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White paper

Auditing Tender Evaluation Reports

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Background

Purpose

The purpose of this White Paper is to provide guidance on auditing tender evaluation reports.

Background

Tender evaluation reports are a critical component of the tender process and are relied on by decision-makers to select the successful bidder. Due to the importance of tender evaluation reports, it is imperative internal auditors understand the key issues relating to their audit. Tender evaluation reports have, on more than rare occasions, been examined by Royal Commissions, parliamentary enquiries, anti-corruption bodies and the courts, with severe criticism heaped on the drafters and, where applicable, the auditors. A tender evaluation report is the deliverable of the tender process and often considered to be the most prominent document in the process.

Discussion

Issue

The quality of tender evaluation reports is often inadequate to allow decision-makers to make objective and fully informed value-based choices. Tender evaluation reports need to demonstrate defensible, accurate and complete information

to assist decision-makers make their decisions. Internal audits of tender evaluation reports and recommendations made can help improve quality of the tender process and reports.

History

The Institute of Internal Auditors–Australia (IIA-Australia) has published a number of documents to assist internal auditors with their audits of tenders including 'Factsheet: Tender Transparency', 'Factsheet: Conflicts of Interest', 'Factsheet: Procurement Integrity (Probity)', 'Factsheet: '3 Lines of Defence' Combined Assurance Model', 'White paper Conflicts of Interest in the Award of Contracts', and 'White paper Procurement Integrity (Probity)'.

This paper hopes to advance the body of knowledge on tendering by concentrating on the tender evaluation report. The focus on tendering has intensified in recent years and the frequency of external examination of these reports by courts, regulatory bodies and the media has similarly increased. The writers of tender evaluation reports seem to assume the reports will remain confidential and secret documents, but nowadays their likelihood of receiving public and critical scrutiny is greater than ever.

Discussion

Objective of tender evaluation reports

Many people **incorrectly** write tender evaluation reports to convince decision-makers to select the tenderer preferred in the report. In this situation the information presented has the effect, and often the purpose, of relieving the decision-maker of having to seriously consider which tenderer is the most suitable. The tender evaluation report may be paraphrased as "This is why you should award the contract to company A".

The true objective of tender evaluation reports is to give decision-makers the information they need to fairly assess for themselves which is the best tender. The information should be complete and objective. Information that disfavours the preferred tender should not be omitted or toned down.

The other objective of tender evaluation reports is to give decision-makers information about the tender process so they can assess if there are problems with the process that could affect their decisions.

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Information that should be contained in tender evaluation reports

The key principle is that a tender evaluation report should contain all the information decision-makers are likely to need in order to:

- › Understand the tender process that took place.
- › Understand the relative benefits and risks of the best tenders.
- › Understand why tenders may have been considered less worthy by the tender evaluation panel.

Decision-makers should be able to understand the evaluation criteria, and when and how the criteria and basis of scoring were determined.

Specific information required would generally include:

- › Information about any expression of interest phase.
- › Tenders received and key information about each one.
- › The tender process followed.
- › Any breaches of the tender process and non-compliant tenders.
- › Probity issues and how they were dealt with.
- › The relative merits of the best tenders.
- › The relative risks of the best tenders, often including key assumptions made.

Various appendices contained in the tender evaluation report are usually helpful to decision-makers to assess the complete situation in respect of the tender.

Objective, context and key risks

Good practice is to give decision-makers an understanding of the objectives of the procurement, an overview of the context of the procurement, and the key risks. Without this information decision-makers may have to make their choice in a vacuum or with inadequate or misleading information.

The overview of the context should be similar to the context in the international standard on risk management ISO 31000:2018 Risk Management – Guidelines which covers both the internal and external situations. It may include information about whether improper practices are common in the industry, the supply chain, relevant legislation, etc. The summary of key risks should include not only the specific procurement process

risks, but also the general risks arising from the context in which the goods or services will be used. For example if the industry in which the procurement is occurring is plagued with people not being paid industrial award conditions, subcontracting to phoenix companies, excessive gift-giving, over-invoicing and short delivering, it is important for decision-makers to know this.

Expression of Interest (EOI) process

If an Expression of Interest (EOI) process was held, all key information should be contained in the tender evaluation report, typically including:

- › How EOIs were invited.
- › The list of EOI submissions and key information about each submission.
- › The process whereby companies were selected to continue the process and the reasons why each company was or was not chosen.

Tenders received and key information about each one

The tender evaluation report should list the tenders received and for each one the price, key information and the score given by the tender evaluation panel. Often tables are useful for summarising the prices and key non-price factors. Appendices may be convenient for information that is relevant, but too voluminous to include in the main body of the report.

Tender process followed

A summary of the tender process should make it clear exactly what the steps of the process were. Key information about governance of the tender should generally be included. Information should be provided on deviations from the tender evaluation plan and indications made in the EOI and tender packs. Additions of time for tenderers, changes to information requested from tenderers and other changes should be included.

Breaches of the tender process

Decision-makers are concerned not only with selecting the tenderer to be awarded the contract, but also whether the tender process was appropriate and was properly followed. Any breaches of the tender process should be highlighted including:

- › Where the evaluation was not strictly in accordance with the evaluation criteria and process described in the EOI

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and tender packs and the tender evaluation plan.

- › Any late tenders accepted.
- › Breaches by tenderers, advisers or any other parties and how they were handled.

If breaches are likely to result in possible litigation for an implied process contract, decision-makers should be informed with full information from general counsel no later than when the tender evaluation report is presented. Such matters may be subject to legal professional privilege and therefore not included in the tender evaluation report.

Probity issues and how they were dealt with

Probity is critical in tendering and probity breaches may result in loss of trust in the organisation, damage to reputation and brand, and possible litigation. These are areas of legitimate concern to decision-makers. The term 'probity' is typically used in the public sector and non-government organisations more than in the private sector. The concept of probity is applicable to all sectors and typically covers concepts of ethics, integrity, honesty, transparency, accountability and due process.

Probity issues included in the tender evaluation report typically include:

- › Whether there was a separate probity plan or the probity issues were dealt with in the tender evaluation plan.
- › A list of conflict of interest declarations and whether any conflicts were declared.
- › If conflicts of interest were declared, how the conflicts were managed and monitored.
- › Details of any ethics walls or special ethics processes.
- › If probity auditors or advisers were used, the scope and objectives of the appointment.
- › Key issues in the probity audit and probity adviser reports.
- › How recommendations in the probity reports were handled.
- › Deviations from the probity plan.

Relative merits of the best tenders

Using the criteria stated in the tender pack, relative merits of the best tenders should be explained. If merits are stated that are not in the tender pack this fact should be indicated. The

objective is not to sing the praises of the preferred tender but to give an honest and objective assessment. Merits of the non-preferred best tenders should also be included.

Key assumptions and relative risks of the best tenders

For decision-makers to make an appropriate choice they may need to know any significant assumptions that appear to have been made in the preferred tender and in the evaluation of tenders.

Tender evaluation reports should cover key risks attached to the best tenders and how the risks will be managed.

If there are significant risks identified in assessing the context of the procurement, it may be helpful for the tender evaluation report to explain how the preferred tender will manage those risks.

Appendices

Decision-makers should be able to get extra information they may need to clarify matters or that helps them better understand the tender process and which tenderer should be selected, without having to contact members of the tender evaluation panel for an explanation. The extra information is best placed in the appendices to the tender evaluation report so it is available if required, but does not make the report too long or too difficult to read. Availability of extra information in appendices is an important transparency requirement.

Appendices will vary depending on the size, risk, probity concerns and other matters, and may typically include:

- › Copies of EOI and tender opening reports and IT-generated tender received reports.
- › Minutes of all EOI and tender evaluation panel meetings.
- › All questions received from tenderers, answers given, and evidence the further information was made available to all potential bidders.
- › Tender evaluation spreadsheets summarising how each person on the tender evaluation panel voted for each criterion or sub-criterion.
- › Summary spreadsheets showing the evaluation calculations for tenderers.
- › Summaries of references obtained for the preferred tenderer.
- › Summaries or minutes and other records of key meetings

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with tenderers to clarify issues, obtain further information, etc.

- › COI declarations and other probity forms of tender evaluation panel members.
- › The EOI and tender packs.
- › The tender evaluation and tender probity plans.
- › The submission from the preferred tenderer.
- › Reports or summaries of reports from advisers and other parties.
- › Reports by probity auditors and advisers.
- › Dissenting reports.
- › A report detailing how probity issues were dealt with if the report contents do not fully cover the topic.

Governance issues

The tender evaluation report should be signed by all members of the tender evaluation panel. It is better practice for dissenting views to be included or a dissenting reports to be issued. Tender evaluation panel members should sign a clear statement that the tender evaluation report accurately reflects the tender process and the conclusion of the tender evaluation panel.

Conclusion

Summary

The internal auditor should assess whether the tender evaluation report has been written to guide decision-makers into acting on the tender evaluation panel recommendation or whether it is a fair and honest evaluation of tenders. Unfortunately it is common practice for reports to highlight and overstate advantages of the preferred tender and understate its potential problems and risks. Similarly the benefits of other tenders may be understated and their problems and risks overstated.

The internal auditor should ensure the tender process is accurately described and contains the information in this white paper that appears appropriate for that specific procurement. The internal auditor should ensure critical issues such as deviations from the promised tender process and breaches of the process are highlighted.

Key considerations for the internal auditor are whether the tender evaluation report fairly depicts the tender process and gives decision-makers appropriate information. If the internal auditor was the decision-maker, would they feel they have sufficient information to award the contract?

Conclusion

Tender evaluation reports should give decision-makers the information they need to fairly assess for themselves which is the best tender and to understand the tender process followed. Tender evaluation reports should be objective, comprehensive unambiguous and easy to follow.

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Purpose of White Papers

A White Paper is a report authored and peer reviewed by experienced practitioners to provide guidance on a particular subject related to governance, risk management or control. It seeks to inform readers about an issue and present ideas and options on how it might be managed. It does not necessarily represent the position or philosophy of the Institute of Internal Auditors–Global and the Institute of Internal Auditors–Australia.

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Author's Biography

Written by:

Barry Davidow

BCom, BAcc, MTaxLaw, ACA, CFE, CRMA, PFIIA, Advanced Diploma of Government (Management), Diplomas in Risk Management and Business Continuity, Government (Fraud Control), Government (Investigation) and International Financial Management.

Barry has over 20 years of experience in internal audit, fraud and corruption control, investigations, governance and compliance. He has contributed to books on fraud control, computer fraud, communications and sociology. He co-authored IIA-Australia White Papers on Fraud Risk Indicators, Corruption Indicators in Internal Audit, Corruption Related Risks in Decision-Making, Conflicts of Interest: A Framework, Conflicts of Interest in the Award of Contracts, Conducting Fraud and Corruption Investigations and Fraud and Corruption Risk Assessments.

Naveen Moda

BCom, Chartered Accountant (CA ANZ), Diploma in Public Sector Management, Diploma in Investigation

Naveen is Principal Specialist Internal Assurance at NSW Ambulance in the New South Wales Government and has 15 years of internal audit experience. He has over 10 years of experience in the public sector and has managed and delivered internal audit programs including large and complex operational, compliance and performance audits. He co-authored IIA-Australia White Papers on Auditing Projects and Auditing Operational Effectiveness.

This White Paper edited by:

Andrew Cox

MBA, MEC, GradDipSc, GradCertPA, DipBusAdmin, DipPubAdmin, AssDipAcctg, CertSQM, PFIIA, CIA, CISA, CFE, CGAP, CSQA, MACS Snr, MRMIA

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The Institute of Internal Auditors (IIA) is the global professional association for Internal Auditors, with global headquarters in the USA and affiliated Institutes and Chapters throughout the world including Australia.

As the chief advocate of the Internal Audit profession, the IIA serves as the profession's international standard-setter, sole provider of globally accepted internal auditing certifications, and principal researcher and educator.

The IIA sets the bar for Internal Audit integrity and professionalism around the world with its 'International Professional Practices Framework' (IPPF), a collection of guidance that includes the 'International Standards for the

Professional Practice of Internal Auditing' and the 'Code of Ethics'.

The IIA-Australia ensures its members and the profession as a whole are well-represented with decision-makers and influencers, and is extensively represented on a number of global committees and prominent working groups in Australia and internationally.

The IIA was established in 1941 and now has more than 200,000 members from 190 countries with hundreds of local area Chapters. Generally, members work in internal auditing, risk management, governance, internal control, information technology audit, education, and security.

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