

SUBMISSION TO THE REGULATION TASKFORCE

Re: Government Procurement Guidelines

This submission covers the serious problems my consultancy faces in tendering for government projects. We specialise in conducting various employee surveys and in the last 15 years my consultancy has worked with a large number of APS organisations. When I reflect back on nearly 30 years experience with federal government tenders I can honestly say that it has steadily become more frustrating, time consuming and expensive to win a tender.

The problem areas are as follows:

Personnel Quality

Our general perception is that in the past we were dealing with more qualified and experience personnel. They were more likely to be experts in their field and very experienced in dealing with consultants. These days we are regularly faced with fairly junior staff, who are commissioning a consultant for the first time and often have limited knowledge of their own organisation.

Then there are the departments where the work is delegated to purchasing officers, who try to reduce the process to quantifiable specifications, as if they were buying office supplies.

Worst is the selection panel, especially when they represent a variety of interests, but with limited or no experience in the area of the consultancy work. Because of this lack of expertise, when making a selection they tend to be influenced by internal politics and superficial considerations. A few years ago we had to present to a panel of about 10 senior people who were flown to Canberra and we had 30 minutes to educate them in the finer art of employee surveys. Of course, they favoured the salesman who sold them a simple appealing concept, but not one that was in department's best interest. We estimated that the costs associated with convening the selection panel probably exceeded the value of the consultancy project.

The problem of regulatory burden on business starts with public servants who have spent their working lives in large departments and have little empathy for small businesses. They need to understand that most small businesses, particularly consultancies, only employ a handful of people. We don't have personal assistants, legal departments or estimators and there is every chance that we don't even own a photocopier.

Open Tenders

On the surface open tenders seem to be fair because they give everyone a chance to submit a tender. However, when the process attracts every man and his dog we have a problem. It's not uncommon to have 20, 30, 40 or 50 or more tenders, often from individuals or organisation who shouldn't even be pitching for such work.

On the receiving end the staff often lack the skill or the resources to deal with so many submissions. To make things more manageable they reduce the field by eliminating any tender that fails to meet a requirement. Usually this has nothing to do with the quality of proposed work, but something minor or secondary. For example, we were once thrown out because we didn't specify how the questionnaires would get from the printer to the department, as if it made any difference. Recently we have missed out on a couple of jobs

because we don't meet insurance requirements (more on this point later) and then a submission that may have taken five or more days to prepare is thrown out without anyone really looking at what you were proposing.

Imagine the enormous waste of community resources when you have large number of businesses spending many days to prepare proposals that don't even get a fair consideration.

In such a lottery unqualified tenderers often get through. I'm not begrudging new competitors, we were once first time consultants, but we keep seeing consultancies get contracts that are outside of their field of expertise and then they disappear back into oblivion. They get picked because their simplistic approach appeals to someone who has an equally superficial knowledge. Then two years later when we or another specialist consultancy gets the job we then have to cover up previous mistakes to save face.

Our preference is for selective tenders for most consultancy work, even if it means that we may miss out on some projects. With a selective tender it is more likely that the department has done some preliminary work to select potentially suitable tenderers and that you are likely to be competing with other consultants in the same league.

Request for Tender

These have become legal documents rather than specifications. It is not uncommon to receive more than 100 hundred pages of documentation of which only one or two actually cover the required work. One shouldn't have to have a law degree to figure out the minor nuances of RFTs.

RFTs tend to cover all sorts of legalese that often have very little relevance, for example, one RFT last year still contained information on Year 2000 computer compliance. Things that we really need to know to prepare our tender are rarely specified in sufficient detail.

RFTs keep getting bigger and there seems to be a simple explanation - the smorgasbord factor. Many people don't know how to write a brief, so they shop around other departments. Defence had this in their brief, so we will put it into ours and here is a clever clause from Centrelink, and so on. These things end up in RFTs without any thought given to why they were introduced in the first place. In the end what may have been an appropriate requirement for a multimillion dollar project get applied to a \$20,000 staff survey.

Whatever happened to the policy of supporting small businesses? These excessive requirements totally disadvantage small business like ours and favour large multinational consultancies.

Some of the most odious demands include:

- Having to wade through numerous documents to discover where the actual requirements are hidden. How come private sector organisations take it for granted that you will submit the tender in English and price it in Australian dollars?
- Having to attend briefing sessions in Canberra, without airfares being compensated.
- Having to submit requests for information in writing then getting vague meaningless answers.

- Indicating that you have read and complied with each item of the RFT. This becomes ridiculous when you have to individually list hundreds of items.
- Submitting 3 years of financial details. This maybe a valid request where a company is planning to build a submarine for 10 years, but it has little relevance for projects that have a life of only a few months and are only worth tens of thousands of dollars. Financial status has nothing to do with evaluating work quality. I question if most of the people in the APS dealing with tender documents can actually interpret a financial balance sheet.
- Requiring excessive number of signatures. A few months ago we submitted a tender which required that every page to be signed and then the document had to be witnessed in nine different places and to top it off we had to fill out a statutory declaration. We weren't after state secrets, we just wanted to submit a proposal for a simple employee survey. Our local chemist who gets the pleasure of witnessing such documents is really thrilled that he too can participate in the better management of our country.
- Requiring that all cost be shown including and excluding GST. Can't people work out what 10% is? I thought that the law say that all pricing be inclusive of GST.
- By far the most annoying requirement is the need for \$10,000,0000 professional indemnity insurance. We recently spent at least a week preparing a tender, to be disqualified in the first round because we did not meet the insurance specification. We don't employ teams of people to work on tenders and to lose a week of work is a very heavy burden. \$10M worth of public liability insurance cover is affordable, but \$10M worth of professional indemnity insurance is beyond most small businesses, but a minor expense for a multinational consultancy. Has anyone in the APS done a risk assessment? When has any department taken legal action against a consultant for the quality of work performed in a staff survey?

The solutions are simple:

Improve the skill level of people with procurement responsibility.
 Train staff in the art of writing meaningful RFTs.
 Keep RFTs short and simple.
 Eliminate excessive and unnecessary requirements from tenders.

Stephen Schmideg
 Partner
 SICORE International

9 Don Court
 Caulfield Vic 3162
 Telephone: 03 9578 6074
 Email: stephen@sicore.com.au