

THE PROCUREMENT PROCESS

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Abstract : In the current economic climate many companies, including telecommunication companies, face increased financial constraints. There is a desire to drive down capital and operational expenditure through improved investment and operational and financial efficiency. Companies are more careful how they invest their capital and aim to receive the best value possible for that investment. Prospective subsea cable system purchasers are no different, the investment required for a new build system or to upgrade an existing system is significant. Purchasers proactively set out ground rules to achieve their objective, to gain their desired system within a designated budget. We achieve this through the procurement process; this paper aims to describe this procurement process.

1 INTRODUCTION

As the number of new build subsea systems gradually increases, recent publications from a Supplier's point of view have expressed disappointment in the way the Purchaser conduct themselves during the supply contract evaluation process. In particular, concern was directed at the Purchasers requirement for a Best and Final Offer, commonly known as the BAFO.

This paper will deliver the Purchasers point of view, outlining the process the Purchasers follow from the inception of the project through to the placement of a supply contract with the selected Supplier and in doing so underline the integrity which the Purchasers maintain during this process.

2 THE PLAYERS

2.1 The Purchaser(s)

On one side of the table we have the Purchaser(s). The Purchaser can be an individual telecommunication company, or a consortium consisting of a number of telecommunication companies who are investing parties, or a private investor which can consist of banks, private funding or even a Supplier itself. The Purchaser(s) is also known as the Owner(s).

2.2 The Supplier(s)

On the other side of the table we have the Supplier(s). The Supplier is the provider of the terminal equipment, subsea cable, repeaters and installation services required to deliver an operational subsea cable system. Some Suppliers specialise in providing all of these services whereas others concentrate on the provision of certain aspects of these products.

The subsea industry is a small niche one and there are a limited number of suppliers which are well known to the Purchasers.

3 THE PRODUCT

No two subsea systems are alike, each subsea cable system has their own bespoke requirements and own

identity. This can range from the owners involved, budget available, timescale required for completion, quality of service as well as the type of technology they want to purchase. Add to this the type of product required, varieties include terminal equipment with cable and repeaters, without repeaters, terminal equipment only, cable only, installation only. Now add to this the choices of system topology available, ring, collapsed ring, point to point, then consideration of double landing versus branching units and levels of connectivity required.

As you see, there is a lot that the Purchaser must consider prior to even approaching Suppliers, however when the Purchasers do make the approach, they know what type of system they want.

4 THE PURCHASERS PHILOSOPHY

The Purchasers philosophy is simple - to purchase a subsea system that meets their set requirements which is within a cost effective solution. Obviously, there is a lot more to it than that and a lot of work required from both the Purchaser and Supplier in order to achieve it. In some ways, both the Purchaser and Supplier are pulling in opposite directions. As stated previously, the Purchaser is looking to purchase the system of their choice for a price within their designated budget whereas the Supplier is looking to maximise their profit margin by providing a product and service at a price which provides them with good financial return.

5 THE PURCHASERS GROUND RULES

The Purchasers do set themselves ground rules!

What the Purchasers want is a competitive procurement process to deliver their bespoke system. To achieve this, the Purchasers will invite a number of Suppliers to provide competitive bids that will be evaluated against pre-determined criteria. Technical and commercial compliances as well as cost are part these criteria.

The Purchasers set themselves certain ground rules before embarking on inviting tenders from prospective Suppliers. These ground rules include:-

- Agreeing the timetable of events from preparing the Invitation to Tender (ITT) documentation, issue of ITT to Suppliers, deadline for responses, clarification and equalisation rounds through to contract award.
- Agreeing criteria that the Suppliers bids will be measured against.
- Agreeing the scoring criteria that the Suppliers bids will be measured against.
- Internal/external reporting timescales.

6 THE PURCHASERS RESPONSIBILITY

It is an objective of the Purchaser to be responsible and maintain integrity throughout the procurement process. The Purchaser purposely pre-defines the ground rules so that each Supplier responding to our ITT will be reviewed and scored fairly.

The Purchaser maintains that all information received is subject to commercial confidence to ensure that there are no leaks of information that may adversely jeopardise the competitive process. Despite this integrity leaks do occasionally occur but they are not organised leaks nor leaks of disinformation by the Purchasers to further drive the cost down; indeed leakage of information can benefit the Supplier as well.

Each Supplier responding to the ITT will be afforded the same amount of effort and time in reviewing their bid.

7 THE PURCHASER'S ORGANISATIONAL STRUCTURE

At the inception of any subsea cable project a group of interested parties is formed by the Management Committee of that system to perform the initial procurement activities on their behalf. The group can be known by many names, Procurement Group (PG), Project Management Group (PMG), Contract Co-ordination Meeting (CCM), to name but a few. All serve the same objective; to provide expertise and experience to manage the preparation of tender documentation, distribute the invitation for tender, conduct adjudication and selection of preferred vendor, placement of supply contract.

Other groups are formed throughout this process to provide expertise and experience in other areas. Typically, a Technical Working Group (TWG) and a Commercial Working Group (CWG) both of which has agreed terms of reference to work against.

During the procurement process there are a number of organisation structures that can be and have been used. Some criticism has been levelled towards the process when evaluation is undertaken by two individual teams. One team known as the Technical Working Group whose responsibility is to evaluate the technical solution being proposed by the Supplier against the

Purchasers requirements. The other team known as the Commercial Working Group has the responsibility to ensure the Purchasers requirements are achieved from the point of view of the terms and conditions, plans of work, milestones and guarantees.

This is not to make life difficult for the Supplier or a rouse to gain further cost reductions whilst the Purchaser gets more for their money at the same time. This structure serves a purpose for the Purchaser. It is a decision that the Purchaser has taken which it believes will deliver the right system for them by having the right expertise in the right forum. The two groups will work and liaise closely together throughout the process.

Another structure is for the TWG and CWG to be combined within the PG or investing parties to provide representation with expertise in these two areas. This allows all negotiations to be held with the Supplier within the one forum where all technical and commercial issues are addressed as and when they occur.

This is a more common approach from the Purchasers in recent projects as this dynamic group is able to proactively address technical issues with commercial implications as they occur in order to meet the increasingly aggressive timescales for the delivery of the project.

The PG/PMC/CCM either conducts themselves or oversees the full procurement process whilst reporting progress into the MC. The PG/PMC/CCM will recommend the preferred Supplier to the MC pending completion of the BAFO process and seek the MC's approval to proceed with direct contract negotiations with that Supplier, with a view to completing and agreeing a contract ready for signature.

8 THE PROCUREMENT PROCESS

The procurement process as I will go on to describe is managed by the Purchasers and will ultimately lead to contract award and placement.

8.1 Rough Order of Magnitude (ROM)

The Purchasers when undertaking their feasibility studies as to whether a subsea system is viable will often approach Suppliers with a request for a ROM. The ROM that the Suppliers are happy to provide, gives high level cost estimation for such a subsea system and it enables the Purchasers to understand the possible levels of investment required to make the subsea system happen.

It should be noted that this cost is typically high and inaccurate to the final signed contract. It is called a rough order of magnitude and sole aim is to provide a high level estimate of the cost.

8.2 Invitation to Tender (ITT)

The ITT is documentation prepared by the Purchaser, which is sent out to prospective Suppliers inviting them to bid to provide the product and services the Purchaser is looking for.

The ITT provides a low level design requirement for which the prospective Supplier can provide a more accurate cost estimate for its provision. It consists of three main parts:-

- General Terms & Conditions (GT&C).
- Technical Specification (TS).
- Price Schedule Format.

In addition, the ITT will request that the prospective Supplier provide compliance statements against the GT&C and TS requirements whilst also providing a fixed submission date to ensure the process is fair and competitive.

The ITT has clear instructions as to how responses should be received by an identified recipient in sealed envelopes and also via email.

It also clearly states the role and rules of the Purchaser. For example, that the Purchaser will not review any bids that are received late, the format that all responses are to be received in, or that no joint bids are to be received unless specifically requested by the Purchaser.

8.3 Clarification / Evaluation Rounds

8.3.1 Acknowledgement of Bids

All ITT responses received within the submission deadline will receive acknowledgement for receipt of their responses.

8.3.2 Clarifications

Upon receiving ITT responses, the Suppliers documentation will be circulated amongst the individual Purchasers for an initial review. From this initial review, the Purchaser will contact the prospective Supplier to clarify certain areas of their bid. This can either be done via email or via a meeting between the Purchaser and prospective Supplier where the Supplier will be given the opportunity to present their bid to the Purchaser.

8.3.3 Evaluation Rounds

After each prospective Supplier is given the opportunity to present their ITT response to the Purchaser, the Purchaser will undertake an evaluation of each bid against pre-determined criteria that will yield an overall score for the Supplier and provide the Purchaser with a ranking score for each Supplier.

The Purchaser will provide feedback directly to the Supplier as to the content of their ITT response, seeking further clarifications in places, requesting additional

detail or indicating that particular responses are not suitable and should be reconsidered. The Purchaser will not however provide the Supplier any indication as to what their scoring may be or their overall ranking against any other Suppliers.

Evaluation rounds serve the purpose to review in detail all responses from Suppliers and provide the Supplier an opportunity to promote their bid to the Purchaser. It provides the Purchaser with sufficient information to enable the Purchaser to draw up a shortlist of prospective Suppliers who the Purchaser wishes to seriously pursue placing a contract with.

Typically, there can be two to three evaluation rounds prior to completing a shortlist where several prospective Suppliers will be eliminated for the procurement process.

8.3.4 Equalisation

Equalisation is an important part of the procurement process. It enables all ITT responses to be reviewed on a level playing field allowing fair scoring against the pre-determined evaluation criteria.

Each Supplier's response is subtly different. Their products can offer differing services whilst complying with the requirements of the ITT, each may provide potential optimisations or improvements which the Supplier has identified which could result in savings for the Purchaser. The Purchaser will measure each Supplier against the ITT documentation as distributed; this is evaluation.

8.4 Shortlist

After two to three evaluation rounds, the Purchaser using the pre-determined evaluation criteria and overall ranking score, will shortlist two to three Suppliers to enter into a final round of bidding. The short listed Suppliers will be advised that they have been short listed and invited to provide a Best and Final Offer (BAFO).

8.5 Best And Final Offer (BAFO)

The BAFO is where the short listed Suppliers provide a final sealed offer to the Purchaser received in similar circumstances to that of the original ITT response, at a given deadline, in a particular format, to a particular person.

The Suppliers will often be asked to present their BAFO and be on hand to clarify any questions that the Purchaser may have.

Once again, the BAFO received from the Suppliers will be evaluated and scored against the same criteria used throughout the procurement process ultimately leading to the recommendation of a preferred Supplier.

Criticism has been levelled at the BAFO. It has been said that the BAFO pollutes the bidding process, that it

is no more a final offer but more of a robbery. Lets not fool ourselves; this is not a Purchasers secret weapon; the Suppliers know that this is coming and it is part of the recognised procurement process.

The BAFO is an opportunity for the short listed Suppliers to fine tune their bids, to realise that they are in serious contention of landing the contract and an opportunity for the Supplier to demonstrate how serious they are in wanting to win the contract. The Supplier has a greater understanding of what the Purchaser is looking for and is able to refine content and cost based on this understanding.

8.6 Preferred Supplier

On completion of the BAFO scoring exercise, the PG/PMG/CCM will report to the MC with a preferred Supplier recommendation. The MC will then review the recommendation and provide authority for the Purchaser to enter into direct contract negotiations with that preferred Supplier.

8.7 Contract Award

Pending successful completion of negotiations with the preferred Supplier, we enter the final stage of the procurement process; the Purchaser will have a contract that represents the common understanding between the Purchaser and Supplier as to what will be delivered.

The contract will typically consist of six main sections as follows:-

These are reiterated throughout the evaluation and BAFO rounds. All this is documented to ensure integrity is maintained.

The Purchaser's procurement process has been conducted in the same fashion for many years. Recent criticism directed at the Purchasers is unfounded; the evaluation and BAFO rounds are the Purchasers mechanism of creating a competitive environment. Without such an environment the Purchaser would be at the mercy of the Supplier and does this competition not drive the Supplier to provide better cost efficient products?

We operate within a niche market, as Purchasers and Suppliers; we may stand on opposing sides but we share one thing in common, a competitive market place!

- General Terms & Conditions
- Technical Specification
- Price Schedule
- Plan of Work
- Billing Schedules
- Supplier's System Description

The contract is now ready for signature for by both parties heralding the formation of a collaborative to provide the service to build or install a subsea cable system.

9 CONCLUSION

The procurement process can be a long and winding road; the Purchaser recognise that a great deal of time and effort is put into the ITT responses by the Suppliers and subsequent finesse of the bids through to BAFO as part of the procurement process. But let us not lose sight of the investment that the Purchaser is on the verge of making. As such, the same time and effort is also afforded by the Purchaser in reviewing, scoring and documenting these bids.

The process is documented by the Purchaser prior to completing the ITT, the ITT has clear instructions as to how to respond to the Purchasers and set deadlines.