



Topic: How does tendering fit within your strategic plan?

Leading discussion:

- o Tim Richards, Partner and Head of Property and Construction at Hewitsons
- o Phil Davies, Head of Governance at the East of England Development Agency (EEDA)

Participants:

- o Michael Frappe, Partner, **Kester Cunningham John**
- o Lynn Henderson, Head of Family Department, **Lorimer Longhurst & Lee**
- o Tim Hill, Business Development Manager, **Taylor Vinters**
- o Diana Johnson, Business Development Manager, **Prettys**
- o Rolland Keane, Marketing Director, **Charles Russell**
- o Julie Murphy, Marketing Director, **Mills & Reeve**
- o Jonathan Younger, Marketing Director, **Hewitsons**
- o Janet Rudge, Marketing Manager, **Birketts**

Organisers:

- o Maggie Taylor, Principal, Prima PR & Marketing
- o Mandi Short, Partner, The Progressive Business Group

Scene setting:

- We have an opportunity to develop the Oracle Forum into a network where we share best practice and knowledge – a chance to learn from one another to increase value for all.

Phil Davies, EEDA – the procurer's perspective:

- EEDA is responsible for economic development of The East of England region and therefore keen to draw in the region's professional firms.
- Region should be procuring locally and therefore needs a robust professional services market to tap in to – adding GVA to the region.
- Aware that some firms take a scattergun approach to tendering - professional services firms need to look very carefully at their marketing strategy and assess whether tendering really does fit. Are they really asking whether it is the right strategy for them?
- First key point is that public sector tendering is very different to the private sector, a different environment. Bidders need to recognise that it is a segmented market place so a different approach and product is needed.
- What are the characteristics of that segmented marketplace? The public sector landscape is driven by legislation. The EU affects how the public sector has to put out tenders so not even limited to UK wide governance.
- The legal aspect of the tendering process is likely to become more burdensome as time goes on with more legislation to fulfil.

- The tendering process can be seen as a 'hamstring' in that restrictions do limit what can be asked of bidders.
- The RDA would like to see more opportunity for collaborative working so firms should consider this in terms of their marketing strategy.
- Comprehensive Spending Review 2007 – expectation that there will be a tight settlement from the Treasury and hence budgets would be tighter.
- It may be a shrinking market place overall, but on a positive note; it is also robust and buoyant, not subject to big changes. The public sector also pays up so in some ways is less risky.
- Firms need to concentrate on how to differentiate themselves. One big consideration is that public sector bodies often have to fulfil multiple objectives with one budget and tender specification. Procurers will be looking at bidders' propositions to see whether they add value to any of their other key target areas – tenderers should consider how to relate their proposition to the overall objectives of the specification.
- E.g. equal opportunities will always be key criteria so making sure all of the requested policy documents are included is critical. Tenders will be dismissed at the first hurdle if any requested items/policies have been omitted.
- Sustainability is also a key issue – as public sector bodies are working towards the sustainable economic growth of the region, bidders should similarly consider how to demonstrate sustainability in their proposals.
- Third sector development is also a key area so bidders should consider how to touch on these other objectives in their proposals
- Public sector bodies are publicly accountable and therefore the process is completely transparent (also subject to Freedom of Information Act) so it is well worth asking questions to clarify any points. Answers will be posted out to all applicants so, whilst this will not give a competitive advantage, will help bidders to equip themselves as best they can.
- Public sector bodies are also accountable to other stakeholders – having to demonstrate that they are value for money – e.g. EEDA accountable to Regional Assembly and DTI.
- Tenderers should be aware of Gershon Efficiency Savings. Both cashable and non-cashable savings – if tenderers are able to offer this, will count in their favour. http://en.wikipedia.org/wiki/Gershon_Review
- Tenderers are advised to look at the Treasury website to understand more about the demands on the public sector. <http://www.hm-treasury.gov.uk/>
- Some of the common areas where tenderers fall down include not being clear and upfront about where they are addressing the key criteria of the tender spec (i.e. if addressing sustainability, ensure it is marked clearly, early on in the proposition, and not in some hidden appendix of the tender after they have been awarded. Procurers will resist any attempts to negotiate the terms of the tender once it has been awarded.

- The tender deadline is critical – bids cannot be considered if submitted after the specified deadline so a complete wasted effort if late. Consider from procurer's perspective – makes their life easier as they can eliminate some responses from their batch immediately.
- To sum up – key is that professional firms recognise that the public sector tendering landscape is different and their strategy and offering needs to reflect that.

Tim Richards, Hewitsons – the tenderer's perspective:

- Tendering is a 'necessary evil' – necessary to go through process to develop new business and stay competitive yet can be a very onerous and expensive process.
- Firms do recognise that the public sector procurement is highly legislative and so do make sure they follow the guidelines and operate within the set framework.
- Experience is that tendering can be costly and time consuming. E.g. one tender involved 150 hours fee-earners time – at £250 per hour, so a very costly exercise.
- The time that goes in to a tender may be disproportionate to its overall value i.e. likely that the same amount of time would be needed to prepare a tender for 4 years work as would be one for 1 or 2 years.
- Panels could be better managed as some firms have experienced being appointed to a panel and then not received any work.
- In terms of the tendering process, firms do come across frustrations and ambiguities and the element of doubt about asking questions – i.e. wondering whether 'pestering' will ultimately affect their submission.
- The weighting of points could be clearer in some instances. Some experience of inconsistency – e.g. same quality assurance provided for different tenders and feedback for one indicated that this was a strength but was seen as a weakness on another...
- Feedback is always useful and critical to the success of future tenders so always worth requesting this following an unsuccessful submission.
- Experience of haphazard tender specifications for the professional services – e.g. child law with PFI... This demonstrates a lack of appreciation for the legal market on the part of some procurers.

Roundtable debate:

Discussion point 1: *Is it right?* the fit with your existing business, does size matter, pricing/margins, the demands / challenges, the competition

- Clear that tendering is here to stay and whilst it is widely considered to be a 'necessary evil,' perhaps a key consideration for many firms should be is

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tendering actually right for their firm?

- Clearly there are enormous costs attached to tendering so perhaps for smaller firms it is not actually a sensible strategy...unless they have some unique defining factor. There is a clear resource issue with tendering – perhaps there would be more success with focused commercial client relationships rather than the competition aspect that smaller firms have with tendering.
- How do smaller firms compete? From the procurer's perspective, this comes back to marketing strategy and how smaller firms mark out their unique qualities. Also important for smaller firms to be robust and realistic about whether a given tender is realistically winnable.
- Will depend on the nature of the practice. Some firms only go for a small amount of public sector work.
- Success rates vary but some experiencing 1 in 3 success rate or 2 in 6. However, this is where they have existing relationships. There would have to be a very good reason to go in to a tender completely cold.
- Very rigorous process and the opportunity cost is significant. Firms should carefully consider the criteria and assess if really right for them (lawyers by nature find it very difficult not to try for new work!).
- Tendering can be seen as an exciting distraction and there is of course the glory when tenders are won.
- A positive with tendering is the degree of certainty in the outcome – will either be successful or not, where this may not be the case with other clients.
- The private sector is increasingly adopting the public sector approach to tendering – e.g. large banks.
- On a positive note, tendering is good for business generally as whatever the outcome; tenderers have had to assess their strategy, really thought about how they would add value and therefore considered the strengths and potential weaknesses of their business.
- Does geography matter? From the procurer's perspective, it does not matter as nature of communications – phone and email plus video conferencing -means that face to face meetings are not always necessary to maintain a relationship. However, in terms of regional development, local procurement is of course preferred.
- The location seems to have a bearing on the attitude i.e. London appear to have a more enlightened approach and accept phone and email relationship with contractors outside the region whilst Birmingham is still keen to keep all on home turf.
- The difficulties for smaller legal firms include tenders where the 'examples of work' section required evidence of high fee paying work which prevents them from applying.
- How much is a mixture of services necessary? If a tender is for multiple services is it acceptable to go for one aspect of legal services? The experience has been that firms are less successful going for fewer elements of tender.

- Are smaller firms actually getting the work? If smaller firms are specialists and very focused then they are recognised as experts in a particular field so become successful in that way.
- There is always a risk with innovation and collaboration but public sector procurers will be open if an innovative proposition is too good to pass up. More common for collaboration with buying consortia.

Discussion point 2: *Shaping up* – identifying tenders, procedures and evaluation criteria, bid strategy - differentiating yourself from your competitors, using feedback on unsuccessful tenders

- The challenge for firms is to differentiate – there has to be a good reason for procurers to swap from the incumbent.
- Should always seek feedback if unsuccessful.
- There is an element of learning with the tender process. Does tie down partners and may draw on skills that may not be their key strengths such as presentation skills.
- From the procurer's perspective – the presentation is key so whilst not all tenders require a presentation, as part of marketing strategy it is perhaps worth the firm bringing in a partner with strong presentation skills.
- It is key that those presenting will be the ones who will carry out the tender. The procurer wants to see the communication skills of the tenderer as they will be representing their organisation if appointed.
- In terms of feedback, make it easier for the procurer, for example go and see them to obtain that feedback.
- Track record is a key aspect of tender submission and procurers will look favourably on direct experience e.g. if tender is for local authority, will help if bidder has direct experience with another local authority.
- Firms can use marketing intelligence when preparing a tender e.g. by looking at make-up of existing panel.

Summing up:

- Important to avoid the scattergun approach to tendering
- Tenderers should consider how to ensure the procurer is getting value for money with their proposition – i.e. hitting those other targets and objectives.
- Acceptance that tendering is here to stay and the process is likely to become increasingly burdensome so careful consideration about whether this is the right strategy for firms must be given.
- Feedback is vital – tenderers must ask for it and learn from it.
- From the procurer's perspective - an extremely useful exchange of views and feedback received which will be taken on board.