



## LATE TENDERS AND NON-CONFORMITY POLICY

### PCS TENDER SUBMISSIONS

- 1.1 In line with the Comhairle's Procurement Policy (approved December 2016), tender returns including the completed European Single Procurement Document must be submitted electronically through the Public Contracts Scotland Tender Portal (PCS Tender). The PCS Tender portal provides comprehensive information on how bidders should use the system and how tenders should be submitted.
- 1.2 Returns are through secure submission which is time and date restricted. Tenderers must be submitted by the time and date allocated. Please note that tenderers can still upload documents onto the portal after the deadline if the evaluation process has not been started. All late submissions are identified and recorded as such on the system.
- 1.3 Tender submissions for either stage can be split into three distinct envelopes:
- European Single Procurement Document;
  - Technical Envelope; and
  - Commercial Envelope
- 1.4 Each envelope has the facility for various responses in the format of questions or attachments.

### EUROPEAN SINGLE PROCUREMENT DOCUMENT (ESPD)

- 2.1 The ESPD is used in all tendering processes and is the first stage of a restricted procedure.
- 2.2 There are a number of sections in the ESPD as follows:

SELECTION CRITERIA	
<b>A:</b>	<b>SUITABILITY</b>
4A.1	Enrolment in professional or trade registers
4A.2	For service contracts – membership of particular organisation
<b>B:</b>	<b>ECONOMIC AND FINANCIAL STANDING</b>
4B.1	“General” turnover
4B.2	“Specific” turnover
4B.3	Start up date (for new businesses)
4B.4	Value of financial ratios
4B.5	Insurance
4B.6	Other economic or financial requirements
<b>C:</b>	<b>TECHNICAL AND PROFESSIONAL ABILITY</b>
4C.1	Examples of works or supplies and/or services carried out in the past 5 years
4C.2	Quality control
4C.3	Quality measures, study and research facilities
4C.4	Supply chain management
4C.5	Production capacities or technical capacities

<b>SELECTION CRITERIA</b>	
4C.6	Education and professional qualifications
4C.7	Environmental Management measures
4C.8	Average annual manpower
4C.9	Relevant tools, plant or technical equipment
4C.10	Proposed sub-contracting
4C.11	Photographs/certificates of authenticity
4C.12	Certificates relating to products
<b>D:</b>	<b>QUALITY ASSURANCE SCHEMES AND ENVIRONMENTAL MANAGEMENT STANDARDS</b>
4D.1	Independently assessed quality assurance standards
4D.2	Independently assessed environmental management systems or standards

2.3 Some questions in the ESPD are set with mandatory settings that ensure a submission cannot be made without a response. Other questions require completion of a template which must be uploaded into an attachment area, again a mandatory setting can be set to ensure something is attached (this cannot prevent the attachment of a blank or incomplete attachment).

### **INVITATION TO TENDER: TECHNICAL AND COMMERCIAL ENVELOPES**

3.1 The following must be completed on PCS Tender for this element of the process:

<b>ITT Technical Envelope (Scored and Weighted)</b>
Evaluation Criteria
<b>ITT Commercial Envelope</b>
Pricing Schedules

3.2 Some questions in the ITT are set with mandatory settings that ensure a submission cannot be made without a response. Other questions require completion of a template which must be uploaded into an attachment area, again a mandatory setting can be set to ensure something is attached (this cannot prevent the attachment of a blank or incomplete attachment).

3.3 A Restricted Procedure will have an ITT as the second stage. This can have a selection and award stage. The Technical Envelope and the Commercial Envelope in the second stage of a Restricted Procedure includes the following sections:

<b>ITT Technical Envelope (Scored and Weighted)</b>
Evaluation Criteria
<b>ITT Commercial Envelope</b>
Pricing Schedules

### **NON-CONFORMING TENDERS**

4.1 Tender Submissions may be considered as non-conforming for various reasons and may be rejected. Reasons for non-conformance can include:

- Tenders submitted in any manner or format other than those stipulated in the tender documents.
- Tender submissions not containing the required information as stated in the tender documents.
- Tender forms missing or incomplete.
- Evidence of required plans, policies, licenses or certificates of insurance not provided.
- Departures from the brief or specification.

- Departures from the proposed conditions of contract, this can also include the submission of conditions on offers.
- Other reasons outlined in the Conditions of Tender.

4.2 There are different levels of non-conformity. Conformity checking can involve the application of discretion or require a legal decision. Ultimately non-conformance can result in the rejection of a tender.

4.3 Conformity issues are addressed by the Lead Procurement Officer as the first item of consideration using the policy approved by the Procurement Steering Group. Reference is made to this policy in the tender documents with publication of the full text on the Comhairle's web site.

### LATE SUBMISSIONS

5.1 The policy approved by the Procurement Steering Group governs the process relating to late submissions.

5.2 The following wording is included in all Comhairle tender documentation to ensure that exceptional circumstances can be taken into account.

*“Failure to submit all of the required documents may result in your tender being rejected.” -  
“You must also ensure that your tender is correctly uploaded, as the Comhairle may not accept submissions where attachments have failed to upload.”*

This effectively allows the Comhairle scope to use its discretion under certain circumstances.

5.3 Should exceptional circumstances arise prior to the tender deadline, an extension would be applied to all tenderers rather than to one particular supplier wherever this is possible to ensure equal treatment of all parties.

### POLICY POSITION

6.1 It is recommended that the following discretions are applied in relation to late and non-compliant submissions for the ESPD and ITT stages of the process.

#### 6.2 LATE SUBMISSION

Circumstances	Action to be taken
ESPD and/or ITT <b>not submitted electronically</b> on PCS Tender but received manually by post, by hand, by fax or by email <b>before the deadline</b> with <b>insufficient time</b> to submit electronically on PCS Tender.	<b>EXTEND THE DEADLINE FOR TENDERS BY UP TO 24 HOURS</b>  <i>NB: Insufficient time means less than one hour before submission deadline</i>
ESPD and/or ITT <b>not submitted electronically</b> on PCS Tender but received by post, by hand, by fax or by email <b>before the deadline</b> with <b>sufficient time</b> to submit electronically on PCS Tender.	<b>REQUEST RESUBMISSION ELECTRONICALLY</b>
ESPD and/or ITT submitted <b>electronically</b> and received <b>after the deadline.</b>	<b>REJECT</b> <i>NB: applies even if received before the promotion of objects on PCS Tender to evaluation stage.</i>

Circumstances	Action to be taken
ESPD and/or ITT <b>not submitted electronically</b> on PCS Tender but received manually by post, by hand, by fax or by email <b>before the deadline</b> with <b>insufficient time</b> to submit electronically on PCS Tender.	<b>EXTEND THE DEADLINE FOR TENDERS BY UP TO 24 HOURS</b>  <i>NB: Insufficient time means less than one hour before submission deadline</i>
ESPD and/or ITT <b>not submitted electronically</b> on PCS Tender but received by post, by hand, by fax or by email <b>before the deadline</b> with <b>sufficient time</b> to submit electronically on PCS Tender.	<b>REQUEST RESUBMISSION ELECTRONICALLY</b>
ESPD and/or ITT <b>not submitted electronically</b> on PCS Tender but received by post, by hand, by fax or by email <b>after the deadline.</b>	<b>REJECT</b>
Attempt to submit ESPD and/or ITT electronically on PCS Tender but <b>failed.</b>	<b>EXTEND THE DEADLINE FOR TENDERS BY UP TO 24 HOURS</b>  <i>NB: Accept if contact made within 1 hour of deadline and reason can be proved and is acceptable. Lead Procurement Officer will confirm circumstances with Tenderer and check with PCS Tender.</i>

### 6.3 NON-CONFORMANCE

Circumstances	Discretion	Authority
ESPD Questions	These are all Pass/Fail Questions, any omission, <b>unclear response or missing documentation will be clarified or requested after submission</b> of the ESPD if so required as there is no disadvantage to any other tenderers in the Comhairle requesting this information.  This information is not scored.	Lead Procurement Officer
ITT Technical Envelope	<b>Short time limited period to submit omitted responses.</b>  This information is generally part of a scored and weighted response.  Responses are mandatory and will therefore be accepted as submitted, however, if there are omissions such as failure to load a requested attachment or uploading a blank attachment in error then the Tenderer will be given the opportunity to submit the omitted attachments by e-mail within 4 hours of us requesting them to do so. This must be concluded before evaluation of ITT's has commenced.	Lead Procurement Officer

