



**Construction Industry Council**

# **ONLINE BIDDING**

## **A CIC BRIEFING NOTE**

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## Introduction

The use of e-Technology is being increasingly adopted in today's business environment. Regular visitors to the CIC website may already have come across the Liability Briefing on e-Business, which deals with all sorts of e-Issues such as e-Contract formation, e-Drawings and such like. As stated in the Introduction to the Liability Briefing on e-Business, the use of e-Technology has clear benefits for businesses and projects generally, allowing for improved efficiency, speed and accuracy.

One of the ways in which e-Technology has been adopted by the construction industry is in the procurement process. Whilst there may be benefits in the use of e-Technology for this process, there may also be risks. This guidance note has been prepared by the Construction Industry Council (CIC), with the participation and endorsement of the Specialist Engineering Contractors' Group (SECG) to explain the procurement of construction products and services through on-line bidding.

## On-line Bidding

On-line bidding is known by several names, including 'electronic reverse bid auctions', 'reverse auctions' or simply 'e-Auctions'. The phrases 'on-line bidding' and 'e-Auctions' are used interchangeably throughout this guidance note.

The use of on-line bidding should only be used where the requirement can be 'accurately specified' by the client (although this is not to say the requirement cannot be complex). The on-line bidding should only take place once the brief has been fully developed.

Factors other than price (e.g. delivery, quality, etc.) should be taken into account by the client prior to the on-line bidding in order to 'weigh' the price bids in which to determine the overall position of the bidder. The on-line bidding process should be open and transparent as a matter of good practice. There are many ways of setting up an e-Auction, which will affect the way in which a bidder will be able to view his ranking. For instance, a bidder may see his position on a graph amongst other bidders' bids or he may see his own position only - it is up to the client to select the most appropriate e-Auction design.

On-line bidding has been used in other industries for some time but was subsequently adopted by some – usually very large portfolio – construction industry clients in purchasing not only products but also professional services and complex services including major contracts for construction that may include design elements and considerable subcontractor input.

This expansion of the use of on-line bidding to include the purchase of services in the procurement of professional and complex services has faced significant opposition from many representatives of the construction industry, primarily because of the process's apparent focus on price rather than quality or value.

### **The On-line Bidding Process**

The process involved in on-line bidding varies depending upon the products and services procured. Generally speaking however, the process is as follows:

1. Bidders are pre-qualified using the criteria expressed at the outset by the contracting authority.
2. Pre-qualified bidders will be invited by the client to submit a 'technical' proposal containing everything (except the price) and to participate in the auction on a specific date and at a specific time. Specifications and instructions on how to participate in the auction will be provided in advance of the event. Bidders will be advised after prequalification that an e-Auction will take place.
3. Client will provide software and practice/training as necessary.
4. Client will review the technical proposals and resolve any qualifications and apply weighting, if appropriate. In the case of weighted bids the prices submitted at the e-Auction stage may be subjected to an overall weighting, which takes into account criteria other than price alone, so the display bid will not purely be based on price alone.
5. The on-line bidding exercise will usually be conducted on behalf of the client by an IT service provider. It is usually specified that bidders can only bid downwards and the minimum decrement is usually specified.

6. The bidding exercise will have a specified opening and closing time. The e-Auction will close when no new bids are received and the closing time has expired. If however, a new (lower) bid is received just before the scheduled closing time, the allocated bidding time will be extended.
7. The bidders' identities will be kept confidential during the event although the number of bidders will usually (but not always) be apparent from the screen.
8. The client may sometimes display an opening bid price; this will be an indicative guide to bidders. From this point onwards, all bids will progress downwards during the duration of the e-Auction. The client may set the e-Auction parameters so as not to allow bidders to start their bidding higher than the opening bid price.
9. Each bidder will receive feedback on its own ranking in relation to the other bidders.
10. Each bidder will be able to submit as many new bids as they wish up to the closing time of the e-Auction; the rankings will be revised accordingly.
11. All bidders will be notified of their results.
12. The client will have an opportunity to review the bids to ensure that quality, service and other value-adding considerations are met.
13. Once the review process has been carried out, the contract will be awarded to the successful bidder against the criteria that were established at the outset.

### **Advantages and Disadvantages of On-line Bidding**

There has been a large amount of publicity generated in the press about the disadvantages of on-line bidding. With a few notable industry exceptions, the level of usage is still relatively low therefore it is difficult to be definitive. The

advantages and the disadvantages of on-line bidding set out below should help in making an informed decision on whether or not to participate in such a process.

### ***Advantages:***

Many of the advantages listed can also be found in other procurement processes.

- On-line tendering is a method of standardising the procurement process
- Preferred bidders are all contained within a single database
- Bidders can be monitored
- Good control of bidders' submissions
- Easy comparison of bids
- Confidence in validity and integrity of contractual documentation
- Time benefits: reduction in paperwork, postage, photocopying
- Ease and speed of communication to multiple bidders
- Audit trail for documentation
- Secure bidding environment
- Better efficiency in the process
- Potential for access to competitors' bids
- The ability to submit more than one bid

### ***Disadvantages:***

Again, many of the disadvantages listed can also be found in other procurement processes.

- e-Auctions do not appear to take into account the current innovative industry practices for procurement in the construction industry. The perception of on-line bidding is based upon 'lowest price' rather than the 'best value' initiative as set out in 'Re-Thinking Construction', although the client has the opportunity to set the criteria against factors such as quality and performance. 'Re-Thinking Construction' also seeks to discourage tendering as wasteful, recommending instead the development of partnering and teamworking arrangements; e-auctions could continue to reinforce industry fragmentation at the expense of such arrangements.
- The time pressure to submit a bid lower than that shown on the screen may lead to errors of judgment. Contracts subsequently awarded under the on-line bidding process may therefore, create an even greater likelihood of errors, disputes, bad faith and an increased risk of claims than in traditional tendering processes.
- Where there is insufficient weighting, there may be a risk of 'cut-throat' pricing by bidders where corners may be cut and quality compromised.
- As with all procurement processes, there may be jurisdictional issues to be clarified.
- Because of the time pressure, it is very difficult (if not impossible) in real time to include the bids of the entire supply chain in the bidder's bid.
- The process can lack transparency when it comes to evaluation procedures by the client where those procedures are not seen by the bidders.
- The process might still discourage firms from taking part because of the perception that the process depends solely on low price bidding.
- Bidders may not be given the opportunity to negotiate or discuss their contract terms prior to taking part in the e-Auction; nor may they have time to check with their insurers to ensure that the contract will be covered under their policies. This may therefore, result in many uninsured risks.
- Unscrupulous clients could introduce ghost bidders. Further information on this can be found in an e-Ethic statement issued by the CIPS.

## Is On-line Bidding Right For You?

The objective of the on-line bidding process must be to obtain best value and not purely lowest price. It cannot be possible to achieve best value outcomes whilst the focus remains on price.

The ultimate decision on whether or not to bid using the on-line bidding process will of course rest with potential bidders. The on-line bidding process should be carefully utilised as one part of a complex procurement process and not as a separate tool. Where the relationship of strategic critical goods and/or services cannot be specified, it may be unwise to run an auction.

Both the client and the bidders should have an appropriate knowledge of the e-Auction subject, its market, its market price and of the process itself, if the e-Auction is to be successful.

## Improving Procedures

- Clients and their procurement advisors should put great effort into identifying and pre-qualifying potential bidders, constructing comprehensive and complete invitations to bidding and reviewing pre-bid submissions. Clients are advised to establish pre-qualification criteria which might include financial stability, in-house expertise, historical performance, etc.
- Bidders meeting the pre-qualification criteria should be trained on the methodology to be used for the on-line bidding process.
- Clients/potential bidders /IT service provider should sign a confidentiality agreement.
- There should be transparency and openness in the on-line bidding process, including weighting criteria and methodologies to be used, and the number of bidders competing in the tendering process should be disclosed.

- The client should review all bids at the end of the tendering process and should give consideration to the best value offered by each bidder after weighing the criteria of best value relating to the type of service or product. This should not be necessary if he has reviewed all technical bids first; then he would only need to get the price from the e-Auction.
- The cost of running the e-Auction should be taken into account and should not be greater than the business benefits that would be derived from the overall competition.
- The client should tell the bidders from the outset about pricing through e-Auctioning, and should not go through a normal sealed bid tender without any mention of an e-Auction only to change his mind at a later stage.
- Industry forms of contract (ie JCT, NEC, etc) should be used and they ought to be used unamended.

## Conclusion

On-line bidding is considered by some major industry observers as totally contrary to the Egan principles and recommendations of the *Rethinking Construction* and *Accelerating Change* reports insofar as it perpetuates tendering practices, detracts from partnering and teamworking and ignores best value. This is because the perception of on-line bidding process is that it appears to be price-driven whereas Egan encourages the selection of contractors and suppliers based upon value and quality.

However, *Accelerating Change* was not averse to the general concept of the use of electronic means for procurement, which had been observed to achieve cost and time savings.

Other parties in the industry believe that if on-line bidding is approached correctly within the whole procurement process, then it will not be 'harmful' to the Egan principles. The focus then should be on harnessing an intelligent approach to procurement in construction products and services. Unfortunately, the on-line bidding market has witnessed few clients adopting this suggestion for the purchase of construction products and services, employing rigorous pre-

qualification procedures and conducting extensive interviews to select the bidders – in the same way as they would do on traditional contracts.

On-line bidding for construction products and services should be considered a method for purchasing **only** if it is used in a proper context, within a sound procurement process, and under the right expertise. It still carries some adversarial aspects embedded in any on-line bidding process, and lessening those aspects and their impacts will come through better guidance and practice codes for implementing the on-line bidding method.

The following are general recommendations for providing a proper context for using on-line bidding:

- On-line bidding should be used only for the supply of commodities (tactical procurement), and not building design and engineering services or complex construction services (strategic procurement).
- It should be used where technical and design specifications are clear and defined for a certain product/service.
- It should be part of an e-Procurement process that has extensive consideration for value, quality and performance criteria besides price.
- Guidance should be obtained from various industry bodies on best practice and implementation plans.
- Client and bidder need to recognize the dangers to long-term relationships, project performance, and contractor sustainability that e-Auctions can bring.
- Where the relationship of strategic critical goods and/or services cannot be specified, it may be unwise to run an e-Auction.

## ACKNOWLEDGMENT

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Further information on E-issues is available through the CIC's Liability Briefing document available to download from [www.cic.org.uk/liability/ebus.htm](http://www.cic.org.uk/liability/ebus.htm)

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## CIC MEMBERSHIP AT JANUARY 2004

### FULL MEMBERSHIP

ABE	Association of Building Engineers
ACA	Association of Consultant Architects
ACostE	Association of Cost Engineers
ACE	Association of Consulting Engineers
ACBS	Association of Consultant Building Surveyors
APM	Association for Project Management
APS	Association of Planning Supervisors
BIAT	British Institute of Architectural Technologists
BIFM	British Institute of Facilities Management
BRE	Building Research Establishment
BSRIA	Building Services Research and Information Association
CEBE	Centre for Education in the Built Environment
CIBSE	Chartered Institution of Building Services Engineers
CIOB	Chartered Institute of Building
CIRIA	Construction Industry Research and Information Association
CQSA	Consultant Quantity Surveyors Association
DSA	District Surveyors Association
GF	Ground Forum
ICE	Institution of Civil Engineers
ICES	Institution of Civil Engineering Surveyors
ICWGB	Institute of Clerks of Works of Great Britain
IHIE	Institute of Highways Incorporated Engineers
IHT	Institution of Highways & Transportation
IMBM	Institute of Maintenance and Building Management
IoP	Institute of Plumbing
IStructE	Institution of Structural Engineers
LI	Landscape Institute
NFDC	National Federation of Demolition Contractors
NHBC	National House-Building Council
RIBA	Royal Institute of British Architects
RICS	Royal Institution of Chartered Surveyors
RTPI	Royal Town Planning Institute
SCI	Steel Construction Institute
TRADA	Timber Research And Development Association

## **ASSOCIATE MEMBERSHIP**

ACAI	Association of Consultant Approved Inspectors
ACED	Association of Civil Engineering Departments
AOHOS	Association of Heads of Surveying
BACH	British Association of Construction Heads
CHSG	Construction Health & Safety Group
CIMCIG	Chartered Institute of Marketing Construction Industry Group
CICA	Construction Industry Computing Association
CPBEM	Council of Professors of Building Engineering and Management
FoB	Faculty of Building
FPS	Federation of Property Societies
ICM	Institute of Construction Management
RSME	Royal School of Military Engineering
SCHOSA	Standing Conference of Heads of Schools of Architecture
SCL	Society of Construction Law
SPONGE	(network of young construction professionals focusing on sustainability)
TAG	Local Government Technical Advisers Group
TeCSA	Technology and Construction Solicitors' Association