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# **Report: Amendment to Procurement Contract Procedure Rules**

## **Appendix E – Procedural Note: Missing and Omitted Materials**

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## Procedural Note: Missing and Omitted Materials in a Quotation / Tender

**NOTE:** This Procedural Note forms part of the Procurement and Contract Procedures and shall be read in conjunction with those Procedures and any associated Procedural Notes

### Background

- 1) This Procedural Note outlines the steps to be taken if there appears to be an error in the information provided within a Quotation or Tender.
- 2) The process outlined relates to Quotations /Tenders above £100k, but where such situations occur for spend below that then a proportional application of the process is recommended to be followed.

### General

- 3) Where it appears that there is an error in the information submitted within the Quotation / Tender, including missing or omitted material, the relevant supplier shall be made aware of the apparent error.
- 4) The supplier shall be asked to confirm acceptance as to this position or highlight that the information required is actually included in their original response.
- 5) Considerations and resolutions around missing or omitted material shall be carried out in the most expedient manner possible, usually within 3 working days.

### Overall process – over £100k

- 6) On becoming aware of missing / omitted material, the Procurement Team shall contact the supplier clearly highlighting what information is considered missing / omitted.
- 7) The supplier shall be given the opportunity to provide the information typically by return and no later than within one working day of the contact being made.
- 8) When contacting the supplier the following information shall be provided to them:
  - i. What information is considered missing / omitted.
  - ii. The time limit within which a response is required, e.g. by return and no later than one working day.
- 9) The following two statements shall also be included:
  - i. “The advertised submission deadline has now elapsed; any delays in responding to this request for further information may render your tender non-compliant and result in your exclusion from the procurement process.”
  - ii. “No assurance can be given as to whether any information provided would be eligible to include within any evaluation of tender / quote.”

- 10) If, following the response from the supplier, it is deemed a genuine error / omission has occurred, and that the information has not in any way been compromised, the Procurement Manager may agree to include the information and take the tender / quote from the supplier forward for evaluation.
- 11) Where the information latterly submitted is not in a format that would have been ready and available at the time of the submission, then the Procurement Manager shall deem the submission incomplete and it shall then be evaluated on that basis, or if necessary disqualified, accordingly.
- 12) In making the decision to include information received, it shall consider the significance of the missing / omitted information, and the risks its inclusion could pose to the overall process.
- 13) If it is deemed inappropriate to include the information latterly submitted then it shall not be accepted or considered in the evaluation and the following process shall be followed:
  - i. The supplier shall be informed as soon as practically possible as to the decision (and justification) not to consider the additional information.
  - ii. Where the missing or omitted information has resulted in the suppliers exclusion from the procurement process this shall be clearly articulated.
  - iii. In any such communication the supplier shall be informed of their right to appeal the decision.
  - iv. In the event of an appeal, this shall be referred to the relevant Director to review.
- 14) The justification around decisions to include or not information missing or omitted in the original tender / quote submission shall be recorded in the evaluation and available for legal and audit purposes on request.

### **Appeals process**

- 15) On receipt of the formal appeal, the relevant Service Director shall seek to decide and communicate this within 5 working days.
- 16) In considering the appeal, the Service Director shall obtain all additional evidence or relevant information they require.
- 17) In making the formal decision the Service Director shall be required to assess the proportionality of upholding the original decision.
- 18) In concluding an appeal the Service Director shall formally notify the Responsible Officer and Procurement Manager who shall, in turn, notify all other relevant parties of the reasons as to why a decision has been made.