

# INSTRUCTIONS FOR TENDERERS TO THE DEPARTMENT FOR COMMUNITIES AND LOCAL GOVERNMENT

**T**he Department for Communities and Local Government provides precise Instructions for Tenderers, covering such issues as Access to Government Information, Submission of Tenders, Group Bids, Alternative Tenders and Transfer of Undertakings (Protection of Employment) Regulations 1981 (TUPE).

To ensure fairness all tenderers are required to submit their tenders in accordance with these instructions and any further requirements contained in the invitation letter. Failure to comply could invalidate the tender.

## ACCESS TO GOVERNMENT INFORMATION

Under the Government Code of Practice on Access to Government Information, the Department must reserve the general right to disclose either information about your tender or the tender itself, including your price or range of prices, once a contract is awarded. However, you may request that certain information is not disclosed if to do so would prejudice your legitimate commercial interests. Requests for non-disclosure must accompany your tender and include clear and substantive justification together with a time limit when any confidential information could be disclosed – this is not normally expected to be more than seven years. It would be helpful, if appropriate, if you could keep the areas that you consider should not be disclosed separate from other areas of your tender. The terms of any confidentiality agreement (not the items themselves – they would remain confidential) would, if necessary, be available for publication.



## SUBMISSION OF TENDERS

You should send your tender in a plain envelope, using the enclosed label, to arrive at the address shown no later than the time and date stated in the attached letter (unless the date is subsequently amended in writing by the Department). The envelope and any other packaging or labelling should not identify the tenderer. (You should note that courier firms often put the sender's name and address on their outer envelopes.)

The Department will safeguard all tenders received and open them once the tender deadline has expired. All late tenders will be rejected. It is your responsibility to ensure that your tender is received on time.

In cases of urgency and only with prior specific approval, you may send your tender by facsimile or give details over the telephone.

*In these cases:*

- prior specific approval must be obtained from the Departmental Officer (for contractual matters) nominated in the Invitation to Tender letter
- tenders will only be admitted on the due date, stated in the Invitation to Tender letter, between the hours of 0900 and the tender deadline
- tenders are only admissible subject to the original and complete tender documents being received within two working days for UK

tenderers and five working days for overseas tenderers and being identical with the advance copies sent by facsimile, or details if given over the telephone

You must not alter any of the Department's Invitation to Tender documents.

Tenders may not be considered if any of the information requested is not supplied with the tender or the tender is otherwise non-compliant or incomplete.

You must not tell anyone else, even approximately, what your tender price is or will be, before the date of contract award. The only exception is if you need an insurance quotation to calculate your tender price – in which case you may give your insurance company or brokers any essential information they ask for, provided that you do so in strict confidence. You must not try to obtain any information about anyone else's tender or proposed tender before the date of contract award.

You must not make any arrangements with anyone else about whether or not they should tender, or about their or your tender price. The only exception is where tenderers are considering joint or team bids, which will be allowed providing all participants to the discussions surrounding the bid are clearly stated in the tender response. (See also 'Group bids' below). Tender documents must not be transferred to anyone (other than the firm named in the Invitation to Tender) without the prior specific approval of the Department in writing.

You must ensure that your tender is completed legibly, in ink or typed, in English, with all prices in Sterling (exclusive of VAT), and is signed and dated where required. Any amendments you make to your tender, prior to submission, must be initialled and preferably also noted separately. Correction fluid must not be used.

## TENDER VALIDITY

The Department will assume that your tender will remain open for acceptance for a minimum of 60 days from the tender deadline or for such other period as may be specified by the Department, unless you specifically state a different period in your tender.

## GROUP BIDS

In the event of a group of service providers, suppliers or contractors submitting an acceptable offer, the group will be required to nominate a lead partner with whom the Department can contract. Alternatively the group will need to form themselves into a single legal entity before the contract is awarded. An undertaking that the group will so form themselves, if required by the Department, must be provided when the tender is submitted.

## ACCEPTANCE OF OFFERS

*You should note that:*

- the Department reserves the right not to accept the lowest, or any, tender
- unless you make any formal statement to the contrary, the Department reserves the right to accept any part of the tender without accepting the remainder
- acceptance of a tender/award of contract will be by written communication from the Department

## ALTERNATIVE TENDERS

If you wish you may tender on the basis of an alternative specification but if you do this then you must also submit a separate, primary, tender based strictly on the enclosed specification. Alternative tenders must be fully priced to show clearly how and where costs differ from the primary tender. You should also note that the Department reserves the right to accept an alternative tender without recourse to retendering.

## TRADING NAMES/INVOICING

If your tender is submitted in the name of one company or organisation but you intend submitting invoices in the name of another, or require payments to be made to another, please give full details. Otherwise there may be delay in payment.

## SPECIFICATION OF STANDARDS

Where reference is made to an International, European or British Standard then you may offer an equivalent to any of these, provided that your Standard offers equivalent guarantees of safety, suitability and fitness for purpose to the one specified.

## ORDERS

All orders under the contract will either be placed by means of the Department's official Purchase Forms, examples of which will be supplied to the successful tenderer(s), or as otherwise stated by the Department. Urgent orders may be given orally in accordance with the contract, and will be confirmed in writing.

## GREEN CLAIMS CODE

You must ensure that any environmental claim you make related to your tender is fully in accordance with the Green Claims Code – this is available on the Defra website [www.defra.gov.uk/environment/gcc/index.htm](http://www.defra.gov.uk/environment/gcc/index.htm) and from the following Publications Dispatch Centre, quoting product code 97 EP 0381:

Defra Publications  
Admail 6000  
London  
SW1A 2XX  
Tel: 0845 955 6000  
Fax: 020 8957 5012  
Email: [defra@iforcegroup.com](mailto:defra@iforcegroup.com)

## TRANSFER OF UNDERTAKINGS (PROTECTION OF EMPLOYMENT) REGULATIONS

The attention of tenderers is drawn to the Transfer of Undertakings (Protection of Employment) Regulations 1981 as amended (TUPE). In some cases, where work awarded to a contractor is subsequently awarded to another organisation, such a transfer of work may constitute a 'transfer of an undertaking' for the purposes of TUPE.

TUPE provides that where there is a transfer of an undertaking (or possibly part of one), the new employer takes over any employment liabilities and the responsibility for the employment contracts of the employees, who then transfer on their previous terms and conditions of service. As a successful tenderer may be a potential transferee for the purposes of TUPE, tenderers should seek legal advice as to whether TUPE will be likely to apply to the proposed contract, and if so, to reflect the financial implications of such a transfer in their tender. In such cases, as the Department will be neither transferee nor transferor for the purposes of TUPE, the application of TUPE is a matter for each tenderer to clarify with their legal advisers. If TUPE is deemed to apply then the financial implications are a matter for discussion between the prospective tenderer and the existing contractor, rather than for the Department.

## LEGISLATION ON LATE PAYMENT

The Department will comply fully with statutory legislation on Late Payment on the basis of claims submitted by the contractor (ie the successful tenderer).

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## DISCLAIMER

This Guidance has been produced by BiP Solutions Ltd to provide assistance to those engaged in public procurement. The Guidance has been published in good faith by BiP and BiP shall not incur any liability for any action or omission arising out of any reliance being placed on the Guidance by any organisation or other person. Any organisation or other person in receipt of this Guidance should take their own legal, financial and other relevant professional advice when considering what action (if any) to take in respect of any initiative, proposal, or other involvement with public procurement, or before placing any reliance on anything contained therein.



# Expert public procurement consultancy for Buyers and Suppliers at your service



## PASS – HELPING YOU MEET KEY OBJECTIVES

The key objective of public procurement professionals is to ensure that the most suitable supplier is selected to provide goods and services on terms which are likely to offer the best value for money. The PASS service helps you meet this requirement and deliver contracts that offer best value-for-money terms with suppliers who will execute them efficiently.

## PASS CONSULTANCY

BiP's Procurement Advice and Support Service (PASS) provides organisations with access to experts in public procurement practices and procedures, thus helping you develop and deliver effective and efficient procurement. Our team offers a range of services to meet your specific needs. Whichever area you wish evaluated and improved, we have the experts to help.

The PASS consultancy's mission is to help you deliver the best in government procurement through:

- Practical solutions to improve procurement performance
- Innovative approaches to knowledge transfer within government
- Joined-up government
- Improved performance indicators
- Strategic direction and performance
- Opportunities offered by e-government
- Capacity to deliver change to meet identified needs
- Continuous improvement of services and challenging poor performance
- Sustainable development within decision-making processes and delivery of services
- EU-compliant processes
- Best practice procurement training

## PASS TRAINING

Our consultants can provide you with bespoke training packages to suit your needs. Consultancy and training is available for the following: environmental purchasing, partnering, evaluation, e-government, supplier debriefing, UK legal processes and precedents, contract management, EU-compliant tendering and much more.

## PASS ONLINE GUIDANCE

The PASS service provides online guidances on all aspects of the public procurement process and legal requirements: [www.bipsolutions.com/html/briefing.php](http://www.bipsolutions.com/html/briefing.php)

## PASS – EFFECTIVE DISPUTE MANAGEMENT

Contractual and procurement-related disputes are time-consuming, expensive and unpleasant. They can destroy client/contractor relationships, can add substantially to the cost of the contract, and can nullify some or all of its benefits or advantages. They can also have an impact on value for money. It is therefore in everyone's interest to work at avoiding disputes in the first place. Inevitably, however, disputes do occur and when they do the importance of a fast, efficient and cost-effective Alternative Dispute Resolution (ADR) procedure cannot be overstated. If a dispute arises, it is important to manage it actively and positively and at the right level in order to encourage early and effective settlement. Unnecessary delays and inefficiency can lead to rapid deterioration in relations and entrenchment of opinions. ADR through PADRE mediation involves the use of a trusted expert third party and is an effective alternative to litigation. PADRE mediation is provided by experts in contracting and public procurement. If you would like more details on how PADRE can help your organisation and become your mediation service of choice, telephone the PASS team on 0845 270 7055 or email [pass@bipsolutions.com](mailto:pass@bipsolutions.com).

## PASS HEALTH CHECK

The PASS service can help your organisation examine its current procurement organisational structures, strategies, processes, practices and related strengths and weaknesses. It delivers a detailed PASS Mark Health Check Outcome Highlight Report (OHR) that outlines areas of strength as well as those requiring further attention, and provides an outline Project Initiation Document (PID) designed to deliver a more effective and efficient tendering process that will help you achieve optimum performance and better value-for-money procurement.

## PASS IN-HOUSE PRESENTATIONS

PASS consultancy can provide you with in-house presentations directed to buyer or supplier. Each presentation will be bespoke to your requirements, whether they be with regards to improving your tendering practices or your procurement strategy or processes. Contact: [pass@bipsolutions.com](mailto:pass@bipsolutions.com)



The PASS Mark Health Check is a process-based evaluation technique that helps identify how your company can develop more effective processes when tendering for public sector contracts.

For further information on the PASS service, contact our PASS Team on 0845 270 7055, email [pass@bipsolutions.com](mailto:pass@bipsolutions.com) or visit [www.bipsolutions.com/pass/](http://www.bipsolutions.com/pass/)