

3.2.3. Choosing the contractor

Opening of Tenders

For *Private Sector* Employers there is not generally a formal tender opening and each Employer is entitled to make his own arrangements.

For the *Public Sector* Employers, there will normally be clearly established procedures to follow, but again these may vary from Employer to Employer and Country to Country. Where International Funding Agencies are involved in funding the project, then they would insist on a minimum of their procedures being undertaken.

These would typically include the following actions:

- facilities should be provided to allow Tenderers representatives to attend the opening of the tenders,
- the opening should take place immediately after the deadline for submission of tender,
- the Employer's nominated representative will chair the meeting,
- all Tenderers representatives present at the opening must sign a register of attendance,
- all tenders received should be placed on a table and the number of tender envelopes must be consistent with the number of receipts issued,
- any tenders, modifications and withdrawals received after the deadline must not be opened and must be returned **unopened** to the respective Tenderers,
- withdrawal notices received prior to the submission deadline should be opened next and read out and recorded,
- all tenders and modifications received prior to the deadline must be opened next,
- for each tender opened the items on the Employers checklist should be checked and read aloud. These may be the Tenderers' names, tender price, discounts, alternatives, the presence or absence of requisite tender security and such other details as the Employer, at his discretion, may consider appropriate, should be announced and recorded at the opening. It is important for all discounts and alternatives to be read out. Tender prices and discounts which are not read out at tender openings cannot be considered in the subsequent evaluation,

- no tender shall be rejected or an opinion/judgement voiced as to its responsiveness, at the tender opening, except for late tenders,
- the Employer must prepare minutes of the tender opening,
- the minutes of the tender opening should be completed as soon as possible after the tender opening and a copy must be sent to all Tenderers who submitted tenders, immediately after the opening of tenders, all tenders that were opened must be stored safely and confidentially, and be made available only to those directly involved in the evaluation process.

Tender Evaluation (Preliminary)

For *Private Sector* Employers the manner in which they wish to adjudicate the tenders is entirely at their discretion. It is however important for Employers to follow fair and proper procedures in assessing tenders, otherwise they may get a reputation as an “unfair” Employer. This will be reflected in the future either by companies not wishing to tender for their projects, or by increasing their prices.

For *Public Sector* Employers, it is normal practice for a tender evaluation committee to be formed with a Chairman prior to the whole tender process. This committee will adjudicate on the tenders received, either directly or with the assistance of external professionals . All members on the Evaluation Committee are bound to treat all matters relating to the tender as confidential and not to disclose any information to any other person, other than those officially involved in the adjudication process.

Each tender submitted will have a preliminary vetting to determine if it:

- Is properly signed and accompanied by a power of attorney (if required)
- Is accompanied by the required tender security
- Is complete and generally in order, if not any omission must be noted
- is substantially responsive to the tender documents; if not, any deviations, omissions or variations must be noted
- Is free of computational errors; any such errors must be noted
- Requires any clarifications; any such clarifications must be noted

The tender documents will have specified how the above should be carried out. It is important that relevant provisions in the Instructions to Tenderers should be observed for each of the above.

The Evaluation Committee must decide which deviations (including omissions and variations) or reservations identified at this point in the process are acceptable and determine which tenders should be declared as substantially responsive. If a tender is not substantially responsive, it must be rejected and cannot be made responsive by correction or withdrawal of the non-conforming deviation or reservation.

At the end of this stage, the committee should be agreed on:

- those tenders which are substantially responsive,
- those tenders which are substantially non-responsive and should not be considered further,
- any clarification which should be requested from Tenderers.

Tender Evaluation (Detailed)

The tenders that have been declared responsive from the preliminary evaluation are now to be scrutinised in detail to determine the most competitive and appropriate.

To do this it is necessary for each tender to have the following checks, corrections or amendments made for such items as:

- computational errors in accordance with the relevant provisions in the instructions to Tender,
- Tender prices must be converted to a common currency, if relevant, again in accordance with the relevant provisions in the instructions to Tenderers,
- adjustments should be made for any of the above omissions, deviations or variations, which are not considered to be material and which can be quantified.

The adjusted “Tender Price” resulting from the above must be used in the subsequent evaluation and comparison of tenders.

The detailed evaluation of a tender involves first checking that the commercial conditions, technical characteristics and functional performance of the tender are in accordance with the tender requirements.

The next step is to apply the evaluation criteria specified in the tender documents and adjust each tender as appropriate using the evaluation criteria. Only the criteria specified in the tender documents can be applied. No new criteria may be introduced at the evaluation stage and all specified criteria must be applied. Specified criteria cannot be waived during the evaluation stage. In certain highly technical tenders, individual Tenderers can be asked for clarification of their method of work or programme.

Where there are a large number of tenders to be evaluated (over six) and the spread of the tender prices is relatively wide, it is not necessary, in the first instance, to evaluate all tenders in detail. The range of tender prices relative to the lowest tender price, that stands a reliable chance of being the lowest evaluated tender, can usually be determined from specified evaluation criteria. In such cases it is normally acceptable that, in the first instance, only those tenders within this range should be subjected to a detailed evaluation. If the lowest priced tender is rejected during evaluation, the range must be re-determined and all tenders in the revised range must be subject to a detailed evaluation.

The adjusted tender price of each Tenderer will require modification in accordance with the evaluation criteria in the tender documents, in the manner and details specified therein, to arrive at the evaluated tender price.

The evaluated tender prices are compared and ranked in ascending order to determine the Tenderer with the lowest evaluated price.