

The inspection of schools in Wales: tender and awarding process

Autumn 2009, Spring and Summer 2010

Eligibility to tender with Estyn

In accordance with public procurement best practice, Estyn has established standard tendering and contract awarding procedures to ensure that all potential contractors both long established and new, are treated equitably. These procedures are outlined below and are subject to audit.

What is the legislative basis for tendering?

Section 28 of the Education Act 2005, sets out the duty of the Chief Inspector of Education and Training in Wales to secure the inspection of every community, foundation and voluntary school in Wales by an inspector registered under Section 25 of the 2005 Act, or by a member of the Inspectorate. Schedule 4 of the 2005 Act states that, before entering into any arrangement for an inspection with a Registered Inspector, the Chief Inspector must invite tenders from at least two persons, each of whom is either:

- (a) a Registered Inspector, or
- (b) a person who the Chief Inspector is satisfied would, if his tender were successful, arrange with a Registered Inspector for the inspection to be carried out.

Section 25 of the Education Act 2005, gives the Chief Inspector the power to register suitable persons to act as Registered Inspectors. The Chief Inspector shall not register any person unless that person:

- is a fit and proper person for discharging the functions of a registered inspector; and
- will be capable of conducting inspections competently and effectively.

In addition, Schedule 4 of the Education Act 2005 sets out the requirement for all members of an inspection team, if not actually a member of the Inspectorate, to have been enrolled on a list kept by the Chief Inspector. This list is Estyn's enrolled list of inspectors which is updated and issued regularly to contractors.

What is the contractor list?

From the above requirements, it can be seen that Estyn can only award inspection contracts to suitable persons. This has generated a need for Estyn to set up a list of contracting organisations and individuals who are interested in tendering for school inspection work under the legislation as described above. Individuals and organisations not on our contractor list are not invited to tender, and cannot contract with us. However, organisations and individuals, including Registered and Team Inspectors, are allowed the opportunity at any time to complete the necessary processes, as described below, in order that they may join Estyn's contractor list

What is needed to become a contractor?

In order to join Estyn's list of school inspection contractors, to whom contracts may be awarded, contractors are required:

- to have signed agreement to Estyn's conditions of contract for the inspection of schools in Wales; and
- to have submitted a new, satisfactory financial statement and quality statement.

What is the Financial Statement?

The financial statement is a document that potential contractors with Estyn need to complete in order to provide us with details of their business and provide proof of their financial standing. The contractors' financial statements are received by the contracts team and assessed by appropriately qualified officers independently of the evaluation process for quality statements. Any queries or requests for clarification relating to the financial statements are raised with contractors. The Qualification Response of the Invitation to Tender, places a responsibility on the contractor to notify us in the event of any change in their financial circumstances. Estyn's contracts team will assess the information supplied by contractors within their financial statements and will raise any relevant queries or issues of concern with contractors directly during the tendering process.

It is the responsibility of the contractor also to identify to Estyn, both through the information it provides in its financial statement and in the Qualification Response, any issues and circumstances that could be construed as a conflict of interest if the contractor was to undertake an inspection of any specific school or in any specific area.

Estyn will have the final say as to whether conflict of interest applies in relation to a particular contract. The issue of conflict of interest as it applies to inspection teams should be addressed by the contractor after the awarding process in accordance with Section 7 of the Conditions of Contract, Version 10.

What is the Quality Statement?

Quality statements are effectively self-evaluations undertaken by contractors against risks that should be identified and managed in relation to various aspects of the inspection process including arranging for the inspection to be undertaken by suitably qualified and endorsed inspectors. Contractors will be asked to complete quality statements annually. Estyn will advise contractors of the timetable for submission of quality statements each year.

What is the Audit Visit

Audit visits will be undertaken following the receipt of contractor quality statements. The objective of the audit will be for Estyn to seek assurance that each contractor's system for delivering inspections is effective, in line with their quality statement and compliant with the current conditions of contract.

The Audit visit will review a sample of risks to test compliance. Seventy-four percent of risks will be evaluated by a combination of office testing, contractor

questions and on-site compliance checks – these are risks 1, 3, 4, 5, 6, 8, 10, 11, 14, 15, 17, 18, 19, 20, 21, 22 & 23. The risks which are not audited are considered through the quality monitoring of inspections and reports (QMI/R) process.

What happens to the Quality Statements?

The contractors' quality statements are received by the contracts team, who give each statement an identification number. The team is responsible for removing any identifying memos or letters from the statements, ensuring that the contracting organisation cannot be identified. An evaluation board only evaluates the statements once this process is complete. Evaluation board members each sign a declaration of interests so that any potential areas of conflict of interest on their part are identified prior to their participation in the process. If a conflict were to be declared the evaluation board member would not take part in any part of the process.

The evaluation board includes individuals with considerable experience in the inspection of schools, including quality monitoring, and they are therefore able to assess evidence provided of appropriate arrangements and good practice. The evaluation board assesses how each individual risk in the statements is managed. The findings from the audit visit will be presented to the evaluation board in conjunction with the quality statement. By reviewing the quality statement and the findings from the audit visit the evaluation board will assess the probability of each identified risk being managed well by the contractor and agree a score using a 0 - 5 scoring range for each risk.

The evaluation board members involved in the quality evaluation are not involved in any subsequent part of the contracting process and have no means of knowing which statement is produced by which contractor. The separation of the business of evaluating the quality statements and the final awarding of the contracts is there to protect the integrity of the process.

In a separate exercise, appropriately qualified officers assess and score the responses given in relation to the risks concerning Data Management and Information Technology.

Following the review by the evaluation board all quality statements will be moderated to ensure that scoring and feedback for risks is applied consistently across all quality statements.

Once the evaluation of every statement is complete, the contracts team, independently, and at a separate meeting, calculates the overall risk score for each statement and awards a quality grade according to the criteria listed below.

Quality grades acceptable in the current scoring chart:

Grade Score

- A 270 and above
- B 251 up to 269
- C 232 up to 250
- D 213 up to 231
- E 194 up to 212

Quality grade not acceptable:

- F 193 and below

The contracts team keep a record of the grades awarded to each quality statement. Once grades are awarded to all quality statements, the contracts team re-identify each statement and write to each contractor with their grade and appropriate feedback on their quality statements. Only those contractors who have provided a satisfactory financial statement and who score grades A to E on their quality statement will join Estyn's list of potential contractors.

The grade used in the awarding process for school inspection contracts will be that allocated to the contractor's most recent quality statement submitted prior to the notified deadline.

The tendering and award process

What else is the contractor required to submit?

School inspections contracts are currently awarded by Estyn on a term by term basis. For each tender round (term), tenders are received from each contractor providing information as to the price for each contract they are bidding for, together with information as to capacity and any perceived conflicts of interest.

What happens to the tenders following publication?

Tenders are required to be published no later than a specified time and date. Published tender documentation can only be accessed by Estyn following the scheduled closing date and time of the tender. Tenders are opened by a tender opening panel, which operates totally independently of the awarding board. The awarding board comprises of different officers from the tender opening panel. This separation of roles protects the probity of the process.

Awarding board members each sign a declaration of interests so that any potential areas of conflict of interest on their part are identified prior to their participation in this process. If a conflict were to be declared the officer would not take part in any part of the awarding process.

Board members award contracts according to a standard process.

How is contractor conflict of interest and

First, the commercial response submitted by each contractor is scrutinised to see whether any contractors have themselves identified any conflict of interest, and has indicated that they do not wish to be awarded contracts in

capacity addressed at the awarding stage?

relation to a particular school or area. This is taken into account in the subsequent awarding process. The information is noted against relevant schools and if any tenders were to be submitted by those contractors for the identified schools their bids would be removed from further consideration.

Second, a list is made from the Qualification Response of the stated declaration made by the contractors of their maximum capacity for the inspection term.

How are the awards made?

The board will then make awards, looking firstly at those schools that have received one bid, then those which have received two, then three, and so on, making award decisions as overleaf. Schools where there is the same number of bids are ranked in tender number order (the order having been arrived at randomly within each of the four regions in turn).

Primary schools, special schools and pupil referral units (PRUs)

The board awards to the lowest costing A graded bid unless there is:

- a B graded bid over £1,000 lower in cost than the lowest costing A grade bid; or
- a C graded bid over £2,000 lower in cost than the A graded bid or, in the absence of an A grade bid, £1,000 lower in cost than the lowest costing B graded bid; or
- a D graded bid over £3,000 lower in cost than the A grade bid or, in the absence of an A grade bid, £2,000 lower in cost than the lowest costing B graded bid or, in the absence of B graded bid, £1,000 lower in cost than the lowest costing C grade bid; or
- an E graded bid over £4,000 lower in cost than the A grade bid or, in the absence of an A grade bid, £3,000 lower in cost than the lowest costing B graded bid or, in the absence of B graded bid, £2,000 lower in cost than the lowest costing C grade bid or, in the absence of C graded bid, £1,000 lower in cost than the lowest costing D grade bid.

Secondary schools

The board will award to the lowest costing A graded bid unless there is:

- a B graded bid over £2,000 lower in cost than the A grade bid; or
- a C graded bid over £4,000 lower in cost than the A graded bid or, in the absence of an A grade bid, £2,000 lower in cost than the lowest costing B graded bid; or
- a D graded bid over £6,000 lower in cost than the A grade bid or, in the absence of an A grade bid, £4,000 lower in cost than the lowest costing B graded bid or, in the absence of B graded bid, £2,000 lower in cost than the C grade bid; or
- an E graded bid over £8,000 lower in cost than the A grade bid or, in the absence of an A grade bid, £6,000 lower in cost than the lowest costing B graded bid or, in the absence of B graded bid, £4,000 lower in cost than the lowest costing C grade bid or, in the absence of C graded bid, £2,000

lower in cost than the lowest costing D grade bid.

When considering any bid of comparable grades, Estyn will award to the lowest costing bid, as we have a duty as a public body to ensure that value for money is obtained in awarding contracts.

Each time a school contract decision is made, the board refers back to the stated capacity of the tendering organisation as expressed in the qualification response. Once the stated capacity is met, no more contracts will be awarded to that organisation. After the awarding board, the results are quality checked by a member of the contracts team to ensure that no errors have been made.

Where we are unable to award a contract in any given tender round, as happens occasionally for a number of reasons, the contracts team will normally go out to a further round of tendering.

What happens following the award of contracts?

Following the award of contracts, schools are notified of the forthcoming inspections, and contractors are notified of the contracts they have been awarded and given feedback in writing on any contracts they were unsuccessful in attaining. Contractors have 10 working days to confirm acceptance of the contracts.

If for some reason a contractor does not accept a particular contract, that contract will be offered to the contractor offering the “next best” value for money under the above described process.

If no contractor can be found to accept the contract, Estyn will decide whether it is appropriate to defer the contract to a subsequent tendering round or whether Estyn will, exceptionally, undertake the inspections ourselves through the use of HMI and/or Additional Inspectors.

The list of contracts awarded in respect of each round will be posted on Estyn’s website, identifying the school, the LA, the inspection term (and dates when they become available) and winning contractor in each case.

Please note that Estyn reserves the right to change or amend its process for school inspection contracting at any time, and will provide contractors with information regarding any changes in advance of the relevant tendering round.