

SPSO decision report

Case: 201305176, Dundee City Council
Sector: local government
Subject: pre-contractual and commercial matters
Outcome: upheld, recommendations

Summary

Mr C submitted a quote to the council to provide them with equipment for a piece of work they were doing. He explained that he prepared a specification and submitted the quote on the basis that he would be considered a 'specialist supplier' and that, as a result, no other tenders would be sought for this work. He made clear in his quote that it included a fee for the preparatory work which would only be payable in the event that he was not considered a 'specialist supplier'. He said that the council subsequently sought two further quotes and awarded the tender to another party. He complained to us that the council had said he would be considered as a specialist supplier and yet they awarded the contract elsewhere, that they did not treat all three companies who tendered in a consistent way, and that they refused to pay his fee.

The council said that Mr C was never told he would be the sole bidder and that they were unable to tender in this way. They said that they did treat all three companies consistently and that they would not pay the fee as they did not agree to the specialist supplier status.

We could not say whether Mr C was advised that he would be considered a specialist supplier. We did find, however, that the council had not followed the correct procedure as they approached him for a quote before seeking two further quotes. They should have obtained all three simultaneously. We also found conflicting comments about the extent to which Mr C's tender was used to develop the brief and specification for the other quotes, and we questioned the council's assumptions that tenderers may not be able to complete the work within the deadline. We also noted that they did not notify Mr C of the outcome of the tender. As the council had not followed the correct process when tendering for the contract and as, on balance, we were not convinced that all tenderers were treated in the same way, we upheld this aspect of his complaint. We recommended that they review their procedures for tendering, apologise to Mr C and pay his fee.

Recommendations

We recommended that the council:

- confirm to us that steps have been taken to ensure that future procurement/tendering processes will be carried out in a fair and consistent manner;
- pay Mr C the requested service fee for their specification and design work; and
- apologise to Mr C for the process failings which this investigation has highlighted.