

Friday, 5 June, 2015

LOCAL ADMINISTRATION**Barcelona City Council**

Office of the Secretary General

ANNOUNCEMENT

In exercising the powers conferred to the Mayor's Office by Article 13 of the Municipal Charter of Barcelona, the Mayor, on this 13th day of May 2015, has adopted the following resolution:

"TO PASS the guidelines for improving the quality of the process of procuring social, welfare and personal care services, which builds upon the Mayoral Decree for Responsible Public Procurement, as per the document attached. TO REPORT THEREON to the Municipal Council Plenary. TO PUBLISH the guideline in the Municipal Gazette of Barcelona, the public services website or the municipal website, in accordance with State Law 19/2013, of 9 December, on transparency, public access to information and good governance, and the Catalan Parliament Law 19/2014, of 29 December, on transparency, public access to information and good governance."

In compliance with the aforementioned resolution, the comprehensive Guidelines for improving the quality of the process of procuring social, welfare and personal care services are published as follows.

Introduction

Personal care services are without doubt a particularly sensitive area due to the vulnerability of the collectives they are aimed at: children, young people, the elderly, the disabled and groups at risk of social exclusion, among others.

The regulatory framework governing public procurement covers every activity sector, without specifying concrete measures to ensure certain levels of quality in this kind of services, which are tied to the specific needs of the community of users.

In this sense, Directive 2014/24/EU, of 26 February 2014, on public procurement (pending transposition) notes the importance and specificity of services aimed at caring for people, as well as the need to prioritise the following issues in their procurement over financial considerations: quality, continuity, accessibility and consideration of specific user needs, in particular those of the most disadvantaged.

Through these guidelines, Barcelona City Council aims to provide service coverage to make sure that the procurement of this type of services ensures their quality, sustainability and viability, while taking into account the vulnerability of the collectives they are aimed at.

Article 1. Scope

These guidelines apply to all contracts tendered by Barcelona City Council and any organisations and subsidiaries that act as adjudicating authorities, when the object of the contract relates to the provision of social services, care services and personal services, notwithstanding the specific qualification of the contract.

Article 2. Purpose of the contracts

Contracts aimed at providing social services, care services and personal services should, as expressed in the definition of the object of the contract, include the priority of promoting the employment of persons at risk of exclusion.

Nevertheless, the contracting body may justify on record the failure to implement this article, in accordance with the provisions of Article 4 of the Mayoral decree for responsible public procurement.

Article 3. Scoring offers

The assessment criteria that may be evaluated automatically must account for a maximum of 60% of the total score, divided as follows:

- The financial proposal will be considered at most as 40% of the total score.
- Improvements relating to essential obligations in social procurement established in Article 19 of the Mayoral decree for responsible public procurement is to be assessed as at least 10% and at most 20% of the total score.

The contracting body must submit the subjected criteria for a value assessment by a committee of appropriately qualified experts, or a specialised technical organisation, previously identified in the contract specifications, provided that the percentage of criteria to be assessed by mathematical formula is less than 50% of the total score. This committee must have a minimum of three members, consisting of appropriately qualified experts that are not part of the body offering the contract, or assessment will be submitted to a specialised technical organisation that will be duly identified in the contract specifications.

Article 4. Assessment by phases

Assessment of the offers will be eliminatory, wherever this is possible and pending a justification report from the contracting body. In the assessment of the technical proposals, in accordance with the criteria subject to value assessment established by the contract specifications, a minimum threshold score of 50% of total points made up of these criteria will be established. Bidders who do not achieve this score will be excluded from the tender and the rest of their proposal will not be assessed.

In the event three or fewer bidders apply, are admitted to bid or go on to the next assessment stage, such assessment by phases will not be applied, notwithstanding the possibility of declaring the tender void in accordance with current legislation. Under no circumstances may the order of assessment be altered, with the assessment of criteria subject to value assessment always taking place first.

Article 5. Mathematical formula for scoring financial bids

5.1 The mathematical formula that determines the score from the financial offer must correspond linearly to the differences in prices offered by the bidders, in such a way that favours competition without allowing insignificant differences to translate into markedly disproportionate scores.

5.2 Points will be awarded using the following calculations: multiply by the maximum number of points to be allocated, the semisum of the two following amounts: firstly the price of the cheapest bid being assessed, and secondly the difference between the tender price and the bid being assessed and the difference between the tender price and the cheapest bid. The formula to calculate the score is:

$$\frac{\text{Tender price} - \text{Bid being assessed}}{\text{Tender price} - \text{Cheapest bid}} + \frac{\text{Cheapest bid}}{\text{Bid being assessed}} \times \text{Maximum points}$$

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Article 6. Calculating the tender budget

For internal purposes and solely for calculating the tender budget, bodies with legal capacity to propose the contracting of services covered by this decree must take into account minimum wage costs, as well as the general market price in accordance with the provisions of Article 87 of the Consolidated Text of the Law on Public Sector Contracts, taking as a reference the collective agreement that applies to most companies in that sector.

Article 7. Abnormally low or disproportionate bids

7.1 For all tenders subject to these guidelines, objective parameters must be set that will decide whether or not the proposal can be met as a result of the inclusion of abnormal or disproportionate bids.

7.2 The percentage price difference above which a proposal will be deemed to be void due to abnormally low or disproportionate prices will be calculated not only based on the tender amount, but also by a formula that takes into account the number of companies that have submitted a bid.

7.3 When a bid is deemed to be abnormally low or disproportionate and therefore may not be fulfilled, the bidder will be notified and granted a hearing to justify the bid evaluation and its conditions, particularly with regards to savings that will enable execution of the contract, the technical solutions and exceptionally favourable conditions available to it in order to execute the service, with an emphasis on the existing regulations on protection of employment and working conditions, or the possibility of receiving state support.

7.4 The tender board may request relevant technical advice in order to assess the justifications provided by bidders.

7.5 If after analysing the justification offered by the bidder and the reports mentioned in the previous section the contracting body deems the bid may not be fulfilled as a result of the inclusion of abnormal or disproportionate values, the bidder will be excluded from the tender, as established by legislation on contracts.

The contract will be awarded without taking into account the excluded bids, and therefore bids will be assessed without taking into account the companies excluded from the tender.

Article 8. Contractual obligations and compliance oversight

8.1 The following must always be included among the contractual obligations:

- The obligation of the contractor to ensure a minimum level of continuity, justified on the basis of public interest and proper service provision, to be established in the contract specifications of the people carrying out the direct user care.
- The establishment of a specific minimum qualification requirement, to be laid out in the contract specifications, for people performing specialised tasks in social care, personal welfare or healthcare.

8.2 At least the following aspects should be considered essential obligations of the contract:

- Compliance with the minimum ratios laid out in the contract specifications or, should the bidder have proposed this in their bid, higher.
- The minimum number of hours of service provision or, should the bidder have proposed this in their bid, higher.
- Minimum qualifications required of people executing the contract or, should the bidder have proposed this in their bid, higher.

8.3 A contract manager must be appointed, whose functions are defined in the Individual Administrative Clauses of the Contract Specifications, who will act as the liaison with the contractor and who shall verify compliance with contractual obligations, and specifically those deemed essential obligations. The contract manager shall produce periodic reports on the contractor's compliance with obligations, as well as producing a final report prior to the settlement of the contract and the return of the performance bond, where applicable.

Article 9. Entry into force

These guidelines are an extension of the Mayoral Decree on Responsible Public Procurement of 15 December 2013, and will enter into force on 13 May 2015.

Barcelona, 25 May 2015

Secretary general, Jordi Cases i Pallarès