



A new method for submitting proposals in public tenders: the “inclusive offer”

Report 11/2013, of 22 of May, of the Consultancy Board for Public Procurement of the Autonomous Region of Aragon

Background

The General Technical Secretary of the Department of Health, Social Welfare and Family of the Autonomous Region of Aragon raised the following issue before the Consultancy Board for Public Procurement of such Region: if in a bid the object of the contract is divided into various lots, is it possible to include in the file the possibility that the bidders, apart from submitting their offer for one or several lots, may also submit an offer that would integrate all lots to which their offer extends?

The inclusive offer

In the first place the Board explains in its report that the current trend of European Union rules is to promote and facilitate the fragmentation of the contracts into lots to facilitate the participation of small and medium enterprises in public contracting, which increases competition and is in the interest of the contracting authorities. Next, it analyzes the concept of “inclusive offer”, which is raised in the request for advice, and it defines it as the offer that permits the simultaneous submission of a proposal to various lots or to all of them –according to the provisions of the tender conditions– so that the best offer may be selected (either individual or inclusive), incorporating a real and objective element of comparison.

According to the Board, in order to submit an “inclusive offer” it is necessary that an individualized offer is also submitted for each one of the

lots that constitute the inclusive offer, which will make it possible to compare the improvement brought about by the “inclusive offer”.

¿Variant or improvement?

So-called variants or improvements are exceptions to the prohibition to submit more than one proposal per bidder. Variants are different technical solutions, and improvements seek to provide added value with regard to aspects that could be improved, without changing the requirements of the tender conditions under any circumstances. According to the Board, the “inclusive offer” must have a legal status similar to that of variants or improvements. Therefore, the Board understands that the conditions of any type of contract can envisage the possibility to submit an “inclusive offer”.

Requirements for its admissibility

Finally, the Board enumerates the basic premises in order for the submission of “inclusive offers” to be possible: i) it must be authorized and justified by the contracting body in the file; ii) it must be foreseen in the conditions and in the announcements of the tender; iii) its submission must always be optional; iv) the award criteria for the evaluation of the inclusive offers will be the same as the criteria used to value the lots; v) each bidder can only submit one “inclusive offer”; and vi) the inclusive offer can refer to various or to all the lots, but who submits an inclusive offer must also submit an individual offer for each one of the lots that constitute it.