

The European Single Procurement Document



William Brown

Junior Associate

E: William.Brown@QuiggGolden.com

T: +44 (0)28 9032 1022

From 26 January 2016, contracting authorities must accept the European Single Procurement Document (ESPD) from bidders as part of the selection process. The ESPD aims to simplify the tendering process of EU public contracts for both contracting authorities and prospective bidders.

It is worth noting that the ESPD is not available for use in the Republic of Ireland as the Irish Government is yet to enact the 2014 Directive.

What is it?

The ESPD is a standard issue document that can be used by a bidder to declare that none of the regulatory grounds for exclusion apply to them. The ESPD acts as *'preliminary evidence'* in replacement of certificates issued by public authorities to allow a bidder to declare that it:

1. is not in one of the situations referred to in Regulation 57 (i.e. has not been convicted of corruption, fraud etc.);
2. it meets the relevant selection criteria set out in Regulation 58 (i.e. that the operator possesses: the financial capacity to perform the contract; and a sufficient level of necessary human and technical resources etc.); and
3. where applicable, fulfils the objective rules and criteria set out pursuant to Regulation 65.

It is expected that both small and medium-sized enterprises will benefit from this system. The purpose of the ESPD is to remove part of the administrative burden placed on companies when presenting their eligibility to bid for contracts. Only the winning company will be required to submit all the documentation that proves that it qualifies for the contract.

What does it look like?

Eventually, the ESPD will only be available in an online format, but the Public Contract Regulations state that this requirement has been delayed until April 2017. Until then, paper copies may be used. The European Commission has recently published an Implementing Regulation which sets out the standard form for the ESPD. A link to this Regulation has been provided at the bottom of this article.

London

Quigg Golden Limited
Central Court
25 Southampton Buildings
Chancery Lane,
London WC2A 1AL

Tel: +44 (0)20 7022 2192
London@QuiggGolden.com

Dublin

Quigg Golden Limited
31 Waterloo Road
Ballsbridge Dublin 4

Tel: +353 (0)1 676 6744
Dublin@QuiggGolden.com

Belfast

Quigg Golden Limited
18-22 Hill Street
Cathedral Quarter
Belfast BT1 2LA

Tel: +44 (0)28 9032 1022
Belfast@QuiggGolden.com

Jeddah

Quigg Golden Limited
P.O. Box 18623
Jeddah 21425
Saudi Arabia

Tel: +966 (0)2 651 82 22
Jeddah@QuiggGolden.com

Each contracting authority should cater this standard form ESPD depending on the nature and requirements of the competition taking place. Bidders then complete these forms and return. Under Regulation 59, a contracting authority's obligation is simply to accept the ESPDs sent to them.

Bidders may reuse an ESPD that has already been used in a previous procurement procedure, provided that they confirm that the information contained in it continues to be correct.

How will it work in practice?

The short answer is, we don't know yet. The UK government is yet to release any guidance on how the document should be used. How the document will link together with standard issue PQQ documents from the UK Crown Commercial Service etc. remains a prominent issue as both of the documents will cover a lot of the same ground, and provide more opportunity for ambiguities to arise if bidders must now submit two documents instead of one.

In the mean-time, contracting authorities must abide by Regulation 59 and accept ESPDs from 26 January 2016. A failure to do so would amount to a technical breach of the Public Contract Regulations. Contracting authorities should take care to ensure that the wording of their procurement documents does not prohibit a bidder from submitting an ESPD.

Link to Commission Implementing Regulation (EU) 2016/7

http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.003.01.0016.01.ENG&toc=OJ:L:2016:003:TOC



INVESTORS
IN PEOPLE

Lexcel
Practice Management Standard
Law Society Accredited