

PUBLIC WORKS AND GOVERNMENT SERVICES CANADA

AUDIT AND REVIEW BRANCH

REPORT

98-640

Review of Bid Evaluation and Contractor Selection Methods

in the Professional Services Procurement Directorate

Audit and Review Committee Approvals

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Management Response: December 3, 1999

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Executive Summary

Authority for the Project

This project is part of the 1998/99 Audit and Review Plan, which was approved by the Audit and Review Committee.

Objective

The overall objective of this project is to determine the extent to which PWGSC policies, procedures and controls for bid evaluation and contractor selection methodologies are being observed.

Scope

The review covered the procurement of professional services carried out by the Professional Services Procurement Directorate (PSPD) in the Science, Informatics and Professional Services Sector (SIPSS), in Supply Operations Service Branch (SOSB). Low dollar value contracts (under \$25,000) and standing offers were excluded from the scope of the review.

Forty (40) procurement files were reviewed from the five procurement divisions of PSPD. As determined by the review team, 15 of the contract awards were based on a "best value" selection methodology and 18 were based on the lowest priced compliant proposal. In the remaining seven files, only one bid was received.

Background

Given PWGSC's role as common-service provider for government procurement, the Audit and Review Branch (ARB) has been conducting rotational reviews of the practices relating to bid evaluation and selection methods. Reviews in the Aerospace, Marine and Electronics Systems (AMES) Sector, the Atlantic Region, the Industrial and Commercial Products and Standardization Services (ICPSS) Sector including Real Property Contracting have been completed to date. In addition, a survey of all procurement staff involved in competitive contracting on this subject was conducted in the fall of 1997. The overall results were reported to the Assistant Deputy Minister, Supply Operations Service Branch (SOSB) and tabled at the Audit and Review Committee (ARC) meeting in April 1998. SOSB's action plan responding to the survey findings was tabled at the ARC meeting in October 1998.

Key Findings

- Overall, PSPD has an adequate process in place to ensure that appropriate contractor evaluation and selection methods are developed. Management is generally involved in a substantive way in overseeing the procurement planning and solicitation processes. However, the delegated authorities and the importance of obtaining the correct authority at the Contract Planning and Advance Approval (CPAA) stage needs to be communicated and reinforced.
- There are opportunities to improve the manner in which mandatory and point-rated evaluation criteria (including mandatory criteria of an administrative nature) are articulated and categorized in the solicitation document. Also, the manner in which selection methodologies are articulated in the solicitation document can be improved.
- PSPD is, for the most part, applying the evaluation/selection methodologies as articulated in the procurement planning and solicitation documents. However, the few exceptions noted during this review which have an associated risk of bidder complaints, indicate there is still an opportunity to improve the degree to which PWGSC complies with the stated evaluation and selection methodologies.
- PSPD is doing an excellent job of managing client relationships for complex procurement of services in an environment which is increasingly litigious in nature and which has been affected by recent downsizing, loss of personnel, and loss of procurement expertise.
- PSPD has demonstrated a high degree of integrity in the 40 files reviewed. However, the risk of receiving a bid challenge or complaint about the contracting process underscores the need to maintain diligence, including full documentation on file, in order to demonstrate the integrity of the contracting process.
- PSPD is providing a transparent bid solicitation process. However, there is an opportunity to improve the process by ensuring that the Project Authority is not identified during the solicitation phase. By identifying the Project Authority, PSPD runs the risk that a prospective bidder might benefit from information obtained which is not made available to all prospective bidders.
- There is an opportunity for PSPD to develop and implement a training program tailored to professional services procurement. As well, officers may benefit from discussing different methodologies and lessons learned with other Divisions within PSPD.
- PSPD would benefit from internal discussions, and discussions/training sessions with Legal Counsel and representatives from Supply Policy Directorate on the use of the several clauses. From a departmental perspective, direction from the Supply Program Management Sector

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Contractor Selection, particularly the action item for the finalization of the Guidelines on Bid Evaluation and Contractor Selection Methodologies which has been drafted by the Acquisition Policy Council Sub-Working Group.

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1 Introduction

1.1 Authority for the Project

This project is part of the 1998/99 Audit and Review Plan, which was approved by the Audit and Review Committee.

1.2 Objective

The overall objective of this project is to determine the extent to which PWGSC policies, procedures and controls for bid evaluation and contractor selection methodologies are being observed.

1.3 Background

The Minister of Public Works and Government Services Canada is responsible for ensuring that the tenets of prudence and probity are observed throughout the contracting process. The governing postulate of integrity and the principle of equal treatment are essential to the process for bid evaluation and contractor selection. All activities are to be open, fair and honest and all potential suppliers of a particular requirement are to be subject to the same conditions.

Any weakness in the openness and fairness of evaluation and selection criteria leaves PWGSC vulnerable to a challenge at the Canadian International Trade Tribunal (CITT). Given PWGSC's role as common service provider for government procurement, the Audit and Review Branch

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(SIPSS), Supply Operations Service Branch (SOSB). Low dollar value contracts (under \$25,000) and standing offers were excluded from the scope of the review.

Specifically, the focus of the review was on bid evaluation and contractor selection from the time of procurement planning through to contract award which generally encompasses the following activities: reviewing the requirements definition; establishing evaluation criteria and the selection methodology; issuing a bid solicitation which advises bidders of the evaluation/selection methodology; conducting the evaluation; and selecting the successful bidder.

Forty (40) procurement files were reviewed from the five procurement divisions of PSPD. As determined by the review team, 15 of the contract awards were based on a "best value" selection methodology and 18 were based on the lowest priced compliant proposal. In the remaining seven files, only one bid was received. The distribution of the files by dollar value is shown below:

\$ value	< 100K	100K - 250K	> 250K- 1M	> 1M
No. of contracts	11	11	12	6

2 Issues Examined and Findings

2.1 Processes in place to establish evaluation and selection methods

Strengths

- A properly authorized Contract Planning and Advance Approval form (CPAA)/Procurement Plan was found on 36 of the 40 files reviewed.
- Interviews and file reviews indicated managers are often involved in the establishment of selection methods and evaluation criteria:
 - managers or CQC (i.e. the SIPSS Procurement Quality Assurance Division) personnel offered comments which were incorporated into the selection method or evaluation criteria in 18 of the files reviewed;
 - most managers indicated they review the draft Request for Proposal (RFP) at the CPAA stage.

Weakness

- No CPAA or Procurement Plan was found in four of the files reviewed. In all four instances the value of the requirement was in excess of the procurement officer's authority. In these four instances, only two officers were involved.

Conclusion

Overall, PSPD has an adequate process in place to ensure that appropriate contractor evaluation and selection methods are developed. Management is generally involved in a substantive way in overseeing the procurement planning and solicitation processes. However, the delegated authorities and the importance of obtaining the correct authority at the CPAA stage needs to be communicated and reinforced.

2.2 Articulation and clarity of the evaluation and selection methods

Strengths

- The selection method was clear in 33 of the 40 files reviewed.
- Mandatory items were clearly defined as such in 29 of the 40 files reviewed.
- The evaluation criteria were adequately stated and logical in 21 of the 25 files where point-rated evaluation criteria were applied, although a wide variance in the amount of detail provided to bidders for the sub-criteria and associated ratings was noted.

Weaknesses

- Mandatory requirements were considered confusing, unclear and/or incomplete in 11 files managed by eight officers across all divisions. Examples are the following:
 - In four cases key technical items stated as “must”, “shall”, etc. in the Statement of Work (SOW) or elsewhere in the RFP were not specifically included as mandatory items in the list of “mandatory” requirements.
 - In two cases technical requirements stated as mandatory in the SOW or elsewhere in the RFP were not included as mandatory items in the list of “mandatory” requirements, but were included as rated requirements. Points assigned were not considered sufficient to eliminate a non-compliant bidder.
 - Mandatory items were identified as such but were considered ambiguous, unclear and open to interpretation in seven files.
 - In one instance, the mandatory requirements were so stringent that the requirement had to be retendered.
 - In three files the Canadian Content clause was incorrectly used because both the “solely limited” and the “conditionally limited” certifications were requested. When applicable, only one of these clauses, but not both, should appear.
- The majority of the solicitation documents included items of an administrative nature which implied a requirement is mandatory because terms such as “shall”, “must”, “essential” were used, but which were not included as “mandatory” items in the Evaluation section of the RFP. Examples include requirements relating to:
 - the validity period of the proposal
 - certifications, and financial and related statements.
 - information regarding former public servants and military employment
 - the format and content of proposals.

(NOTE - This same situation was evident in previous reviews of other Sectors/Regions where it was not clear what the Crown’s position was, or whether it would have been consistently applied, if such “administrative mandatory” criteria were not met).
- Problems with evaluation criteria on one file resulted in several re-tenders. Following the third re-tender, all rated criteria were determined to add no value and were subsequently dropped.
- In two files, the criteria/subcriteria and weightings in the RFP lacked clarity and were not in sufficient detail to advise bidders how their proposals would be evaluated.
- The selection method was considered unclear in seven files. Examples are the following:
 - In six cases the method of determining the overall price for bid evaluation purposes was not specified or unclear.

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- In one case the solicitation document stated award would be made on the basis of “Best Value” but “Best Value” was not defined.
- In one case, although it was the officer’s intent to permit bidders to bid on one or more pick-up sites and thus award more than one contract, this was not reflected in the RFP which stated that the contract would be awarded to the lowest priced responsive bidder. Statistics indicate that three contracts were awarded against the RFP.

Conclusion

There are opportunities to improve the manner in which mandatory and point-rated evaluation criteria (including mandatory criteria of an administrative nature) are articulated and categorized in the solicitation document. Also, the manner in which selection methodologies are articulated in the solicitation document can be improved.

2.3 Compliance with the stated evaluation and selection process

Strengths

- Contracts were awarded in accordance with the selection method stated in the CPAA/Procurement Plan and the RFP in 32 cases.
- In all 40 files reviewed, contracts were awarded to bidders which met the technical mandatory criteria and any specified minimum requirements for rated criteria.
- No compliant bidders were incorrectly eliminated (although there were two instances, discussed with PSPD management, where the mandatory criteria were open to interpretation.)

Weaknesses

- In one instance, the contract was awarded in accordance with the selection method stated in the RFP but not the CPAA. The RFP stated Lowest Compliant Bid whereas the CPAA stated Best Overall Proposal. The contract was awarded to the lowest priced compliant bidder.
- As previously mentioned, there were four files without a CPAA or Procurement Plan. In three of these instances, the contracts were awarded in accordance with the RFP. In the fourth instance, the selection was not considered to be in accordance with the RFP, since it was not clear in the RFP that more than one contract would likely be awarded.
- In one instance where the sole bidder was ultimately awarded the contract, evaluation criteria of an administrative nature (as opposed to technical nature) were not met at time of bid closing. One Mandatory Requirement was that the “... bidder must include, with its proposal, a copy of its most recent audited financial statements, statements of net worth and/or banking references”. This financial information was not submitted by bid closing. However, the CPAA summary on file indicated a sector Cost Analyst had reviewed the financial viability of the firm and the report was on file.

Conclusion

PSPD is, for the most part, applying the evaluation/selection methodologies as articulated in the procurement planning and solicitation documents. However, the above-noted exceptions which have an associated risk of bidder complaints indicate there is still an opportunity to improve the degree to which PWGSC complies with the stated evaluation and selection methodologies.

2.4 Adequacy of managing client relationships

Strengths

- In 27 files where an evaluation by the client was required, there was evidence that the procurement officers communicated with the client regarding proposal evaluation prior to the release of the RFP. In 13 files PSPD performed the evaluation; communication with the client on the subject of the evaluation was not required.
- Many instances were noted where the procurement officer contributed in a significant way to the development of the SOW as well as the evaluation criteria and contractor selection methods. In several instances, the client took an inappropriate position during bid evaluation and both the officer and PSPD management met with the client and effected a more appropriate course of action.
- In no instance was the price shared inappropriately with the client during the evaluation process.

Conclusion

PSPD is doing an excellent job of managing client relationships for complex procurement of services in an environment which is increasingly litigious in nature and which has been affected by recent downsizing, loss of personnel, and loss of procurement expertise.

2.5 Integrity of contractor selection and negotiations

Strengths

- Evaluation criteria used were those stated in the RFPs.
- Documentation supporting contractor elimination, selection and bid evaluation were on file in all 40 of the files reviewed.
- All bidders deemed to be non-compliant by not meeting the mandatory requirements were excluded from further consideration.
- All bidders who failed to meet a specified minimum point-rated score were excluded from further consideration.
- No clarifications of a significant nature were sought after bid closing.
- No changes were made after bid closing which favoured one bidder.
- No negotiations were held prior to the completion of the evaluations.

Weakness

- Technical evaluations for three files consisted of only a numerical rating. There was only one bid received on one file; in the other two evaluations narrative support for the numerical ratings was not evident on the files.

Conclusion

PSPD has demonstrated a high degree of integrity in the 40 files reviewed. However, the risk of receiving a bid challenge or complaint about the contracting process underscores the need to maintain diligence, including full documentation on file, in order to demonstrate the integrity of the contracting process.

2.6 Integrity and adequacy of communications with bidders

Strengths

- Two bidders conferences were held - minutes of conferences were sent to all potential bidders.
- Twenty (20) files had information requests from bidders. The information requested was given to all bidders simultaneously and in adequate time except for three files where the clarifications were minor and applied to the requesting bidder only.
- Only two bidders complained of flaws in the evaluation criteria. In one case the RFP was amended, in the other case the bidder was determined to be incorrect.
- In three instances low prices were identified. In all three instances the low bidders were given the opportunity to confirm or withdraw their bids.
- Debriefings were requested in five instances. PWGSC managed four of the five debriefings via phone or letter. In the remaining instance, PWGSC and the client attended the debriefing.

Weakness

- The name and address of the Project Authority was stated in 14 of the 40 files reviewed.

Conclusion

PSPD is providing a transparent bid solicitation process. However, there is an opportunity to improve the process by ensuring that the Project Authority is not identified during the solicitation phase. By identifying the Project Authority, PSPD runs the risk that a prospective bidder might benefit from information obtained which is not made available to all prospective bidders.

2.7 Adequacy of training

- Less than one-third of the 19 Procurement Officers whose files were reviewed indicated they had received formal training on bid evaluation and contractor selection methods.
- Some managers felt more training in the fundamentals of procurement is required due to the erosion of expertise/corporate knowledge resulting from attrition. Approximately one-half of the Procurement Officers interviewed indicated they would benefit from training in the:
 - use of mandatory, point-rated, and desirable evaluation criteria;
 - appropriateness of evaluation and contractor selection methods in given situations;
 - weighting of point-rated criteria; and
 - risk factors inherent in various selection methods.
- All officers indicated that they would prefer training that was specific to their requirements, (i.e. contracting for specific types of professional services) rather than general in nature.
- Some officers stated that they would like to more frequently share and discuss various aspects of the overall contracting process with colleagues in their division and other divisions within PSPD. Examples of items noted during the review which could be shared include:
 - various selection methodologies (e.g. two-staged selection process);
 - modified Basis of Payment clauses which seemed to be more clearly articulated than clauses from the Standard Acquisition Clauses and Conditions (SACC) Manual;
 - clearly articulated SOWs and related evaluation criteria which were developed in conjunction with clients;
 - superior bid evaluation grids found on some files, and
 - lessons learned from instances when PWGSC challenged client evaluations.

Conclusion

Given the earlier-noted comments regarding mandatory and point-rated evaluation criteria and selection methodologies, and given the comments from both officers and managers regarding preferred training, there is an opportunity for PSPD to develop and implement a training program tailored to professional services procurement. As well, officers may benefit from discussing different methodologies and lessons learned with other Divisions within PSPD.

2.8 Inappropriate Clauses in RFPs

- Communication with Supply Policy, Legal Counsel and Treasury Board Secretariat (TBS) has confirmed that some of the clauses included in PSPD's RFPs are inappropriate. Examples are the following:
 - **"Canadian content"**: Three RFPs requested bidders to provide both the solely limited certification and the conditionally limited certification. As per departmental policy, it should be one or the other, or neither certification, depending on the expected number of suppliers which can offer Canadian services.

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- **“Universities, Public and Non-Profit Organizations”:** 16 RFPs included this clause. Although it is recognized that current Treasury Board policy requires such a clause be included, Legal Counsel and TBS are of the view that this clause should not be used in procurements that are subject to the trade agreements as discrimination amongst bidders is contrary to the provisions of the trade agreements. TBS has recently indicated that it is in the process of revising the TB Contracting Directive accordingly and is in the midst of renewed consultations with Supply Policy Directorate on this matter.
- **“Bidder Information on Capabilities”/“Facility Evaluation”:** 13 RFPs included variations of these clauses which are considered to be very broadly worded. Although it is acceptable to reserve the Crown’s right to request clarifications or additional information from bidders, the wording in these clauses is not specific as to what the Crown would be looking for in conducting a survey of facilities, technical capabilities, financial or legal status.
- **“Project Authority”:** To protect the integrity of the procurement process, the only contact who should be identified in the RFP should be the Contracting Authority.
- **“Statements of Work”:** The wording in the SOWs (such as “providing project support”, “projects will include but not be limited to”, “assisting”, etc.) could lead to an interpretation that an employer-employee relationship has developed, especially if other factors, such as full-time level of effort or on-site working locations, also exist.
- **“Work Location”:** In one RFP, the Work Location clause was inconsistent with the SOW.

Conclusion

PSPD would benefit from internal discussions, and discussions/training sessions with Legal Counsel and representatives from Supply Policy Directorate on the use of the above-mentioned clauses. From a departmental perspective, direction from the Supply Program Management Sector regarding the above clauses is required, in order that the need to protect the interests of the Crown is appropriately balanced with the need to be open, fair and honest with all bidders.

2.9 Other Related Observations

- Officers and managers are frustrated and confused by the existence or lack of guiding documents (policies, operating instructions, guidelines, etc.), and the variety of sources from which these guiding documents can be obtained. Interviews suggest the current working environment (i.e. working in both hard-copy and electronic formats) now requires officers to know:
 - (1) which guiding documents exist (or not) - including which versions have superseded others,
 - (2) which guiding documents apply and how they apply in any given situation, and
 - (3) where current versions can be obtained.

Interviewees indicated they are not confident that they know all the applicable guiding documents, how they apply, or where the current versions can be obtained. Interviewees also indicated they are still awaiting the final version of the Guidelines on Bid Evaluation

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and Contractor Selection Methodologies that the Acquisition Policy Council Sub-Working Group had drafted.

- File reviews and interviews indicate there are varying views on the extent to which the Automated Buyer Environment (ABE) templates (a) exist, (b) are updated regularly, and (c) should be used. The two main approaches to creating solicitation documents are to either use the available ABE templates to build a new solicitation document, or to "recycle" previous solicitation documents for current procurements. The latter approach seems to be more often used within PSPD.
- Individuals within PSPD divisions are responsible for ensuring that the SACC clauses and local clauses are up-to-date. However, indications are this is not consistently done within each division.
- While file reviews did not include an exhaustive validation of the currency of clauses used, inconsistencies were noted between divisions and in some cases, between officers. For example, different versions of the same clauses were used by different officers during the same time period. (e.g. Basis of Payment clauses, International Sanctions clauses).
- Many officers and some managers indicated they are unclear when the SIPSS CQC officers should review solicitation documents. Very few officers said they use CQC as a resource - most stated CQC officers were approached only when it is considered a necessary part of the approval process.

Conclusion

The framework of existing legislative, Treasury Board, and departmental guiding documents (both hard-copy and electronic format) is complex. This complex framework, when coupled with in-house reference sources, has created a situation where officers are not fully confident at all times that they are using current and complete clauses in their solicitation documents.

3 Conclusions and Recommendations

Conclusions

Given that PSPD managers are generally involved in a substantive way in the review of solicitation documents, the review processes within PSPD are considered adequate to ensure that appropriate evaluation criteria and selection methods are established. There is, however, opportunity to improve the clarity of the selection methods and evaluation criteria expressed in the RFP. There are no significant issues regarding compliance with the stated evaluation and selection processes or the integrity of contractor selection methods. Practices and procedures for managing client relationships and communication with bidders during the solicitation are generally well managed.

Given that the findings for PSPD as reported herein are similar to the findings reported for the three previous reviews on bid evaluation and contractor selection methodologies conducted in SOSB and the regions, the results indicate all PWGSC procurement personnel would benefit from improved guidelines and policy direction regarding the development of bid evaluation criteria and selection methods and other related clauses included in solicitation documents.

Recommendations

It is therefore recommended that:

1. *the Director, Professional Services Procurement Directorate take action through guidelines and/or training to ensure that officers within PSPD are operating within their delegated authorities, that all solicitation documents contain clearly stated evaluation criteria and selection methods, and that all contracts are awarded in accordance with the solicitation document.*
2. *the Assistant Deputy Minister, Supply Operations Service Branch ensure that the Supply Program Management Sector follow through with the commitments made in the Action Plan responding to the Survey of Procurement Personnel on Bid Evaluation and Contractor Selection, particularly the action item for the finalization of the Guidelines on Bid Evaluation and Contractor Selection Methodologies which has been drafted by the Acquisition Policy Council Sub-Working Group.*