

## PROCUREMENT SINGLE-STAGE TENDERING

**Simon Rawlinson** of **Davis Langdon** sets out the pros and cons of the single-stage strategy and offers some guidance on how clients and contractors can use it successfully

### 01 / INTRODUCTION

As the construction industry heads into its worst downturn since the 1989 crash, many clients are looking to maximise the element of competition in their tenders by adopting a single-stage strategy. Clients are considering single-stage tendering for the following reasons:

- The need for greater cost certainty during design and construction. Some clients who have had problems agreeing a cost plan with the contractor have had difficulties controlling costs in the second-stage of the tender
- The need for a well-documented, fixed-price contract. The ability to relate a single set of client-sourced documentation to the contractor's commercial offer is important for increasingly risk-averse funders
- To benefit from the discipline of completing

the design before a contractor appointment takes place

- To use commercial pressure to secure cost reductions for projects that might otherwise be unviable.

Changing market conditions have created the opportunity for clients to tender competitively. However, most contractors have a portfolio of work secured on the basis of a mix of frameworks, negotiation and competition, and this shift in emphasis does not mean that all work will be won through lowest-price competition.

The readiness of clients to shift away from two-stage tendering indicates a degree of frustration with some aspects of collaborative working. Although some clients have had sufficient workload in a local market to be able

to foster collaborative behaviour from their construction partners, others have found that two-stage tendering is characterised by the adoption of a tough negotiating stance in the later stage of the agreement of the contract sum.

A harsh economic climate could further encourage adversarial behaviour, and it is important to recognise that clients moved away from single-stage tendering for good reasons. The process can be wasteful of resources, it separates design and construction and, when tendered on incomplete information, provides an illusory promise of competitive pricing and cost certainty. It is essential that clients that adopt the single-stage route should do so with their eyes open, and with a team that is capable and managed so as to complete properly a design to the level of detail intended under the contract.

*Single-stage tendering is not incompatible with good architecture, as Haworth Tompkins' Young Vic demonstrates*





## 02 / ADVANTAGES

### Cost certainty

Provides the client with an early contractual commitment on price. The discipline of a single-stage tender should prevent the project team from proceeding to construction without a complete design. Clients and funders value the agreed contract sum as it gives greater security to an application for loans or grants.

### Risk allocation

The client and contractor have a clear statement of risk allocation in the contract.

### Avoidance of cost escalation during second-stage tendering

The contractor is not given an opportunity to revisit the pricing.

### Competitive pricing

The full scope of work is priced in competition with other bidders.

### Cost of tendering

When available, pricing documents provided by the employer simplify the bidding process.

### Collaborative working

A complete, well-documented design provides a clear demarcation of design and construction responsibilities.

### Client influence over the selection of specialists

Keeping the client at arm's length over the selection of the contractor's team helps to clarify the allocation of risk in the contract.

### Overall speed of project

Timescales are known and there should be less opportunity for extended negotiation during the tender period than with a two-stage approach.

## DISADVANTAGES

The firm price is only as good as the design information on which it is based. Changes introduced by the client or design team will undermine the certainty achieved with a lump-sum tender.

The contractor's offer of risk transfer may have little value if its assessment of costs, programme or working method is incorrect.

Second-stage tendering helps the contractor to understand the design. The use of provisional items as a substitute for a complete design can give the contractor a "second-stage" pricing opportunity.

Competitive pressure may encourage tenderers to take risks in their pricing. The tenderer's bids are based on logistics options prescribed in the tender documentation and may not represent the best value solution.

Single-stage bids are more resource-intensive and, relative to the spend, tenderers have a lower chance of winning a job.

Single-stage traditional procurement offers limited scope for a team to develop a shared objective or for a contractor to contribute to design development. Competitive tendering and lump-sum contracts can lead to adversarial behaviour related to the effects of changes to the agreed scope of work.

The client has a limited opportunity to influence the selection of specialist contractors.

Sequential design and construction removes opportunities for acceleration of the overall programme.

Clarification of contractor's proposals related to contractor-designed work may take an extended period of time.

Receipt of tenders above budget could delay the project as redesign and repricing must be completed before the contract sum is agreed. No work can commence before the contract sum is agreed.

## 03 / SOURCES OF PROBLEMS

With single-stage tendering, the client and contractor have one opportunity to make key decisions – the choice of contractor and the agreement of the price. Thereafter, much of the project's success will rest on the quality of the information on which the selections were made. Key areas where problems can arise include:

- The concentration by the client and project team on meeting the overall programme at the expense of key intermediate stages. An example is missing out design milestones in a rush to get out to tender. Problems that were not identified in early stages can result in delay, design changes, problems with co-ordination, and so on

- Proceeding to tender with unresolved design issues, which will eventually result in:

- Communicating different levels of design completion in tender documentation. Different design disciplines work to different duties, which affects tender deliverables, design responsibility and so on. Tender documents do not always

☉ communicate these issues clearly

- The definition of the contractor's designed work, including scope, the extent of devolved responsibility for design and the management of interfaces with other work
- Incomplete or contradictory tender information
- The potential for the misunderstanding by the contractor of key aspects of delivery, caused by

limited information or insufficient specialist contractor input into their tender

- Errors or omissions in the contractor's tender
- Qualifications or discrepancies in the contractor's submission that are not identified prior to the acceptance of tenders
- Queues during the tender resulting in the issue of addendums and delays to the tender process.

Most of these issues relate to getting the design and tender offer right before the start on site.

Contractors increasingly can have a substantial role in the completion of design on many projects. Two-stage tendering has blurred the discipline of early design certainty. But work involving contractor design can follow a single-stage route, as long as requirements are clearly communicated.

## 04 / STRATEGIES FOR SUCCESSFUL COMPETITIVE TENDERING

Single-stage competitive tendering is regularly used for the appointment of contractors on traditional or design-and-build contracts. On traditional projects with a bill of quantities, a sensible value cut-off is about £20m for non-complex projects. Steps that can be taken to improve the contractor's submission include:

**Limiting the contractor's risk** Projects that are set up to pass a manageable set of risks to the contractor are likely to return more competitive prices than those where a contractor's exposure is more open-ended. This has been evident in the boom, where complex projects have been able to secure contractor interest only by two-stage or negotiation routes. Options to mitigate the contractor's risk include:

- Appointing co-ordinated design teams with a track record of working together on projects using single-stage tenders
- Undertaking design reviews for completeness, buildability and co-ordination before issue for tender
- Increasing a bidder's chances by using a tender list of no more than four or five contractors
- Preparing comprehensive tender documentation, including pricing documents, and allowing sufficient time for the preparation of competitive tenders. In the case of design-and-build projects, some clients have permitted tendering contractors to collaborate in the preparation of their own pricing documents to provide this certainty
- Minimising work that will be designed during construction. Design work that cannot be priced at tender should be structured as discrete packages of work that can later be competitively tendered
- Permitting the contractor as much discretion as is practical over the selection of specialists. Those related to the envelope or services may, however, need to work with the project team on the basis of a pre-contract agreement ahead of the contractor's tender
- Procuring higher risk works such as demolitions, groundworks and substructures as a separate contract, enabling the principal contractor to manage the risk with a well-defined scope of work.

**Selecting the right contractor** This involves ensuring that the contractor's proposal can be delivered as well as identifying the most advantageous offer. In principle, if the prequalification of contractors is effective, and good practice is followed, the client should be able to accept the lowest tender without hesitation. However, once mistakes are made in the compilation of a tender they are difficult to mitigate. As a result, prequalification and the post-tender evaluation are critical to ensure that a bid offers the client the basis for cost and time certainty. Steps that should be taken include:

- Investing in pre-tender briefing and mid-bid consultation to ensure that contractors understand the project requirements, have all necessary information and are willing to complete the bid
- Use of quality criteria in the bid evaluation, administered in accordance with standards such as JCT guidance
- Use of e-tendering software to provide managed circulation of all

information including correspondence, tender addendums, and so on

■ Building enough time into the programme to allow for the post-tender evaluation of tenders, including the confirmation of the contractor's correct interpretation of client requirements, design intent, project constraints, and so on.

**Managing the design process to deliver certainty** Design has become an increasingly collaborative undertaking that benefits from the clear articulation of responsibilities. It is not a linear process and, as a result, the cut-off points required at tender or at the commencement of construction do not align with the way many designers work. The project management of design is a specialist skill that involves understanding this, and builds on a detailed definition of the extent and status of design deliverables. Clients should do the following:

- Allow sufficient time in the pre-contract programme for the completion of design work and any production information
- Produce detailed programming and track the progress of design completion
- Rigorously apply design-stage reviews and design freezes.

**Design co-ordination** On traditionally procured projects, the co-ordination of the design remains the responsibility of the client. Full co-ordination appropriate to the stage of design development should take place ahead of tendering, so that any contractor-designed elements can be integrated into a design solution that is known to be workable, without extra requirements for variations to the design.

**Design responsibility** The definition of design responsibility is an area where clients can often lose control over the transfer of commercial and programme risks to the contractor. Where risk transfer is complete, as in design-and-build projects, there is less potential for problems. For projects based on partial contractor design, the demarcation of responsibility is far more critical. There are two aspects that need to be considered in this regard:

- Clear communication of the extent of design responsibility allocated to the contractor and making sure designers stay strictly within the boundaries of their scope of work
- Continuing co-ordination of the work of the contractor and its specialists, as contractor-designed work is integrated into the client's design solution.

Design management and co-ordination are key aspects of the "de-risking" of a project for client and contractor. However, the greater use of two-stage and fast-tracked approaches to design and construction have led to a prioritisation by the project team of programme over design completion. As clients elect to secure greater competition in pricing, it is important to ensure that the design is sufficiently complete, and provides all parties with a firm basis for an agreement. This will make a considerable contribution to delivering a low exit price as well as a competitive tender.



## 05 / CASE STUDY I: SINGLE-STAGE TENDER FOR A COMPLEX DESIGN-AND-BUILD CONTRACT

This case study demonstrates that high-risk, contractor-designed work can be let using a single-stage route, but that sufficient time must be set aside for dealing with queries and evaluating tenders. The project is a below-ground facility developed as part of a complex, city-centre transport hub. The works, with a value of £25m comprise a deep basement construction and fit-out. The project involves a complex and programme-critical series of staged handovers to enable other elements of the transport hub to

proceed. The employer is a multi-client body and Official Journal procedures were followed.

Due to the complexity of the logistics, the team chose a design-and-build strategy. The design was completed to RIBA Stage D+ before tender and was highly prescriptive. Tenderers were pre-qualified from an existing framework. Four tenderers were prequalified on the basis of strong expressions of interest and capability.

High levels of communication were maintained with the tenderers, with mid-bid interviews and an

exhaustive technical query process that dealt with general and tenderer-specific enquiries relating to technical and commercial issues.

Owing to the detail of the submissions, and the need for some design and scope change, the post-tender evaluation took more than three months and two preferred tenderers were asked to stand by their offers beyond the 90-day period. Maintaining contractor interest and competitive pressure during the latter stages of evaluation was a particular challenge that was successfully met.

## 06 / CASE STUDY II: SINGLE-STAGE TENDER FOR A COMPLEX DESIGN-AND-BUILD CONTRACT

This case study illustrates how steps taken by an employer in managing the extent of a contractor's risk exposure on a project during tenders and construction can secure a competitive tender that still gives the supply chain the opportunity to secure successful outcomes. The project is a commercial office development.

Owing to the early availability of the site, the client was able to tender separately a groundworks and basement package while the design was completed. Employer's requirements were issued on the basis of RIBA Stage D, with the curtain wall package also separately tendered to reduce the principal contractor's risk. The project team was eventually novated to the successful tenderer. The client did not

prepare a detailed pricing document, but consented to the competing contractors' commissioning their own bill of quantities. In this case, quantities risk remained with the winning bidder.

In adopting the single-stage route, the client sacrificed some opportunity for interface with the contractor's supply chain and was heavily reliant on the quality of their initial statement of design intent and specification to achieve expected quality standards on site. By taking substructure risks out of the main contract, the client not only secured well-priced bids, but also was able to invest in a more complete design solution than might otherwise have been possible.



*Several city academies have been procured using single-stage tendering, including the Westminster Academy, designed by Allford Hall Monaghan Morris and nominated for this year's Stirling prize.*

### Acknowledgements

We would like to thank Nigel Addy, Neil Hamilton and many other Davis Langdon partners for their contributions to this article