

**Tender Advisory Service (TAS)
Pilot Scheme**

**Operational
from
1 February of 2015**

Tender Advisory Service (TAS)

1. Background and Objectives of TAS

- 1.1 SMEs stakeholders have raised concerns in relation to possible barriers for SMEs in competing for tender opportunities. In order to address these concerns, the Office of Government Procurement (OGP) has developed a pilot programme¹, as part of the Action Plan for Jobs 2014, designed to give an informal outlet for potential suppliers to raise concerns in relation to a particular live tender process. The objectives of the initiative are to improve communications with suppliers and increase professionalism and consistency in how procurement processes are carried out across the public service.
- 1.2 The aim of TAS is to achieve this objective by:
- answering general queries made by potential tenderers;
 - channelling more complex queries to the relevant contracting authority for direct reply to all interested parties; or
 - communicating with contracting authorities to suggest improvements/changes to information contained in tender documentation where it is considered appropriate and reasonable to do so.
- 1.3 The Customer Service Section in the Office of Government Procurement will implement the pilot initiative. All communications will be carried out in an impartial and transparent manner.

2. What is TAS?

- 2.1 TAS is being piloted to assist suppliers who have issues or concerns with a procurement process carried out by the OGP or other public sector contracting body (excluding the commercial semi-state bodies). The pilot will cover all procurement processes and will be subject to review after the first twelve months. TAS will operate through the OGP's Customer Service Section.
- 2.2 TAS will liaise with potential suppliers and contracting authorities to clarify or query tender documentation and, where necessary, will make suggestions to contracting authorities aimed at resolving the concerns that have been raised. As a matter of course TAS will communicate, to all parties, the informal nature of this service and that they do not have any legal authority to overturn any decision that has already been taken by the responsible contracting authority.
- 2.3 Experience to date would suggest that the vast majority of queries will be routine and are likely to be resolved through telephone or e-mail channels. As tendering of public service contracts must be carried out in an open and transparent manner, any information arising

¹ All public works with the exception of minor works are excluded from the pilot. Likewise procurements in the area of defence and security regulated under S.I. 62 of 2012 are excluded from the pilot.

from this service will be communicated to all suppliers that have registered an interest in the tender process by the contracting authority. In addition, a record of each request will be maintained by the OGP's Customer Service Section for the purposes of compiling statistics on the usage of TAS. This information will also be used to compile FAQs to facilitate better communication between suppliers and contracting authorities.

- 2.4 The primary goal is to contribute to an improved public procurement landscape for both suppliers and contracting authorities and to maximise all avenues for dealing with issues arising.

3. Circumstances required in order to avail of TAS

- 3.1 TAS can be used by individuals and companies with an interest in a specific tender process in the following circumstances:

- in order to be effective this service can only be used up to six days before closing date for receipt of tenders - however, it would be more preferential to use this service as early as possible in the tendering process to allow for concerns/issues to be fully communicated by TAS;
- in relation to procurements both under and over the EU thresholds - rules appropriate to the value of the contract will apply;
- a Request for Tender (RFT) must have been published;
- the supplier must also have availed of the query/clarifications options that exist for the tender, i.e. the supplier must have made contact with the contracting authority setting out their concerns about the RFT documentation.
- where the supplier is not satisfied with the response from the contracting authority, TAS can be utilised using the Standard Enquiry Form (see appendix A);
- where the opportunity to deal with issues under the queries and clarifications period has concluded without any response from the contracting authority in relation to a reasonable query or clarification.

4. How TAS will work

- 4.1 Contact is made by e-mail attaching the Standard Enquiry Form (see Appendix A) to TAS.

- 4.2 This form will serve as a record of the request and will also be used by TAS in compiling statistics relating to the process at regular intervals.

- 4.3 An initial assessment of the request is made based on the appropriate EU/National rules and guidelines by the Customer Service Section dealing and a decision is taken to:

- initiate contact with the contracting authority to clarify and examine the issues under question;
- seek legal advice;
- ask policy section for views on policy related matter.

4.4 In order to avoid delay in the tender process it is envisaged that service carried out under the pilot should take no more than 3 working days. However, it is appreciated that in a small number of instances clarifications may take longer depending on the complexity of the tender process concerned. In such instances, the Customer Service Section may request the contracting authority to consider extending the period during which tenders will be accepted where this is feasible. Any decision to extend the time is however solely a matter for the contracting authority. In this regard, the pilot programme will serve to develop best practice in relation to timescales.

5. Outcome

5.1 Based on the review TAS may if considered appropriate:

- suggest that the contracting authority provide further clarifying information to all interested parties; or
- suggest other actions which are compatible with procurement rules.

5.2 Given the wide range of tender processes in which the State is engaged, the suggestions may include but are not limited to

- issuing further clarification to the RFT documentation;
- providing guidance in relation to the application of DPER Circular 10/14;
- no change to the process or RFT qualifying requirements.

5.3 The above merely serves to illustrate the type of suggestions that may be provided under the pilot programme. At the end of the programme there will be a review process which will give a clearer picture of the suggestions needed.

6. Informal Nature of the service

6.1 This informal service does not in any way impede the rights of individuals to pursue their rights under the Remedies legislation.

6.2 Under EU and National rules, contracting authorities are responsible for their own decisions relating to the tendering process. Accordingly, TAS cannot formally investigate supplier's concerns issues or change decisions taken by contracting authorities. In addition, TAS cannot instruct any contracting authority to change its position as all contracting authorities operate independently and follow the rules and regulations set down in the EU Directives and National guidelines.

6.3 However, in the interests of best practice the contracting authority should comply with any suggestion made by this service.

Appendix A

Please provide the information below and send to:- tenderadvisoryservice@ogp.gov.ie

Your contact details

Name:

Company/Tenderer:

Address:

Email address:

Telephone number:

Details of contracting authority (e.g. OGP, HSE, LA, Defence, Education, etc.)

Contact within the buying Department/Organisation

(Buyer/Contract Manager's name):

Organisation:

Email address:

Telephone number:

Tender details

Tender reference:

Tender type (i.e., goods, works or services):

Value of tender, if available:

Stage the procurement activity is at:

(Please advise us of any impending deadline, for example: For the submission of pre-qualification questionnaires or tenders or the date for the award of the contract, where known)

Enquiry

What is the enquiry?

What action have you taken to date in connection with your enquiry?

What response from the contracting authority, if any, have you had?

In submitting your details to the Tender Advisory Service you are consenting that this information may be made available to the relevant contracting authority.