

## Contractors can win public sector contracts

Even though you may only have a small family business, you can win contracts from government agencies and organisations. The process of tendering is not as difficult as you might suppose, and the rewards are very considerable. The UK government awards literally billions of pounds of contracts every year; why not get a piece of the pie?

### A Good System

Sometimes being in the European Union pays off. Thanks to a very clear and articulate European law on public contracts, which came into effect in the UK this year, contractors have a much better chance of winning public sector contract offers.

The [Public Contracts Regulations](#) law of 2006 adapts the European Union directive on public sector tenders into UK law. As Clare Reddy, a lawyer specialising in procurement and supplier affairs with the London-based solicitors [Lewis Silkin](#) points out, the Regulations usefully consolidate the previously separate regulations for supplies, works and services. "The contract tender processes must be non-discriminatory, fair and transparent. They are open to all."

### But There Are Rules To Follow

Here are the basic procedural steps to follow when tendering for a public sector contract:

- o UK Public sector offers must be advertised in the [Official Journal of the European Union](#)
- o There are specific procedures which are obligatory
- o Contractors are first short-listed on the basis of qualifying technical criteria
- o Then price or value-for-money judgements decide the winner

“ The system is open to all ”

Clare Reddy-Lewis Silkin

### What Contractors Should Do

When you see a contract notice in the Official Journal, take a good look at the criteria for qualification. It will be useless to apply if you don't meet the initial selection criteria. There is little flexibility in this part of the tendering process.

But if you think you qualify, then you need to follow closely the rules set down by the particular contracting process that is being used. There are five basic processes: the open procedure under which all potential candidates with basic qualifications may tender; the restricted procedure under which only pre-qualifying candidates may tender; the negotiated procedure in which certain candidates are selected for negotiations; the competitive dialogue procedure which permits negotiation pre-award; or a dynamic purchasing system.

### Not So Complicated!

This all sounds far more complex than it is in practice. The open procedure means just fill out the form and apply. In the restricted procedure, you provide qualifications after which you will bid only against other qualified candidates. Same with the negotiated and the competitive dialogue procedure, except that in these, once you qualify you can negotiate terms. A dynamic purchasing system will simply run a competitive dialogue procedure on a regular basis. All of these different systems are just different ways of establishing pricing: in the competitive dialogue, it's just too hard to determine what the market value of the services is without going into detail, for example.

### How You Win

Under EU law, the entire process of tendering must be electronic and entirely transparent. Nothing happens behind the scenes.

"The award criteria, (or the reasons behind choosing the winner), are set out from the start, and the agency offering the tender cannot change its mind once the tender offer is made. Either the lowest bid is chosen, or the bid that offers the most for a certain amount of money. "But unless the contract is for simple commodities, it is unusual to award based on price alone. In determining the most economically advantageous tender, the criteria may include matters such as quality, technical support and time scale for completion," Reddy explains. The offer must specify the weighting it gives to these criteria in the contract notice and contract documents. Where in the RSL's opinion it cannot provide the weightings, it must indicate the criteria in descending order of importance.

So all you have to do to get involved is to go to the Official Journal site, find an offer you qualify for, and then click on the appropriate Web site. You may not win the first or second one, but if you do score, you'll not have to look for more work for a good long while.

“ Apart from price criteria may include matters such as quality or technical support or time scale for completion ”

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