

10 TIPS FOR CHALLENGING AWARD OF A CONTRACT

Public Procurement



Before submitting a bid

01. REVIEW THE INVITATION TO TENDER

Does it contain any requirements which might breach one of the procurement principles of equal treatment, non-discrimination and transparency?

If so, you need to raise them now. It is not an option to wait and see if you win and only raise your complaints about the invitation to tender in the event you are unsuccessful.

02. TAKE NOTE OF CORRESPONDENCE

Keep a note of any correspondence you have with the public body, including any requests for clarification you submit and any verbal discussions.

The timing of such discussions could be key to whether your claim is brought in time.

03. MONITOR RUNNING OF THE TENDER

Make sure you read and understand the response to any requests for clarification submitted by other bidders.

- Photographs can be useful.
- Records should also be kept of all staff training.
- It should be signed, dated and reviewed as appropriate.

04. SUBMIT YOUR BID AS REQUIRED

Ensure that you submit your bid, including all accompanying documents, on time and in the manner required by the invitation to tender.

Your bid may not be considered and/or your scores may be penalised if you forget to attach a key document or upload the wrong version.



Once you receive the contract award notice

05. SHARE NOTICE WITH BID TEAM

Share the notice with your bid team and obtain their urgent input on the decision.

The people who drafted the individual sections of the bid are usually best placed to know if they have been marked fairly.

Consider whether the evaluators have properly understood your bid and if the marks you have received are consistent with the evaluators' comments.

Has another bidder been given higher marks than you without good reason? What to do?

06. CHECK THE MATHS

A surprising number of the challenges we see are based on simple numerical errors in the scoring.

Other common issues include weightings being incorrectly applied, too many or too few marks being awarded and marks being awarded on the basis of subcriteria not made available to the bidders.

It is more difficult, although not impossible, to bring a challenge on the basis that you simply believe that the score awarded is too low as evaluators are allowed a margin of appreciation and the courts will only interfere where there has been an obvious mistake.

07. ASK FOR FURTHER DETAIL

If the information in the contract award notice is not sufficiently detailed for you to determine whether you have been marked fairly, ask the public body for further detail and a breakdown of the scoring.

08. KEEP ON TOP OF DEADLINES

There is a very limited period of time in which to challenge the award of a contract.

The standstill period, during which the public authority cannot award the contract, runs for just ten days. The absolute limitation period for bringing a claim expires after 30 days.

09. ASK FOR AN EXTENSION

If you need more time, consider asking the public body to extend the standstill period. But do remember the extension of time cannot take you beyond 30 days from the contract award notice.

10. REQUEST LEGAL SUPPORT

Consult your lawyers at an early stage if you want to bring a challenge. Although quick turnarounds can be achieved, it is not ideal to leave this until the very end of the standstill period.



Emma Butcher

PARTNER

 [View profile](#)

 emma.butcher@clarkslegal.com

 0118 958 5321



For more information on how we can help your business: clarkslegal.com
email: contact@clarkslegal.com · Reading: 0118 958 5321 · London: 020 7539 8000

Disclaimer: The content in this guide is for general information only. Please don't rely on it as legal or other professional advice.

