



CANADA MORTGAGE AND HOUSING CORPORATION

TENDERING CONTRACTS

Overview

Tendering enables a housing organization to obtain a contractor who will carry out the proposed work at a guaranteed and competitive price within a specified time period. The tendering process is used to purchase or lease goods, acquire services and identify contractors for construction (including repairs, renovations, alterations and restorations). The general principle of tendering is that a contractor is selected in a fair competition based on demonstrated reliability, financial stability and price.

Because of its competitive nature, tendering for specialized services normally reduces costs for the organization. It also saves time. Hiring fully qualified people through this process can help reduce or

eliminate additional costs related to administration, overtime and vacation, as well as problems related to poor service. It also means that once a contract has been awarded, such as for maintenance, the contractor can be on call 24 hours a day, seven days a week, meaning more efficient, more effective response to complaints from the householder.

Choosing a procurement technique

There are different procurement techniques (see *Tendering Contracts: Procurement*) and the technique used will depend on such factors as the scope and nature of the project and the amount of funds available. Work that is tendered out normally includes:

- major capital construction projects;
- work that requires special skills (that is, plumbing, electrical, carpentry, equipment servicing, etc.);
- work requiring costly or specialized equipment;

- work requiring more staff time than usually is available, such as carpet cleaning, snow removal and painting; and
- professional services that require a high level of professional, scientific, technical or managerial ability and knowledge, such as architects, engineers and land surveyors.

When choosing a procurement technique, the organization must ensure that the recommended approach is the most cost-effective and that there is minimal risk of cost overruns. Funding agencies may also require that specific criteria be satisfied.

Bids may be obtained by direct invitation or by open tender. Invitational tenders are sent to a limited number of contractors who are invited to bid on a construction project. A public or open tender is commonly used for projects costing more than \$100,000. It can be advertised locally, regionally or nationally. Both the call for tenders and contracting process must be carried out in accordance with procedures specified by funding agencies.

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Pre-tender considerations

Before developing tender documents, the organization should confirm the following:

- Plans and specifications, including site plans, as well as mechanical, electrical and architectural drawings are ready for distribution;
- Building permit requirements are known;
- Local availability of skilled and unskilled workers;
- Quantities, quality and prices of locally available material; and
- Availability of suitable local equipment at competitive rental rates.

Cancellation of call for tenders

The housing organization may cancel a call for tenders at any time, including after reviewing bids, if it decides not to award a contract. Most tender packages say that the organization does not necessarily have to accept the bids. This protects the organization if it decides not to proceed with awarding a contract. All contractors who submitted bids must be told the call for tenders has been cancelled and their bid securities must be returned (if they were required as part of the bid).

Obtaining bids

Fairness, and in some cases the law, requires that the same information is provided to all bidders in the form of a tender package. The tender package is prepared in advance and, ideally, contains all of the information that a contractor

will require in preparing a bid for the job. This includes relevant drawings and specifications and clear directions about bid security. Potential bidders will likely have questions, however, so the procurement manager should be prepared to clarify parts of the tender package after it is issued.

To learn more on how to prepare a tender package, see the *Tendering Contracts: Calls and Submissions Checklist*. The process of calling for tenders includes the following steps:

1. Setting a schedule
2. Providing a description of the work
3. Requiring bid security
4. Distributing tender documents
5. Inviting bids
6. Answering questions
7. Accepting amendments to the bid
8. Organizing a site inspection for potential bidders
9. Receiving bids
10. Opening and reviewing bids
11. Conducting negotiations
12. Awarding the contract

1. Setting a schedule

Realistic deadlines should be set for completing the various stages of the tendering process before calling for bids. Sufficient time is needed to prepare the tender package and to receive the bids. Contractors may need time to view the unit or units before submitting their bids. Timing for rental

requirements should also be considered. For instance, if the contract calls for major repairs prior to new clients moving into the unit, an early completion date should be stipulated to minimize the length of time that the unit will be vacant.

2. Providing a description of the work

For the bid process to be effective, the work to be done needs to be clearly specified. It should include all steps involved, but avoid lengthy descriptions. For example, it should clearly state if the work includes removal and disposal of existing materials; specify which manufacturer's products are to be used or state specific performance standards the product must meet. Drawings to help describe or clarify the work to be done are normally expected. They should be clear, comprehensive and should display measurements. The organization can prepare its own description of work or hire a consultant to do so. Generally, a professional consultant should be hired for major construction work.

3. Requiring bid security

In the tender package, an organization can ask bidders to include bid security in the form of a certified cheque or a bid bond in the amount of 10 per cent of the bid. This practice helps to ensure that only contractors who are serious about the job will submit bids. Obtaining bid security can be waived if it creates difficulty in getting contractors to bid. Bid security is not usually asked from professionals.



The bid security is returned once a contract has been awarded, with some exceptions. For instance, a bidder who withdraws after the bids have been opened, but before acceptance, will lose that security. The security can also be forfeited if the bidder refuses to enter a formal contract after the bid has been accepted.

Bidders withdrawing their bids before the bids are opened do not lose their security. The bid securities are also returned if the housing organization cancels the call for tenders.

4. Distributing tender documents

Tender documents should be available as indicated in the tender advertisements, but it is helpful to post the tender documents in as many places as possible within the general advertising area of the call for tenders. In some cases, bid documents will be made available

to local construction associations to ensure they are aware of the opportunity.

Normally, only one set of documents is issued to each contractor. As well, in an invitational tender, documents are normally provided only to the contractors invited to tender unless the organization wants to allow contractors who request tender documents to present a bid.

If tender documents are to be returned, contractors should be asked for a refundable deposit for each set. The following are examples of refundable deposits for tender documents:

- \$25,000 or less none
- \$25,000-\$100,000 \$25
- \$100,000-\$500,000 \$50
- \$500,000-\$1 million \$100
- \$1 million to \$5 million \$250
- Over \$5 million \$500

5. Inviting bids

In an invitational tender, the organization invites three to six potential contractors to bid on the call for tenders. With this method, bid packages may be sent out with a letter of invitation, or the organization may require that interested contractors request tender packages. Sending tender packages with a letter of invitation typically saves time when dealing with out-of-town bidders.

The other method is to solicit bidders by public advertisement. When doing so, the ad should include the organization’s name, the location and nature of the work, who to contact for tender packages and the deadline by which contractors must submit bids. The following are examples of guidelines for where to advertise:

- Work valued at less than \$50,000 can be advertised locally;
- Work valued at between \$50,000 and \$1 million can be advertised within the province/territory; and
- Work estimated at more than \$1 million can be advertised in two provinces/territories or nationally.

Regardless of the method, the names, addresses and phone numbers of contractors who receive tender packages should be recorded as it may be necessary to send further information to them before the closing date.

6. Answering questions

During the call for tender period, contractors may request clarifications on items that are not clear in the

specifications or the instructions to bidders. These questions should be answered fully. Copies of those questions and their answers should be provided to other bidders to ensure that everyone has the same information.

An addendum to the tender package can be prepared and sent to all contractors when the clarification is important. An addendum should be added to each tender package that has not yet been sent, and copies of the addendum should be sent to all contractors who have already received tender packages. Depending upon the time that an addendum is issued, it may be necessary to extend the closing date of the tender.

7. Accepting amendments to the bid

Contractors can only amend their bid up to the time of closing of the call for tenders. After that, they cannot. Once a bid has been opened, the organization can only allow a bidder to adjust a bid if the adjustment reduces the price and the reduced price does not alter the order of the bids. Basically only the low bidder can reduce the bid.

8. Organizing a site inspection or potential bidders

Most contractors will want to visit the site before submitting a bid so they can compare the specifications from the tender package with the actual conditions on site. The recommended approach is to plan one on-site meeting with all contractors. This meeting

presents an opportunity to clarify issues as they arise and provide the same information to all potential bidders, hence ensuring the integrity and fairness of the bidding process. Proceeding as such also allows the organization to retain control of the keys and access to the property.

9. Receiving bids

Allowing contractors to send their bids by fax or e-mail should be considered. If the tender document indicates that bids submitted by fax or e-mail are not accepted, then these bids must be refused.

As bids are received, the date and time of receipt must be noted. This is usually done via a date stamp on the package, but items received by e-mail (if allowed) also need to be recorded. Any bid that is received after the slated closing date and time should not be opened, but simply date-stamped and returned unopened to the bidder. The received bids should be kept unopened in a locked cabinet until the official date and time set to open them. The names of bidders or the number of bids received should not be given to anyone before the bids are opened.

10. Opening and reviewing bids

The bid opening may be private or public but the organization's designated officials should be present at all bid openings. It is good practice to have more than one person present when bids are officially opened and to document who was present for the opening of each of them.

The procedures outlined in the tender package must be followed when opening the bids.

Some organizations establish a committee to open bids and review them. The committee should include at least three people who are knowledgeable about the type of project and who are not involved or associated with any of the bidders. Typically, each committee member independently evaluates the bids, using the same agreed-upon criteria and assigned weights for various aspects of the work.

An organization should use firm, fixed standards to review each opened bid. Tendering is a formal process. Criteria and information in the tender documents must be used in judging the bids in order to be fair and unbiased. For what to look for, refer to *Tendering Contracts: Analyzing a Bid*.

It is always recommended to verify the reputation and record of contractors. One way to check a contractor's reputation is to contact the local Better Business Bureau to find if it has received complaints about the contractor. Another way is to ask the contractor for names and contact information of recent clients. Conducting a basic credit check with the contractor's bank (the permission form would have been part of the tender package) is also another option.

Contrary to common perception, a contract is not awarded solely on the basis of the lowest price for the work—although price is an important consideration. In fact, expertise and previous experience are significant

considerations and, along with the technical merit of a bid, are more important than price. Generally, the bidder's price is weighted at 15 per cent to 30 per cent, depending on the project requirements. The other criteria in the bid or proposal are also given relative weights. The contract is then awarded to the bidder who meets all the mandatory requirements of the tender or proposal and has the highest total score for the package of rated criteria.

A bid can be rejected without undertaking a complete analysis. This includes bids that do not meet all the mandatory requirements of the tender. If information is missing, incomplete or inaccurate, a decision must be made on whether to accept the bid. Some errors or omissions render the bid invalid.

Rejected bids should be returned to the bidder with a letter explaining the reason why the bid was not accepted.

11. Conducting negotiations

Once the most suitable contractor has been chosen, based on the competitive bid process and subsequent financial/ experience checks, negotiations may be required.

Such discussions and negotiations are not unusual. Quite often a bid may be “pretty good” and the “best available,” but it is not completely acceptable as it stands. When that is the case, the organization may want to clarify certain aspects of the bid or negotiate

changes. If the contractor agrees, discussions on how to make those changes will start the process. If those discussions and subsequent negotiations succeed, the contract can be concluded and officially awarded.

Negotiations may also be necessary because the scope of the work has changed since the project was tendered, or the tendered price exceeds the corporation's budget. If negotiations are successful in securing an acceptable contract price, the contract can be concluded and officially awarded.

12. Awarding the contract

Awarding the contract is the final step in the tendering process. Generally speaking, the contractor is selected based on demonstrated reliability, financial stability and general acceptability. If two or more bids are equally

acceptable, it is up to the organization to select which bidder they want to enter into a contract with.

The contracts should be awarded as soon as possible after the review of the bids has been completed. It is good practice to obtain written confirmation that the bid price is still valid and the security requirements can still be met.

The successful contractor should be advised of acceptance by letter. Other bidders should also be advised by letter that the contract has been awarded and to whom the award was made. If unsuccessful bidders ask, they can be debriefed on why they did not win the contract after the contract has been awarded. Only the unsuccessful bidder's bid or proposal should be discussed at this time. This also applies to the other bids and bidders.



Confirmation should be obtained that the contractor has obtained liability insurance and that Worker's Compensation Insurance is in place for the job. It should be ensured that the contractor arranges for a notice of cancellation provision to notify the organization immediately if the policy is cancelled for any reason. Once confirmation of insurance and contract security have been received, the contract may be signed.

If a contractor refuses to sign a contract, bids should be invited from (at least) the second-, third-, and fourth-ranked bidders from the original tender.

Contracts are legally binding. An organization should never enter into a contract unless it is certain its objectives are properly met. If there are questions about a contract, a lawyer should be consulted. It can also be helpful to have a lawyer review major contracts before they are signed.

For more information, please visit CMHC's website at www.cmhc.ca/affordablehousing