TWO STAGE TENDERING
(FOR DESIGN & BUILD AFFORDABLE HOUSING CONTRACTS)

BACKGROUND

High quality housing projects efficiently delivered with cost certainty, whilst offering value for money and competitive pricing have long been targeted. This objective has also been restated by the Homes and Communities Agency in their “Prospectus for the Affordable Homes Programme 2015-2018”. Within the HCA prospectus, Two Stage Tendering has been cited as an example of procurement efficiency so far as the HCA is concerned. Consistent with the HCA targeting procurement efficiency, the significantly increased levels of activity in the construction market have seen Contractors keen to avoid potentially abortive time and costs arising from single stage tendering – especially Design and Build related.

Therefore, in the context of the 2015-2018 programme, the time is ripe to consider a Two Stage Tendering approach.

TWO STAGE TENDERING OVERVIEW

In summary, a Two Stage Tendering process involves the selection of Contractors to submit a “First Stage Tender” at the early stages of a project. That first stage tender enquiry will vary in its content according to the circumstances of a particular scheme. However, there will typically be a qualitative element – to establish the tenderers appropriateness for the scheme and to ascertain their outline proposals for its delivery; and a competitively priced element (of Contract preliminaries, profit and overheads) along with the tenderers’ itemised assessment of overall scheme cost. Following a single Contractor’s selection after the first stage, the project is developed with the benefit of the Contractor’s resources and expertise. At the same time “Work Packages” covering the whole of the Contract works are competitively priced by sub-contractors (or the main contractor) adjudicated by the Client’s Project Manager/Employer’s Agent.

ADVANTAGES AND DISADVANTAGES

In terms of absolute cost certainty from the outset, there are few, if any, procurement routes to rival single stage tendering – especially when coupled with the further security offered by a Design and Build Contract. However, whilst single stage tendering – by which Contractors are required to offer a single comprehensive proposal and price – remains appropriate for smaller, straightforward schemes, it is a much less automatic choice for more complex schemes in the current market.

Two Stage Tendering on the other hand can offer the advantages sought by the HCA – of competition (through the Main Contractor’s competitive first stage pricing and “Open Book” sub-contractor pricing of work packages at the second stage) combined with collaborative partnership working to deliver design, construction and cost efficiency (through the Contractor’s earlier involvement and the input of his expertise).
In summary, the advantages to be maximised and the disadvantages to be guarded against include the following:

**Advantages**

- Competitive first stage through Contractors pricing of Preliminaries, Profit and Overheads.
- Further cost check at first stage through Contractors elemental assessment of total scheme cost.
- “Open Book” declaration of competitively priced (sub-contract) work packages at second stage.
- Potential to involve a Contractor from the early stages of a scheme with the benefit of his resources, expertise and collaborative working.
- High level of interest from Contractors arising from low cost, low risk tendering process.
- The opportunity to achieve the certainty of a fixed Contract Sum at the end of the second stage before Contracts are executed.
- High risk items to the Contractor are not overpriced to “cover the risk”.

**Disadvantages**

- Lack of price certainty until the end of the second stage.
- Potential for a Contractor not to retain a focused commitment through the second stage of the tendering process (thereby not achieving the most advantageous and timely work package prices).
- All work package costs are transferred to the Client.

So it can be seen that some of the potential advantages can be negated by the potential disadvantages and so these must be guarded against through the tendering process.

**THE TWO STAGE TENDERING PROCESS**

To realise the advantages to the full and guard against the disadvantages, it is fundamentally important to ensure the appropriateness of the Contractors invited to tender and ultimately of the Contractor selected. At the same time the management and co-ordination of the scheme’s progression through the two stage process is key.

Where a Client maintains a framework of Contractors, procured in compliance with the EU rules, he will have a number to invite to tender who will have evidenced their capacity, expertise and understanding of the Affordable Housing Sector. In other circumstances – and this can, and sensibly should, also be applied to tenderers selected from a framework – the first stage tender can include a significant qualitative element. Under this element Contractors are required to demonstrate their understanding of, and commitment to, the scheme as well as demonstrating their previous similar experience and outline proposals for the delivering of the scheme in question.

Oxbury is itself well experienced in the successful procurement and delivering of Affordable Housing schemes – including through a Two Stage Tendering process developed to ensure the objectives of quality, competitive cost and value for money within the required timescales. In outline, our process is shown on the accompanying chart of “Key Events”.
FURTHER INFORMATION

If you would like further information relating to Two Stage Tendering, or on any other matter arising from the HCA Prospectus for 2015-18 Programme, please do not hesitate to contact us.

Nick Oxbury FRICS

March 2014
**KEY EVENTS IN TWO STAGE TENDERING**

Notes:

i) This outline of key events is applicable to Two Stage Tendering for Design and Build Contracts of all types, but is specifically applicable to Public Sector affordable Housing projects.

ii) Earlier and peripheral activities are omitted for clarity.

iii) Timescales will vary dependent upon the extent to which EU compliant tendering rules are applicable, the type of scheme and the extent to which design work for Planning Applications has been undertaken previously. It is assumed, in the context of deriving maximum benefit from the selected Contractor's involvement, that an outline planning application has been submitted at least at the time of instigating the tender process.

<table>
<thead>
<tr>
<th>Step</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Appropriateness of Two Stage Tendering agreed.</td>
</tr>
<tr>
<td>3.</td>
<td>Tender List selected (from Client’s Contractors Framework or through EU procurement route if applicable).</td>
</tr>
</tbody>
</table>
| 4.   | First Stage Tender Enquiry, to include:  
- Qualitative assessments of Contractor  
- Contractor’s outline proposals  
- Contractor’s competitive pricing (of Preliminaries, Overheads and Profit)  
- Contractor’s overall Scheme Cost Plan assessment  
- Contractor’s confirmation of RICS NRM2* Work Packages |
| 5.   | Assessment of First Stage Tenders and Contractors interviews |
| 6.   | Provisional appointment of main contractor via a "Pre-Contract Services Agreement" (underwriting further fees and expenditure, pre-contract). |
| 7.   | Scheme development by Project Team (including Main Contractor) typically to include:  
- Design development and Planning and other Statutory enquiries  
- Surveys and investigations  
- Risk analysis and management  
- Tender, scrutiny and agreement of Work Packages  
- Value engineering exercises  
- Agreement of any cost/benefit sharing arrangements to continue post contract  
- Finalisation of Contract Sum and Contract Terms |
| 8.   | Execution of Contract and Start on Site |

* Royal Institution of Chartered Surveyors - New Rules of Measurement Volume 2

March 2014