

Ban the SoE&A - TA Consultants United EU

Coming soon:

More tenders without SoE&A

WE JUST NEED TO 'HAMMER HOME' OUR INTEREST POSITION - IF NEEDED OVER AND OVER AGAIN

EuropeAid

Last Thursday (17th February) Henry and I met with EuropeAid in Brussels.

Our meeting with EuropeAid was chaired by Mr. Laurent Sarazin (see Annex 2 of the last newsletter) and he was accompanied by two other EuropeAid officials. We stated bluntly that the new SoE&A is a “disaster” and pointed out the main problems that you have written to us about. These include:

- Contractors are understandably not prepared to propose experts who have already signed up to other projects because of the risk of being disqualified;
- Experts will not be prepared to join tenders if other proposed experts have signed more SoE&A's, OR...
- Experts will all sign as many SoE&A's as possible, effectively leading to a situation in which every tender procedure will fail;
- The new system is anti-family and probably discriminatory against women (we're looking further into this one), which is not something the EC would like to be seen doing;
- Furthermore, there are at least five versions of the SoE&A being used by CAs round the world – total confusion everywhere;
- Several contractors have said the system is “unworkable” and intend to raise their own concerns directly with EuropeAid.

We also stated that if the withdrawal of an expert to take up another position means, as Mr. Sarazin had written to us, that the legal basis of that proposal had been fundamentally altered and hence must be rejected, this also applies to tenders where an expert has to withdraw through force majeure.

Mr. Sarazin said that this was not so – **force majeure is still in place**. So contractors would not have their proposals rejected on this basis but can propose replacements.

We also repeated our frustration at the way most tendering procedures are completed after the official date, sometimes a very long time late indeed. (See further below)

We asked for an explanation for the reference to being placed on a Commission-managed database, which is referred to in one version of the current FWC SoE&A.

We were told that this is a mistake and will be withdrawn as soon as possible. The intention had been to establish a database listing project evaluations relating to contractors, not experts and so clearly should not be referred to in the SoE&A.

There was a lengthy discussion of these issues and here is how it ended:

Short-term

In the short-term changes must be allowable under current EC legislation and regulation. The possibilities for immediate change are therefore extremely limited. However, having given reason for shared concerns about the current disastrous practices, EuropeAid will do the following:

- Encourage Contracting Authorities (CAs) around the world to move towards Global Price contracts, rather than fee-based contracts. In this system, CVs are unimportant as the focus is on the outputs offered by contractors and the price, without evaluating the inputs (i.e. experts) and so (a) SoE&As would be unnecessary and (b) the same experts can be proposed by competing contractors. EuropeAid cannot compel CAs to do this but will strongly encourage all Commission services (e.g. EU Delegations) to move to this approach. We think this is something we would all welcome. It would be harder to achieve this where contracts are handled by national, rather than Commission, bodies, but the suggestion can be made to them also.

- EuropeAid will examine what measures it can take to ensure CAs adhere to their own deadlines for completing evaluations. We feel that EuropeAid has not been aware of how bad this problem is, but took our complaints very seriously and we look forward to action being taken. As with the point above, it will be much more difficult to get decentralized CAs (i.e. national bodies) to comply, but EuropeAid will see what they can do. (See Ban SoE&A research below)
- EuropeAid will be introducing new procedures concerning notifications of tender results to try to ensure that the time before losers are notified can be shortened, thereby releasing experts in losing bids from their SoE&As sooner than is currently the practice.

Long-term

In June 2012 the EU will adopt the next Financial Framework, setting out the budget and rules for the following five years. In the run-up to this deadline just about anything can in principle be changed (e.g. moving to evaluating tenders on the basis of proposed methodologies without nominating experts, etc). In other words, what cannot legally be changed now, could be changed then.

To this end, EuropeAid has established a Working Group comprising representatives of other Commission services in Brussels and the EUDs around the world.

An initial discussion paper will be prepared in April/May this year and both we and the contractor representative bodies will then be invited to make our inputs, meet, discuss, negotiate, etc, leading to a final paper to be completed in October.

Our earlier inputs are being considered in the preparation of the April/May draft paper.

June 2012 seems like a long way in the future, but after that it will be another five years before significant changes can be made. So we need to do a lot of hard work throughout this year to ensure our voice is fully heard and taken account of in the October paper.

The need for a professional association is therefore stronger than ever and that will be the subject of our next newsletter, which we will issue in about a week's time.

Stephen Dewar

FIRST MEETING WITH EFCA

Before our meeting with EuropeAid we met the Secretary General of EFCA, Mr. Jan van der Putten, at his invitation. EFCA is an umbrella organisation whose members are national associations of European (EU and non-EU) engineering consultancy firms, but many of which are involved in a broad range of TA assignments. (If you want to see if you know any member contractors go to www.efcanet.org and you will find links to the national organizations).

EFCA has long-standing and continuing contact with EuropeAid, which it lobbies on a number of issues of direct relevance to ourselves (tender procedures, availability of experts, unfair competition, the EU's deconcentration and decentralization policies, etc) and we agreed that it would be sensible for us to work together where we have a common position, notably for now in reforming or abolishing the SoE&A. Henry and I explained our overall goals and Mr. van der Putten undertook to raise these with his members. We plan to continue seeking possibilities for cooperation on the SoE&A issue.

We have also received an invitation from ECIC of FEACO to meet this organization. FEACO (European Federation of Management Consultancies Associations), along with EFCA, is the other main international body representing contractors in our industry (www.feaco.org) and ECIC is its permanent working group on EU procurement issues.

Though many individual consultants have their issues with individual contractors, it is very clear that in a number of important areas on EuropeAid level we have identical or close views and we all stand to benefit from active cooperation. We will keep you fully informed of further developments in this area. For now, it is gratifying that, thanks to the large numbers of you who have signed the petition, we are increasingly becoming recognized by the industry

SURVEY ON DELAYS

During our meeting we noticed that there is little awareness in EuropeAid about the level and the duration of delays in and extensions of tender evaluations. To substantiate our claim that an overwhelming majority of tenders is suffering from delays we decided to organize a survey among our signatories about this specific issue. This survey will cover all contracts, whether they are long term, short term or framework contracts. The survey will be distributed soon.