Leicestershire County Council

eAuction - Rules of participation

Transport Operations – Summer 2016

Version 1.0

Contents

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The following rules of participation apply to the eAuction event undertaken by the Transport Operations (TO) Service at Leicestershire County Council, they should be read and applied in conjunction with the Small Vehicle Framework and contract conditions (SV3 or later where available) or the Large Vehicle Framework Agreement (BB3 or later where available), Schedule 2A and Schedule 2B.

The eAuction event will take place on the Due North ProContract eSourcing Solution Portal.

1.0 Before / Start of the eAuction event

1.1 Training and support
Information, guidance and initial training will be provided by TO, this will then be supported by telephone technical assistance and online test eAuctions for operators to practice and familiarise themselves with.

Practice eAuction sessions will be provided to all confirmed and registered participating bidders prior to the live eAuction, with the goal of providing hands-on training on the system and on this specific configuration of eAuction. This exercise is also aimed at ensuring that participating bidders are adequately equipped in terms of computer software, hardware and Internet connectivity.

Operators will be notified of the dates when they will be able to experience practice eAuctions to acquaint themselves with the layouts and bidding process. Leicestershire County Council (LCC) strongly recommends that all bidders take part in the practice eAuction sessions (even if they have participated in eAuctions in the past) in order to ensure that they are fully prepared for the event.

An operator training guide on how to place bids will be made available, operators are advised to use this well in advance of the live event to maximise their understanding.

1.2 IT requirements
To take part in the live eAuction events, operators will require access to an entry level PC equipped with Microsoft Internet Explorer v.6 or higher (or Mozilla Firefox 3 or higher). They will also need access to the internet using at least a dial up connection.

1.3 eAuction notification sent to operators
Access to the eAuction will be strictly limited to those bidders selected by LCC to participate in the eAuction event. Operators will be given sufficient notice prior to any eAuction event organised by TO. Notices of forthcoming eAuctions will be sent out to all operators who have been accepted onto either the Small Vehicle (SV3 or later) or Large Vehicle (BB3 or later) operator Framework agreement.

1.4 Registration prior to event
Operators will be required to accept the invitations to register their interest to participate in eAuction events. This is an essential requirement to participate and will then allow them to access any eAuctions we may run. Operators will not be able participate in the eAuction event if they do not accept the invitation beforehand.

1.5 Logging in for the start of the event
Operators will be expected to log in to the online auction site 10 minutes prior to the start of the event. Please note that it is the responsibility of the operator to keep lines of communication open up to 20 minutes prior to and 60 minutes after the eAuction event has ended in case contact needs to be made.

1.6 Base price of the contract

TO will assign a base price to each of the contracts that are included in the eAuction event, this will be the initial price for each contract from which the bidding will start. In most eAuctions, it is likely that a base price of £200, £220 or £250 per day will be used for all contracts.

Operators should note that the base price will not represent the minimum price that TO will accept for the contract, it will simply act as a starting price for the contract in the eAuction and operators will be required to place their opening bids below the base price.

1.7 Calculate the lowest price prior to the eAuction

Operators are advised to carefully consider the contracts that will be available in the eAuctions and determine prices. They will need to take into account operational and strategic factors and calculate the costs of the contracts, including overheads and any profit element that they wish to receive for operating the contract. This process should involve the key decision makers in the company. The information should not be shared with other operators or TO.

Operators will need to calculate their lowest price for each contract that they are interested in and would be willing to operate the contract for. Then, if the eAuction bids fall below this level on a particular contract then the operator will not place any further bids as it will become economically unviable for them.

1.8 Number of contracts per eAuction event

The number of contracts per event will vary, however it is expected that most events will contain around 10 contracts.

Operators are advised to only bid on the number of contracts that they can realistically operate. For example, an operator with only one vehicle should focus their efforts on winning one contract, if the bids on their first choice contract fall below their lowest price and they can not compete any further then they would need to move their focus onto their next choice contract.

IMPORTANT NOTE: Operators will be expected to operate all of the contracts that they are awarded. For example, operators who only have one vehicle but win two contracts in the eAuction will not be given the choice of which contract they want to operate. They have submitted legally binding bids for two contracts and they will therefore be expected to operate both contracts or be subject to the penalties outlined in section 3.4.

2.0 During the event

2.1 eAuction screen layout

By logging in to the eAuction, operators will be given full access to view the eAuction screen, a first bid is not mandatory to view the eAuction. The screen will be configured so that operators will then be able to see a list of contracts being eAuctioned and the current lowest price for each of those contracts once bids have been submitted. If the operator submits a bid, then the screen will also show their first / best price and their current ranking for each contract that they have bid on.

However, the eAuction screen will be structured so that participants will not be able to see each other. They will also not be able to see the detailed pricing of their competitors, and they will not know how many suppliers are in the event or which one is leading with the lowest price.

This will all function within a live environment and therefore the screen will refresh automatically to show the most up to date information. The eAuction screen will also show the time count down for the event, this is to assist operators, let them know how long they have to submit bids and how long is left before the eAuction is due to end.

2.2 How to submit a bid

Operators will only be able to tender for contracts during the live eAuctions. The eAuctions will be scheduled at appropriate times of the day in order to make them as accessible to as many interested operators as possible.

The screen will display all of the contracts being eAuctioned, operators will need to select the contract that they are interested in, submit their bid and press enter, operators will then be asked to confirm their bid. Once confirmed,

3

their submitted price will be accepted in the eAuction. The screen will refresh automatically and operators will be able to see if they have submitted the lowest price for that contract or not. Bids, once confirmed, are considered binding and cannot be withdrawn.

All bids will be for **price per day**. There is no limit to the number of bids that can be placed.

Prices submitted by operators will need to be sensible, appropriate and less than the base price for the contract that they are bidding on, for example a bid of £100,000 per day would be invalid and not accepted.

2.3 Length of eAuction
Each eAuction event will be scheduled to run for an initial period of 30 minutes, during this time operators will be able to enter their bids for the contracts that they are interested in and compete in a live environment. It will come to an end when all bids have been submitted and there is a period of 2 minutes at the end of the event where no bids are submitted on any of the contracts in the eAuction and the clock counts down to 0. All of the contracts within the eAuction event will start together and also finish at the same time.

Therefore, if a bid is submitted by any operator on any contract in the final 2 minutes, then the eAuction timer will add 2 minutes to the remaining time. This is to stop operators submitting bids in the final few seconds of the eAuction, therefore if a price is submitted 10 seconds before the end then the event time will be reset to 2 minutes and 10 seconds to give other operators the opportunity to respond.

2.4 Submit bids as soon as possible.
As a result of the 2 minute rule mentioned above, it is not in the interest of operators to submit their bids in the final moments as there is no advantage to be gained, it will simply perpetuate the running time of the eAuction itself.

Additionally, operators are advised to submit their bids as soon as possible just in case of loss of internet connection or other IT or power related failure during the event.

Operators are also advised to always place their lowest bids at some point during the event, even if their lowest possible bids are more than the current best prices of the contracts, for example if the current lowest price for a contract is **£105**, then operators are still encouraged to enter their lowest bids that may be **£107** or **£110**.

Although these prices are unlikely to win the contract in the live eAuction event, in some circumstances, a contract may not be awarded to the operators who submitted the lowest bids during the event, and TO may consider awarding to the next lowest bid.

2.5 Submitting bids using minimum decrement
For each participating operator, bids subsequent to their starting bids are considered valid and accepted by the system provided they are lower than their previous best bid by at least the minimum bid decrement.

For Large Vehicle eAuctions - There will be a minimum bid decrement limit of £1 per bid per operator that is placed. This means that if an operator submits a bid of £110 per day, then if that same operator decides to bid again for that same contract their next bid must be £109 per day or less, regardless of competitor bids or the lowest current bid for that contract.

For Small Vehicle eAuctions - There will be a minimum bid decrement limit of £0.50p per bid per operator that is placed. This means that if an operator submits a bid of £40 per day, then if that same operator decides to bid again for that same contract their next bid must be £39.50 per day or less, regardless of competitor bids or the lowest current bid for that contract.

Operators are also advised that they do not have to submit whole number decrements, therefore bid decrements of for example £1.01, £1.05 or £1.37 will be accepted in the large vehicle eAuctions. Similarly, bid decrements of for example £0.51p, £0.65p or £0.77 will be accepted in the small vehicle eAuctions.

Adopting this strategic approach may help operators to win contracts. It is not mandatory to match the eAuction's overall best bid in order to place a valid bid and operators are advised to submit their best bid to operate the contract even if another operator has submitted a lower bid for that contract.

Please note that the event structure and configuration (bid decrements etc.) may be revised prior to the live event, if this happens you will be notified before the live event commences.

2.6 Maximum Bid Decrement
For each participating operator, bids are considered valid and accepted by the system provided they are not lower than their previous best bid by the maximum bid decrement.

There will be a maximum bid decrement limit of 50% per bid per operator that is placed. This means that if an operator places their first bid at, for example £120, the next bid on that contract by that operator cannot be lower than £60 (50% of their previous bid).

2.7 Technical assistance during the eAuction
Due North will operate a help desk around the time of the events, they will help to resolve any problems prior to the live event. If operators have any problems during the event, they are advised to contact the TO helpline number immediately (the number to ring will be provided prior to each event).

If the eAuction is suspended then in agreement with TO, a new time and duration is established for the eAuction's resumption. Suspension and resumption activities are applied synchronously to all contracts in each eAuction.

Please note it is the responsibility of the operator to keep lines of communication open up to 20 minutes prior to and 60 minutes after the eAuction event has ended in case contact needs to be made.

NOTE: if operators have difficulties in the last 2 minutes it will not be possible to suspend the event, therefore operators are advised to place their bids early to avoid this risk.

2.8 What to do if an incorrect price is submitted in error
Due to the controls put in place, there should be very few occasions where incorrect prices are submitted by operators in error as the software will ask operators to confirm their bids before placing - this is important as all bids are binding.

However, if an operator still submits an incorrect price in error, they must contact the TO helpline number immediately (the number to ring will be provided prior to each event), TO may remove the erroneous bid.

2.9 Operator collusion
Operator collusion in any form is strictly prohibited. In submitting bids in the eAuction, the operator confirms that they have not fixed or adjusted the amount of the bid by or under or in accordance with any agreement or arrangement with any other person or operator.

2.10 Tips and Recommendations for the live event

- Place bids early (if it is left to the last minute – there is the risk of encountering technical problems that cannot be resolved in time for bids to be placed).

- If an operator cannot beat the leading price, they should still place their best price.

- Preparation is of paramount importance – read all of the documentation provided, note any actions or deadlines and ensure that the 'lowest price' for each contract has been calculated in advance and all key decision makers have been involved to support the bidding strategy in preparing for and during the live event.

- After the event, hold a review session on what went well/badly - this will aid the preparation for any future events and may help operators gain a competitive advantage.

- Remember that all bids are legally binding and therefore operators must be confident that they can deliver the contract at the price submitted if they are successful in winning the contract at the eAuction stage (see 3.4 below).

3.0 After the event

3.1 Ending the event
The eAuction will run for at least the initial 30 minutes, it will then come to an end when all bids have been submitted and there is a period of 2 minutes at the end of the event where no bids are submitted on any of the contracts in the eAuction and the clock counts down to 0 (see section 2.3). All of the contracts within the eAuction event will start together and also finish at the same time.

3.2 Award process following the end of the auction
TO will review the eAuction process, gather information and assess the prices that have been submitted for the contracts. A decision will be made on which contract will be awarded to which operator, in most cases this will be based on the lowest winning prices, however in exceptional circumstances, contracts may not be awarded to the lowest bid. Therefore, operators should note that TO reserves the right not to award and that submitting the lowest bid in the eAuction does not guarantee that they have won the contract.

Operators that submit the lowest price during the eAuction will be shown as position "**1**" in the eAuction monitor. In the event of equal lowest bids, those operators will be shown as position "**=1**", if this is the case, operators should note that "=1" denotes that they are not the only operator with that lowest bid and they may not be awarded the contract at the end of the eAuction.

Therefore, operators should endeavour to beat this bid in order to achieve first placed ranking. In the event of equal lowest bids at the end of the eAuction, TO will generally award the contract to the operator that submitted the lowest price first, however this does not preclude TO's right not to award as mentioned in the paragraph above.

Shortly after the eAuction has ended, TO will send an email to those operators that finished in first position for each of the contracts in the event. This email will notify the operator(s) that they submitted the lowest bid and that the formal award of the contract will be confirmed in writing in due course, subject to our financial Standing Orders and Tender Award Protocol.

In all cases, all operators will be expected to operate all of the contracts that they win. Please note that operators will not be given a choice of which contracts they wish to operate depending on number of vehicles available. All operators will have submitted legally binding bids for the contracts that they win and they will therefore be expected to operate those contracts or be subject to the penalties outlined in section 3.4.

3.3 Notification of results
Operators will receive an email containing the results of the event. The results will show a summary of the contracts, indicating the number of bids placed for each contract, the highest bid submitted, the winning operator and price. It will also show an overall summary of the event itself such as the total time taken and the number of participants.

3.4 Process / Penalties if operators decide to terminate contracts
The prices that are submitted are **legally binding** and therefore operators must be able to operate the contracts at the prices that they have submitted. This allows TO to award the contract once, and offers stability for the authority, the operator and the passengers.

The notice period to terminate contracts for 9+ passenger seats (Large Vehicle) will be 2 calendar months by either party. However the notice period for contracts for 8 or less passenger seats (Small Vehicle) that are tendered via eAuctions will be 1 calendar month. In some cases, a shorter notice period may be mutually agreed. There will be a penalty for operators who are unable to carry out a contract at the price won during the eAuction event and have to terminate their contract without the proper notice period.

An example of a penalty may be as follows: the contract could be offered to the next available operator from the eAuction process with an appropriate price that is acceptable to TO. The operator who is terminating the contract will have to pay for the difference in price for the period of the notice, subject to a minimum penalty of £500 (for Large Vehicle) and £250 (for Small Vehicle). For example, if the operator terminating the contract was being paid **£100** per day and the next available operator requires **£110** per day, then the operator who is terminating the

6

contract will pay the £10 per day difference, or £500 (Large Vehicle) or £250 (Small Vehicle) whichever is the greater, for the duration of the notice period.

If there is not an available operator from the eAuction process who is willing to operate the contract at an appropriate price that is acceptable to TO, then the contract may be awarded on an emergency tender basis. Again, the operator who is terminating the contract will have to pay for the difference in price, or £500 (Large Vehicle) or £250 (Small Vehicle) whichever is the greater, for the period of the notice. The contract will then be entered into the next available phase of full tenders.

<u>IMPORTANT NOTE:</u> Supplementary to the general contract conditions of the Framework Agreement, for any contracts that are awarded through the eAuction process, the earliest that the notice period will start from will be the first day of operation of the contract.

Therefore for Large Vehicle Contracts (9+ Passenger seats), those operators who are awarded contracts more than 2 months before the start of the contract and choose to terminate their contract following the award, will still be liable to cover the cost of operating the contract in the first 2 calendar months of operation.

Similarly, for Small Vehicle Contracts (1 to 8 Passenger seats), those operators who are awarded contracts more than 1 month before the start of the contract and choose to terminate their contract following the award, will still be liable to cover the cost of operating the contract for the first calendar month of operation.

As an example for Large Vehicle Contracts, if an operator wins a contract for £80 per day on 1st June for a contract that is due to start on 1st September and then the operator decides to terminate immediately then the 2 month termination period will not take effect until 1st September – the first day of operation. If the next available operator submitted a price of £110 per day, then the terminating operator will cover the difference of £30 per day for 2 calendar months from the first day of operation or £500, whichever is the greater. This example also applies to Small Vehicle Contracts, except that the period of cover will be one calendar month only or £250, whichever is the greater.

TO also reserves the right to exclude any operators from tendering for contracts in the future.

3.5 General Conditions
For all terms and conditions not included in the Rules of Participation information above, all parties shall refer to:
- Leicestershire County Council large vehicle framework documentation (BB3 and after)
- Leicestershire County Council small vehicle framework documentation (SV4 and after)
- Leicestershire County Council Contract Conditions (Framework Invitation to Tender and Schedules 2A and 2B)
- General terms and conditions for events conducted through Due North's technology platform.