- the exact location of the project;
- the magnitude or scale of the project;
- technical information such as preliminary drawings or survey information that will be used to deliver the project.

Where there is sensitive information to be disclosed in the tender process, it is highly recommended that a confidentiality agreement is entered into with the potential tenderers in advance of having any discussion or releasing any documentation in the tender process.

4. Expression of interest

Where there is a wide selection of potential tenderers in the market, issuing an Expression of Interest (EOI) is recommended as the first step in gauging the capability and willingness of the tenderers.

Alternatively, if the tender team has a preferred list of tenderers, they can internally assess the known capabilities of the tenderers based on experience in previous projects.

An EOI issued to the market is a more formal process that will save time and effort in the long run by ensuring that only those tenderers with capability and the capacity, will be involved in the tender process. The EOI may seek information such as:

- the company profile or structure and financial history of the potential tenderer;
- health and safety records;
- ability to meet commercial requirements such as insurance;
- whether workplace agreements are in place;

- referees; and
- capacity for more work should they win the tender.

5. Preparing the Request for Tender (RFT) or Request for Quote (RFQ)

Following a review of the tender pack by the tender team, the contract administrator is usually the party responsible for compiling and issuing the RFT/RFQ pack. The pack typically contains the following documents:

- invitation to tender letter;
- conditions of tendering;
- tender submission format;
- terms and conditions of contract including schedules;
- scope of work/goods/services;
- technical information that is relevant to the project such as drawings, datasheets, etc; and
- policies and procedures relevant to the project.

6. Meetings

Depending on the complexity of the project, the tender team may opt to invite the tenderers to a meeting.

The tender pack should contain details of the meeting and whether they will be held at the site (if the location is feasible) or elsewhere. The meeting agenda would include topics such as:

- the tender objectives;
- timetable for the tender;
- scope summary;
- key deliverables;
- workplace health and safety requirements;
- how the tender will be evaluated; and
- questions raised (even though some answers may be given immediately at the meeting).

It is important that minutes are recorded and distributed to all the tenderers and the tender team within an agreed timeframe after the meeting.

For tenderers, attending these meetings is a good way to check out your potential competition, check out the site, and an opportunity to meet your potential customer and start building rapport with all the key stakeholders.

7. Addressing tenderer queries

The tender pack should specify where the tenderer can send queries relating to the technical and/or commercial aspects of the tender. It is considered best practice to require that the questions and answers are in writing.

The contracts administrator, who is the point of contact, can then distribute a tenderer query to the appropriate person within the tender team. The written response should be distributed to all the tenderers involved, regardless of whether they asked the question. This ensures an even playing field and fair play.

It is also good practice to have a register that contains a numbered list of the tender queries. This methodical process can help to ensure that if a tenderer asks a similar question, the contract administrator can refer to a previous answer from the register. The information from these questions and answers may give rise to a revision of the tender pack.

8. Tender addenda

There may be times when a tender pack needs to be updated or revised.

If the change is significant, the closing date for the tender may also need to be extended to give the tenderers a fair chance to correct or amend their bids or quotations. It is therefore important to communicate any change to the information in the tender pack as soon as possible, to all parties involved.

9. Tender evaluation – preparation

The tender evaluation process needs to be prepared in advance. Once the bids or quotations are received, the tender evaluation should be a methodical process so that each quotation is evaluated in the same way.

Preparing a tender evaluation is generally a 2-step process:

1. Determining the selection criteria which reflect the critical aspects of the project; and
2. Determining the weighted score to be given for criteria, to reflect the importance of each of the selection criteria.

In summary, the tender process is not just an administrative task; it is a critical tool for mitigating the risk of unplanned delays and extra costs in a project.

A good tender will greatly reduce the risk of disputes after the tender has been awarded to the successful bidder. Often, a comprehensive tender pack becomes the building block for the contract as it contains the information that is critical to the delivery of the project.

A poorly compiled tender pack can potentially lead to:

- inadequate bids or quotations;
- disputes which could have been addressed during the tender period;
- project delays to fix up issues that were not raised during the tender period; and
- excessive variations, more often than not, resulting in an increase in costs.

Get help

Wambeti Legal can assist you with the commercial aspects of a tender by:

- providing advice on contracting strategy and appropriate terms to use in your construction project;
- providing advice on confidentiality agreements including reviewing any change requests;
- preparing tender evaluation templates for use in a tender; and
- providing overall guidance and support in preparing comprehensive tender packs.

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