

Tender Guideline

Procurement of Professional Services

20/09/2013

Introduction

Professional Consultants have in recent years experienced a shift in the way that appointments are secured for both the private and public sectors.

Bidding or tendering for Professional Architectural Services has now become a recognised norm in the South African, and indeed the international, built environment landscape.

It is unlikely that we will ever see the return of the roster based system that was used to procure Professional Services in past years. This system proved to be effective for many decades, but was unfortunately open to corruption and manipulation.

Tendering ostensibly provides an alternative mechanism for transparent procurement, maintaining fair and healthy competition, and ensuring best price for best value. For bidding to successfully serve client bodies and Architects, the terms of tendering, the means of adjudicating and the process of assessing compliance and measuring performance are critically important.

However, the tender process is currently fraught with challenges.

Areas of concern, *inter alia*:

1. In order to secure work in a depressed market, Architects are tendering fees that are excessively lower than Gazetted and recommended rates. There are known instances where fees for complex projects have been discounted by a staggering 50%. The Gazetted Fee Scale cannot be prescriptive, but it certainly provides a well tested benchmark (established and developed over decades) for remuneration that is considered equitable for the level of service to be performed by an Architect; delivering professional skill, care and diligence in terms of the Architectural Professions Act (44 of 2000) and the SAIA - Code of Conduct.
2. Rampant and unbridled fee discounting in a price sensitive market is now commonplace. Competition in this "open" market is seen to be healthy, but the levels of fee discount we have witnessed simply cannot sustain a Professional business model. As a consequence, service delivery is significantly compromised and practices generally, but in particular the younger emerging professionals, are operating in a financially stressed space.

3. Poor service delivery has a broad impact:

- Integrity of the Profession is undermined.
- Quality of the product/building is compromised.
- Design/build process is more risky due to lack of management.
- Poor oversight results in time delays and cost over runs.
- Poor return on the investment of public money.
- An overall diminished quality of the built environment.

4. Tenders for public work are often poorly formulated and lack clarity in the area of brief/specification. Professionals have no choice but to make assumptions on what they think they have been asked to price. Adjudication becomes problematic when you are not comparing like for like, and the client has no certainty on what service he can expect from the consultant in return.

We believe that the tender system requires review in the interest of better understanding and meeting client needs and in the interest of the Profession and the built environment.

Proposal

The broad principles of tendering are well established and tested.

Refer regulations and guidelines below – see attached annexure.

- a. *Government Gazette 34350 of June 2011
PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000:
PREFERENTIAL PROCUREMENT REGULATIONS, 2011.*
- (k) *“functionality “means the measurement according to predetermined norms, as set out in the tender documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a tenderer.”*
- b. *CIDB - Evaluation Schedule, Approach Paper.*
- c. *CIDB – The proposed system for the competitive selection of Professional Service Providers.*
- d. *PPPFA Gazette 9544 / 2011*
- e. *National Treasury – DRPW Supply Chain Management, Appointment of Consultants.*

After rigorous consultation and interrogation, we have identified the following key areas where the tender model requires investigation and review:

1. Terminology

There seems to be a lack of universally agreed/understood definitions and standards. Ambiguity in the tender space is obviously problematic.

2. Functionality

The assessment of a Professionals eligibility to tender on a given project and their ability to deliver on the specified output requires more rigorous testing.

3. Brief and/or Specification

The description of the anticipated product/building and possibly methodology.

4. Quality Assurance

Ensuring that long held norms and standards are maintained and that the client receives the service that has been tendered for.

1 Terminology

Recommendation

1. Glossary of terms and definitions ought to be expanded so that terminology is clear and explicit. Client expectations will then be better understood,

2 Functionality

Background

1. The Preferential Procurement Policy Framework Act, 2000 (Act no. 5 of 2000), as amended by the Minister of Finance in Government Gazette no. 34350 of 08 June 2011 refers. The PPPFA permits tenders to be initially evaluated on functionality as defined in Part 1: Definitions, clause k)

“as the measurement of the tenderer’s competence, capability and capacity to perform.”

2. The requirements for the evaluation of functionality are then defined in Part 2 clause 4. The PPPFA states that the tenderer will be evaluated on the 80:20 or 90:10 price and preference point system. Functionality scoring is thus a gateway or filter mechanism used to determine eligibility/suitability to tender on a given project. Functionality should be objective and measurable.
3. The functionality framework is currently a simplistic scorecard that measures eligibility using 6 criteria. We believe this should be expanded into a more sophisticated matrix that will better pair appropriately skilled consultants with proposed projects. A more nuanced scoring system will also provide better data to facilitate appointment of emerging firms in JV relationships.
4. Poor service delivery by the Professional body has recently been a point of concern on the part of DRPW. This may well be attributed to loose and poorly defined functionality criterion

resulting in the appointment of inappropriately skilled consultants for a given project.

Recommendation

2. Every project is different with unique and particular characteristics. Projects are best served by matching appropriate skill and expertise with the scale and complexity of the project concerned.
3. The ECIA supports functionality criteria that promote the structured and staged development of emerging Architectural practices.
4. Gateway criterion will test eligibility. Functionality scoring will follow to test a set of parameters that can be adjusted top suit, *inter alia*, project complexity, value, size of Professional team, nature of the client based management team, tendering and contract systems that are envisaged and community involvement that may be expected.
5. See Appendix A – Functionality scoring proposal.

3 Specification/Brief

Background

1. Quality and excellence of Architectural work is not delivered by specification to designers or by enforcement of legislation that ensures so called compliance and durability. Meaningful Architectural quality is typically delivered in a space where Architects are not able to compete on fees. The distinguishing characteristic is not price, but the merit of the built work and its contribution to the built environment.
2. The work of the architect is qualitative, there is no guarantee that just because the firm has met the functionality criteria, that it would in fact perform well on the project that has been tendered.
3. This new culture of satisfying the minimum standard using the most cost effective means, runs counter the Professional diligence called for in the Architectural Professions Act (44 of 2000) and the SAIA - Code of Conduct. It also leads toward over design, (extra cost), tasks left undone (incomplete service) and results in buildings of low architectural merit.
5. Tenders for public work are often poorly formulated and lack clarity in the area of brief/specification. Professionals have no choice but to make assumptions on what they think they have been asked to price. Adjudication becomes problematic when you are not comparing like for like, and the client has no certainty on what service he can expect from the consultant in return.

Recommendation

- The tender specification should be well defined, detailed and explicit. This will ensure that all parties are tendering for services to supply the same product. Ideally, the brief should include, but not be limited to:
 - A broad outline of the client needs.
 - More detailed accommodation schedule.

- Description of the site
 - Likely planning approvals and processes
 - Design/aesthetic focus points
 - Declaration of the Project budget
 - Documentation timeframes
 - Professional service requirements expressed in work stages
- If the Department lacks the expertise to develop the tender specification, they should appoint suitably skilled consultants to do needs analysis and brief compilation on their behalf. These appointments can be made on a roster basis with an hourly based remuneration for a fixed number of hours.

Tender option 1

- The ECIA recommends that the DRPW sets as a methodology, not only the minimum outputs (the six architectural work stages), but also the minimum inputs. The inputs on any architectural appointment are almost all time of professional personnel.
- We suggest that a specification includes minimum inputs required from the architect. For example:
 - Registered architect with 10 years' experience – 240 hours
 - Registered architect with 2 years' experience – 400 hours
- Bids of this nature will give the DRPW clear measurable that they are able to insist upon toward the achievement of the outputs required.
- Work will proceed on the basis of pre-agreed phased based work plans within the limits of the tendered fee budgets.

Tender option 2

- Procurement of services could be split into 2 tender components:
 - Part A - Assessment and compilation of brief/concept development (Stage 1-2)
 - Part B - Concept development/documentation/supervision (Stage 3-6)
- Professional appointments for Part A could be done on a roster style basis using consultants that have the requisite skill and experience for the given building type.
- Professional services for Part B will be tendered. The reduced scope of service, and well developed brief /concept will create an opportunity for lesser experienced and emerging firms to gain exposure to projects they would not have ordinarily been able to access due to low functionality.

Tender option 3

- If the brief is poorly defined at time of tender, a budgetary amount can be allocated in the tender for a defined number of hours to develop Part A. The hourly allocation is auditable and can be reviewed if necessary. All parties are then tendering equally on the “unknown” and will tender competitively for Part B.

C Quality Assurance

Background

1. There has been some criticism from client bodies that service delivery by Professionals is often sub par.
2. The further challenge is to assess compliance with tendered deliverables i.e. client making sure that they get what they are paying for.
3. According to the Professions Act (44 of 2000) and the SAIA - Code of Conduct, Architects are morally and ethically obliged to render a service with professional skill, care and diligence. In spite of heavily discounted bids, Architects cannot absolve themselves of this responsibility. By not doing so, Consultants are at risk of being censured, or at worst, expelled from the Profession for breaking the code.

Recommendation

4. Roles and responsibilities of the Architect ought to be clarified and emphasised at time of tender.
5. Architectural performance can and should be measured in the course of service delivery. DRPW has a well established set of performance guidelines set out in the Architectural Manual PW 147 (2002). Every Stage of service is concluded with an assessment and signed off before the next Stage of work can commence. These systems seem to have been neglected in recent years and should be rigorously enforced as part of an external quality assurance programme.
6. Internal governance is equally important. The SAIA Practice Manual provides excellent templates and systems for the management of deliverables in respect of Work Stages 1-6.
7. The profession could offer client bodies the benefit of fraternal peer review on a project by project basis.
8. Alternatively the client may implement an external, structured peer review process.

Appendix A – Functionality Recommendations

A Tender data

A.1 Eligibility Criterion

A.2 Risk Analysis

B Returnables

B.1 Discounting support documents

B.2 Evaluation Schedule: Availability of Resources

B.3 Evaluation Schedule: Experience of Key Staff

B.4 Evaluation Schedule: Tenderer's Experience

C Contract Data

C.1 Staff per Personnel Schedule

D Pricing Data

D.1 See B.1

E Scope of work

E.1 Employers Objectives

Acknowledgement:

The sections below have been extracted from a tender document prepared by Andrew Treasure of NMBM

A.1 Eligibility Criterion

Only those tenderers who satisfy the following **Eligibility Criteria** are eligible to submit tenders:

- a) The tenderer must be registered on the client database as an accredited service provider prior to the evaluation of the tender;
- b) The tenderer has certified that it is a natural or juristic person whose primary business is to provide professional architectural services to employers and which, if a sole practitioner, has a professionally registered person as a principal, or if a partnership, close corporation or company, has at least 50% of its principals registered in terms of the Architectural Profession Act, 2000 (Act 44 of 2000) as a Professional Architect with the South African Council for the Architectural Profession (SACAP);
- c) The tenderer must have the following minimum levels of uninterrupted professional indemnity cover in respect of each and every claim;

Architecture R value to be confirmed

- d) The consultant must have in its full time employ in an established office in the *geographic* area, at least one appropriately qualified person. A qualified person is a person who:
 - Is registered with the South African Council for the Architectural Profession as a Professional Architect in accordance with Architectural Profession Act, 2000 (Act 44 of 2000) and,
 - Has suitable and relevant work experience in the architectural profession during the last 3 years, verified by the submission of a minimum of 3 client references from the public or private sector.

Include above or delete as necessary for the project.

- e) Only those tenderers who score a minimum score of 49 points (70%) in respect of the following quality criteria are eligible to submit tenders:

Description of Quality Criteria and Sub-criteria	Maximum number of tender evaluation points
Availability of Resources	10
Experience of Key Staff	30
Tenderer's Experience	30
Total Evaluation Points for Quality	70

A.2 Risk Assessment

The Employer will perform a risk analysis in respect of the following:

- Reasonableness of the financial offer /tendered fee.

The Tenderer's ability to perform the scope of work and that the Tenderer can demonstrate that he/she possesses the necessary professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capability, reliability, experience, reputation and personnel to perform the contract.

B.1 Discount Support Documents

Should the Tenderer tender a discount of more than 15% of the applicable guideline fee contained in the Annual Update of the Professional Fees Guideline Issued in terms of Section 34(2) of the Architectural Profession Act, 2000 (Act 44 of 2000) by the South African Council for the Architectural Profession in Board Notice 194 of 2011 (Government Gazette 02 December 2011, No. 34788), the Tenderer is to provide the following:

- i. A statement confirming that the tender offer is considered reasonable and realistic and that, as a minimum, the services listed in Part C3: Scope of Work will be provided;
- ii. An original letter from the Tenderer's professional indemnity insurers or insurance brokers confirming that they have been advised of the tendered fee submitted by the Tenderer for this tender and that they would be prepared to provide the required minimum level of professional indemnity insurance for this contract.

A disclosure statement identifying and detailing any potential risk to the Employer related to the reduced fee and the outlining and detailing of preventative measures to avoid any risk or reduce its effects.

B.2 Evaluation Schedule: Availability of Resources

Tenderers should indicate what resources (human and otherwise) they have available and intend allocating to this project should their tender be successful, and on what basis (that is, for what aspect of the work and whether full or part time). This should include the key personnel plus others (for example, a tender documentation specialist, site monitoring staff, etc). The tenderer should propose the structure and composition of their team i.e. the main disciplines involved, the key staff member / expert responsible for each discipline, and the proposed technical and support staff. The roles and responsibilities of each key staff member / expert should be set out as job descriptions. In the case of an association / joint venture / consortium, it should, indicate how the duties and responsibilities are to be

shared.

Other resources for example would be the type of electronic equipment and/or software packages intended for use on this project, whether or not it is owned or licensed to the Tenderer, or whether it is available through some other means.

The tenderer must attach his / her intended resource availability schedule and organization and staffing proposals to this page. The scoring of the proposed organization and staffing will be as follows:

Poor (score 40)	The tenderer does not have adequate resources available as required to provide the professional services for the project. The organization chart is sketchy, the staffing plan is weak in important areas. There is no clarity in allocation of tasks and responsibilities.
Satisfactory (score 70)	The tenderer has demonstrated that they have satisfactory resources available as required to provide the professional services for the project. The organizational chart is complete and detailed, the technical level and composition of the staffing arrangements are adequate.
Good (score 90)	The tenderer has demonstrated that they have adequate and more than sufficient resources available as required to provide the professional services for the project. Besides meeting the “satisfactory” rating, the staffing organizational chart is well balanced and shows good co-ordination, complimentary skills, clear and defined duties and responsibilities, and limited number of short term experts. Some members of the project team have worked together before on limited occasions.
Very good (score 100)	The tenderer has demonstrated that they have extensive resources available as required to provide the professional services for the project. Besides meeting the “good” rating, the proposed team is well integrated and several members have worked together extensively in the past.

B.3 Evaluation Schedule: Experience of Key Staff

Experience of the key staff (assigned personnel) in relation to the scope of work will be evaluated from three different points of view:

1. General experience (total duration of professional activity), level of education and training and positions held of each key staff member / expert member.
2. The education, training and experience of the key staff members / experts, in the specific sector, field, subject, etc which is directly linked to the scope of work.
3. The key staff members' / experts' knowledge of issues which the tenderer considers pertinent to the project e.g. local conditions, affected communities, legislation, techniques etc.

A CV of each key staff member of not more than 2 pages should be attached to this schedule. The CV should be structured under the following headings:

1. Personal particulars
 - name
 - date and place of birth
 - place (s) of tertiary education and dates associated therewith
 - professional awards
2. Qualifications (degrees, diplomas, grades of membership of professional societies and professional registrations)
3. Name of current employer and position in enterprise
4. Overview of post graduate / diploma experience (year, organization and position)
5. Outline of recent assignments / experience that has a bearing on the scope of work.

The scoring of the experience of key staff will be as follows:

	General qualifications (Greater weighting will be given to the team leader)	Adequacy for the assignment (Greater weighting will be given to the team leader)	Knowledge of issues pertinent to the project (Greater weighting will be given to the team leader)
Poor (score 40)	Key staff have limited levels of general experience	Key staff have limited levels of project specific education, training and experience	Key staff have limited experience of issues pertinent to the project
Satisfactory (score 70)	Key staff have reasonable levels of general experience	Key staff have reasonable levels of project specific education, training and experience	Key staff have reasonable experience of issues pertinent to the project
Good (score 90)	Key staff have extensive levels of general experience	Key staff have extensive levels of project specific education, training and experience	Key staff have extensive experience of issues pertinent to the project
Very good (score 100)	Key staff have outstanding levels of general experience	Key staff have outstanding levels of project specific education, training and experience	Key staff have outstanding experience of issues pertinent to the project

B.4 Evaluation Schedule: Tenderer's Experience

The experience of the tenderer as apposed to the key staff members / experts in similar projects or similar areas and conditions in relation to the scope of work will be evaluated. Tenderers should very briefly describe his or her experience in this regard and attach this to this schedule.

The description should be put in tabular form with the following headings:

Employer, contact person and telephone number, where available	Description of work (service)	Value of work (i.e. the service provided) inclusive of VAT (Rand)	Date completed
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The scoring of the tenderer's experience will be as follows:

Poor (score 40)	Tenderer has limited experience
Satisfactory (score 70)	Tenderer has relevant experience but has not dealt with the critical issues specific to the assignment.
Good (score 90)	Tenderer has extensive experience in relation to the project and has worked previously under similar conditions and circumstances.
Very good (score 100)	Tenderer has outstanding experience in projects of a similar nature.

C.1 Personnel Schedule

The Service Provider is required to provide personnel in accordance with the provisions of clause 7.2 and to complete the Personnel Schedule.

Project Personnel Schedule:

Name

Qualifications

Professional Registration Details

Job Description / Specific Duties for this Project

D.1 Employers Objectives

The Employer's objectives are to provide a *building*, within the project budget, at *address*, as required for the effective functioning of the ABC Directorate, XYZ Department for the provision of essential services to the public.

The client seeks to ensure that, in the interests and promotion of an aesthetically appealing, sustainable and healthy environment for all citizens, unrealistically high or low fees for professional architectural services are avoided while maintaining free and open competition among professional service providers with similar skills and competence. In this way the client seeks to:

1. Avoid unnecessary public and project risks resulting from cutting of corners in analysis and design effort in infrastructure and building development in order to meet pressures to reduce costs.
2. Ensure high levels of infrastructure effectiveness by promoting the appropriate professional input in its planning, design, construction, operation and maintenance, the cost of which makes up a relatively small percentage of the total life-cycle cost of infrastructure and building. Ill advised savings or wasteful expenditure in this regard are not in the public interest.
3. Ensure that infrastructure and building development, which is sorely needed to meet the developmental objectives of the client, is not delayed or shelved due to unrealistically high capital costs.
4. Avoid inadequate design and engineering of projects, resulting in high development, maintenance and operating costs as well as high exposure to the public of unnecessary health and safety and environmental risks.