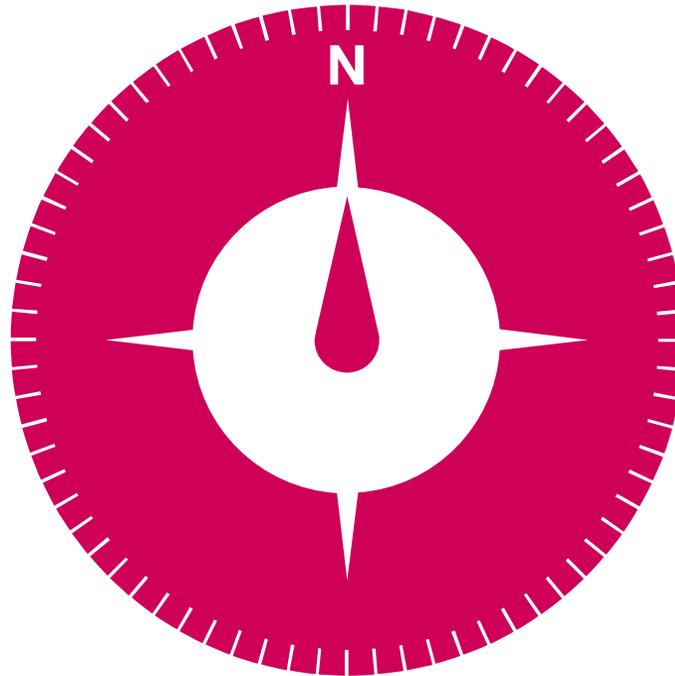


White Paper Procurement Conference

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Go further



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Performance



“How do you expose the culture of the bidder’s organisation and the capability of its senior management?”

How do you evaluate pitches, references, interviews and the team members who will perform the contract?

Where are the limits of what you can ask?”



What are the legal issues?



- Rules for selection
- Rules for evaluation
- Distinguishing between selection and evaluation
- Contractual terms



Principles and rules of selection (Regulation 58)



- Criteria must be related and proportionate to the subject matter of the contract (Reg 58(4))
- Contracting authorities may impose requirements ensuring that economic operators possess the necessary human and technical resources and experience (Reg 58(15))
- May require, in particular, that economic operators have a sufficient level of experience demonstrated by suitable references from contracts performed in the past (Reg 58(16))
- Professional ability of economic operators to provide [services, works or installations] may be evaluated with regard to their skills, efficiencies, experience and reliability (Reg 58(18)).



Means of proof (Regulation 60(9))



- An indication of the technicians involved
- The educational and professional qualifications of the service provider or contractor or those of the undertaking's managerial staff, provided they are not to be evaluated as an award criterion
- A statement of the average annual manpower of the service provider or contractor and the members of managerial staff of the last 3 years
- Does your PQQ specifically ask for the items in Reg 60(9)?
- What does the CCS PQQ say?

Principles of tender evaluation



- Contracts awarded on the basis of MOST ECONOMICALLY ADVANTAGEOUS TENDER
- Award criteria to be linked to the subject matter of the contract
- Award criteria shall not have the effect of conferring an unrestricted freedom of choice on the contracting authority



Tender evaluation



- Recital 94 – wherever the quality of staff employed is relevant to the level of performance of the contract, contracting authorities should be allowed to use as an award criterion the organisation, qualification and experience of the staff assigned to performing the contract in question
- Under the PCRs 2015 evaluation criteria may include:
 - organisation, qualification and experience of staff assigned to performing the contract, where the quality of the staff assigned can have a significant impact upon the level of performance of the contract
- Particularly relevant for intellectual services such as consultancy or architectural services



Remember *Lianakis*?



- Is it now dead and buried?
- Are you free to consider people/experience issues at any stage of the procurement?
- A sense of perspective –
 - Is experience really important in every tender evaluation?
 - Have you fully focused on the proposals/methodology or are you substituting experience for a thorough analysis of what the tenderer will do for you?
 - What is it worth contractually?



Enforcement through the contract



- Why evaluate if you don't intend to enforce it?
- Ensure the contract has enforceable provision to ensure staff assigned stay assigned and fulfil the quality requirements
- Ensure like for like replacement provisions



Evaluating culture



- Is it important?
- Is this linked to the subject matter of the contract?
- Is “culture” part of professional ability and if so, can one relate it to “skills, efficiency, experience and reliability”?
- What are your means of proof?
- Can “culture” ever be part of “organisation, qualification or experience”?



Exposing Culture



- Maximise pre-tender engagement
- Set the right context – tell them about your culture
- Don't ask in isolation – explain how it is relevant to what you are buying
- Maximise ability to address social value issues
- Procure “added value” where necessary
- Limitations of open and restricted compared to “negotiated” procedures
- Greater risk of including in contract award criteria than selection criteria



The interview



You call it an interview, they call it a pitch.



The Interview



- Sales team or delivery team? Who did you get?
 - Is it a presentation or just questions?
- What is the purpose of the interview?
- What are you expecting to get out of it?
- Who is conducting the interview?
- Will you evaluate it (if not, explain it!)
- How will you evaluate it?



References



- What is a “suitable reference”? (Reg 58 (16))
- Is it merely a reference point or is it a written or verbal opinion from a referee?
- What value do you put on a reference?
- Have you evaluated the referee?
- Do you insist on references for all experience?
- How do you value a reference from yourself (for incumbent suppliers)?
- Are references acceptable and/or relevant to award of contract? (**GAT**(C-315/01))



Questions





Go further

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