

3.2.2. Running the tender for contractor

Tender Documentation for Contractors

The cost of the construction of a project is by far the most expensive element of the project. The construction works is sometimes called the *Capital Works*. The value of the Capital Works may be from 75% to 95% of the total cost of the project. The other major costs are the design and supervision of the project, and its financing.

Accordingly, it is important for the Employers to have prepared Tender Documentation for the prospective Tenderers that reflects accurately their requirements, and that the information is presented in a structured and professional manner.

The basic information was stated in chapter 3, but is repeated and expanded upon here. The precise information will vary from Employer to Employer and project to project, but the following Tender Data is common for large international construction projects, which are to be constructed by Contractors, and where others have undertaken the design.

A. Invitation to Tender which may include:

- Instruction to Tenderers,
- Tender Data,
- Tender Form,
- Tender Security or Guarantee Form (if applicable).

B. Contract Conditions which may include:

- Standard Form of Agreement,
- General Conditions of Contract (often FIDIC Contract Conditions),
- Particular or Special Conditions of Contract,
- Form of Performance Security or Guarantee.

C. Project Documentation:

- Description of Project,
- Schedules of Works or Bills of Quantities,
- Specification,
- Tender Drawings,

- Other Relevant Technical Information,
- Programme and completion dates.

The Tenderer is expected to examine all the Tender Documents, including all instructions, forms, contract terms and specifications. Failure to furnish all information required by the tender documents, or submission of a tender not substantially responsive to the documents in every respect, will be at the Tenderers' risk, and may result in the rejection of the tender.

A Tenderer may seek clarification of any issues contained within the tender documentation, but must do this in writing and in the terms advised by the Employer in the tender documentation. The Employer will respond in writing and will copy the reply to all the prospective Tenderers.

At any time prior to the "deadline" for submission of tenders, the Employer may amend the tender documentation by issuing addenda. Any addendum thus issued shall be part of the tender documentation and shall be communicated in writing, or by fax, to all prospective Tenderers that have received the tender documents. Prospective Tenderers shall promptly acknowledge receipt of each addendum by fax to the Employer.

To give prospective Tenderers reasonable time in which to take an addendum into account in preparing their tender, the Employer may, at his discretion, extend the "deadlines" for submission of tenders.

Submitting a tender is an important part of business, and the Tenderer must prepare the tender with extreme care, as normally there is a Contract Conditions clause (FIDIC "Red Book" clause 12.1) which states:

"The Contractor shall be deemed to have satisfied himself as to the correctness and sufficiency of the Tender and of the rates and prices stated in the Bill of Quantities, all of which, except insofar as it is otherwise provided in the Contract, cover all his obligations under the Contract, (including those in respect of the supply of goods, materials, Plant or services or of contingencies for which there is a Provisional Sum) and all matters and things necessary for the proper execution and completion of the Works and the remedying of any defects therein."

The documents that comprise the Tender submitted by the Tenderers may include:

- The Tender Form

- Power of Attorney duly authorised by a Notary Public, indicating that the person(s) signing the tender have the authority to sign the tender and that the tender is thus binding upon the Tenderer
- Tender Security or Guarantee
- Completed Price Schedule or Bills of Quantities
- Documentary evidence establishing the Tenderer is qualified to perform the Contract if its tender is accepted

Any information or other materials required to be completed and submitted by the Tenderers in accordance with these tender documents and specified in the Tender Date.

Tender Submission

The preparation of a Tender, either by designers or contractors, is an onerous matter and may be regarded as a significant investment by each Tenderer. Accordingly, it is in the interest of each Tenderer to make their best offer, otherwise their “investment” is wasted.

Most international consulting engineers and contractors have experienced and competent professionals working on the preparation of tenders. For consulting engineers, the key factor to winning the tender may be the methodology of undertaking the work, whilst for the contractors, although methodology will be important, that will be reflected in estimating the least costly way of undertaking the construction. Because there are normally at least 5 other companies COMPETING to win the same tender, and often there may be more, it is likely that a company will win on average only 1 in 10 tenders they submit offers for. Despite these “long odds”, it is important for each Tenderer to submit their best offer for each tender they prepare.

Normally, the estimators will finalise their work for assessment and approval by the Director of their company a few days before the submission date. Often the estimators and the Directors will hold a formal “Tender Settlement” meeting, and only after this meeting will the final offer of the company be determined. The person responsible for the submission of the tender, must ensure that all the relevant documentation is provided by the Company to avoid any chance of disqualification, and make arrangements for the tender to be submitted before the “deadline” advised by the Employer in the Instruction to Tenderers.

For international companies submitting tenders in foreign lands, it is very important to plan carefully how to ensure the tender is submitted before the “deadline”. For instance, giving a

document to a courier company who say they will deliver on time but fail to do so will disqualify the tender. Many companies prefer to have one of their employees deliver the tender, and obtain written confirmation that the Employer received the document before the “deadline”.

The Employer must make adequate provision for receiving tenders and the following guidelines are often used both by *Public Sector* and *Private Sector* Employers:

- specify a clear address for submission of the tender including a contact name and room number,
- tenderers submitting tenders prior to the submission deadlines must be issued with numbered receipts giving the date and time the tenders were received and the receipt number must be written on the outside of the tender envelopes,
- tenders received prior to the submission deadline must be locked in a secure place, preferably in a safe, with access given only to specified individuals.