

SELLING TO THE DEPARTMENT OF HEALTH



The Department of Health (DH) is divided into a number of business units for purchasing purposes, each with their own budgets. Low-value items may be purchased by individual business units or the Department's facilities management service providers. Larger or more complex contracts are usually let with assistance from the Procurement Policy and Advisory Unit (PPAU) or the Department's specialist buyers who deal with printing, media-related products and services, information technology or research and development.

SIGNIFICANT THRESHOLDS

For purchases where the value is likely to be between £3000 and £10,000, DH staff should seek at least three written quotes from potential suppliers. For values in excess of £10,000, a minimum of three formal tenders should be sought. Formal tenders are different from quotes because the Department should fully explain its requirements to tenderers and may often assess information other than price (such as CVs) before awarding the work. If the estimated value of the contract is greater than £99,000, European Union requirements will usually have to be followed.

PRE-QUALIFICATION

The Department may seek tenderers via advertisement in newspapers or the trade press. Over the £99,000+ threshold, the Department will usually be required to advertise in Europe. Where the level of interest is likely to be high, applicants may be required to complete a pre-qualification questionnaire in order to be considered. The questionnaire will require information on areas such as the applicant's company size, experience, technical capabilities, CVs and company accounts.

It is important to remember that the Department only asks for information that it intends to evaluate. Each item from each company will be scrutinised and assessed against criteria that have been agreed in advance for the particular contract. For example,

the Department may want to make sure that the company has enough staff to operate the contract or enough large contracts to maintain economic viability whether or not they are awarded the work again at the end of the contract term. It is therefore vital to submit all the information required if you want to be considered for the tender list.

INVITATIONS TO TENDER

These consist of a letter and package of documents stating the Department's terms and requirements. The package includes several sections.

Section 1 usually includes:

Part 1 – The bidder's declaration that he understands the Department's requirements and his warranty that the bid is made in good faith;

Part 2 – A form for the tenderer to complete if he wishes to qualify a bid. The tenderer's qualification(s) may mean that he will not be able to comply with one or more of the Department's requirements. The tenderer should explain each area of non-compliance and fully cost the implications. The Department is at liberty to reject non-compliant bids;

Part 3 – Parent Company Guarantee – *The Department needs to understand the relationship that the tenderer has with its parent or subsidiary companies so that it can be sure that:*

- it has assessed information on the appropriate enterprise (i.e. the one that will be performing the contract)
- the parent company (having power over the subsidiary) will not seek to nullify the tender or contract or interfere with the contract's operation in any way, and the parent company will take over the performance of the contract in the event of the subsidiary ceasing to trade

Section 2: The Department's Conditions of Contract. Tenderers should not include their own terms and conditions when submitting tenders or bids as it is standard practice for the Department to either

seek to reinstate their own (in the interests of protecting public money) or view the bid as non-compliant which could result in it being excluded. However, tenderers may wish to query any issues in the terms that adversely affect their bid.

Section 3: The Price Schedule. Where relevant and possible, DH will consider the "whole life" costs of all purchases to determine what is good VFM. There are many ways in which to show and break down prices – this and the need to compare bids fairly will have an impact on the information tenderers are asked to provide. It is therefore very important that prices are submitted in the same format as the Department's Schedule form which will vary from contract to contract.

Section 4: The specification or "Scope of Work" contains the particular requirements of the contract. Departmental staff will make this as clear, concise and unambiguous as possible, but remember that it is better to query anything that is unclear (or for example any significant omissions) and get a response before tendering. If you have to make any assumptions in a tender they should be clearly stated so that bids can be compared fairly on a "like for like" basis.

Section 5: The Administration Instructions, which is self-explanatory, but includes a section for the tenderer to complete.

Section 6: Allows the tenderer to specify information that they consider may require special consideration in the event of requests for disclosure under the Freedom of Information Act.

EVALUATION

The Invitation to Tender package may also contain questions for the tenderer to answer or a note of information to be provided. The relative weight of each area is agreed by the evaluators prior to the opening of the tenders and each one is considered during the evaluation process. Evaluation should be performed by a small Panel of DH staff but may include experts from outside agencies; the end user will always be included. Each Panel member should evaluate bids individually by reference to their own copy of the information before the group meets to discuss the bids and agree a final shortlist. Each member should also start their evaluation with a different tender to ensure no tender is unfairly advantaged because it is particularly lengthy or brief. All tenders are scored and a shortlist is produced before prices are considered.

PRESENTATIONS

Where possible the likely dates for presentation should be included in the Invitation to Tender. In any case, it is worth confirming such dates as soon as possible because they may be difficult to change later on. To avoid wasting the time and effort of bidders that are unlikely to win, only shortlisted tenderers are invited to present their tender to the Panel. At the presentation, marks are awarded for areas such as the communication skills of the presenters and their ability to work as a team. The scores are added to the ones awarded for the bid. This is the subjective part of the evaluation but the Panel will still agree their decision as a team and not rely on the opinions of one Panel member. The marks that tenderers have scored for their tenders will be added to those gained at presentation. To avoid over-emphasis on this second stage, the maximum possible scores gained at presentation will not constitute more than approximately 40% of the total maximum available throughout the tendering process.

POST-EVALUATION

It is essential for the Department to ensure that the final contract agreed constitutes the best VFM possible and incorporates everything that has been agreed with the winning tenderer. This is why any outstanding issues have to be clarified in writing and will be referred to in the Form of Agreement or the Letter of Acceptance that the successful tenderer receives at the end of the process. Some issues may be particularly important to us and very detailed questions may be asked even at this stage but great care is taken not to distort competition.

It is important to remember that:

- this detailed questioning does not automatically mean that the contract will be awarded to the tenderer being asked the question – it just means that the decision has not been made yet; and
- public sector procurement rules and EU Regulations clearly forbid "Dutch Auctions" – where several tenderers are asked in turn to improve their offers or risk losing the contract on cost grounds.

DEBRIEFING

The EU rules require that unsuccessful parties are offered a debrief and DH fully supports this policy. The object of the discussion is to help the supplier to find out which areas of his application or tender were particularly good and which parts need improvement – it should help him to submit a better bid in the future. We aim to encourage increased competition as this will improve VFM and result in added value to the Department and its customers. Debriefs are also useful for winning tenderers who may still have areas that they need to improve even though their bids were acceptable. The information provided will be an extract from the audit trail created by the procurement about the tenderer's own bid. No information can be given about any other bids as this is commercially confidential. It is not therefore usually possible to make comparative statements such as "your tender did not cover point x as well as company y's did". In addition, the Department has been advised that written debrief information should not be given out because it is only a record of why our decision was made and should not be available to be used for any other reason.

LEGAL OBLIGATIONS

The Department attempts to ensure that, if a contractor breaches certain types of legislation, such as anti-discrimination and Health and Safety, it will have a contractual effect as well as being illegal. We therefore make this a specific requirement of the Department's Conditions of Contract.

ENVIRONMENTAL ISSUES

These will affect each contract differently. Where possible the Department will draw the bidder's attention to any areas of particular environmental concern relating to the product or service being sought. Although the environment can form only one aspect of the evaluation, credit will be given where bidders show that they have taken any detrimental impact on the environment into account and minimised it as far as possible.

This is a dynamic area and the Department will also be seeking to monitor and decrease negative environmental impacts throughout the term of any contracts formed in line with its Sustainable Development in Governmental Practices. The Department for Environment, Food and Rural Affairs (Defra) takes the lead in devising public policy in this area.

EU TENDERING TIMETABLE

There are specific rules relating to the timetabling of EU procurement exercises, depending on whether the DH chosen procedure is Open or Restricted and whether the marketplace has been previously advised of the probable likelihood of the tender within the forthcoming year by issue of a Prior Indicative Notice (PIN).

The Department of Health's preferred method is to use the Restricted Procedure, although there is no guarantee that this will be followed in every case.

Open Procedure

Anyone who makes an enquiry will receive an Invitation to Tender.

Restricted Procedure

An evaluation stage is set into the timetable to allow for the Department of Health evaluation team to select a limited number of Invitations to Tender to be issued.

Please note that the EU timetable dates are the minimum required for EU procurement exercises and PPAU advises that each project is reviewed on its own merit to make sure that there is adequate time set aside for the tendering exercise.

DISCLAIMER

This guidance has been developed by the Department of Health's Mosaic project. The contents of this guidance are intended to be informative and provide support. Nothing in this guide implies or expresses a warranty of any kind. Users are advised to seek independent advice on any problem they may have as the Department of Health's Mosaic project cannot accept responsibility for any loss arising from reliance on anything set out in this guide, even errors or omissions. The Department of Health's Mosaic project cannot accept responsibility for information contained on linked sites and for any reliance that may be placed upon their contents.



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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

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.

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



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 or visit www.bipsolutions.com/pass/