

## **AGS Position Paper Online Auctions**

The use of electronic media in the procurement of construction projects and related activities has increased steadily over the last twenty years as the speed and processing power of personal computers has increased and internet technology has developed. The AGS has been at the forefront of promoting the use of electronic data, starting with the introduction of the "AGS format" for site investigation and monitoring data in the early 1990's, and latterly continuing to support and promote electronic procurement (e-procurement) techniques within the Geotechnical and Environmental sector of the construction industry.

Over the last three or four years online auctions have become part of the e-procurement methodology and have gained prominence through such major client organisations as British Airports Authority (BAA) with reported success. Further impetus for the use of online auctions has been provided by the Office of Government Commerce (OGC) which has been tasked with implementing the Consolidated Public Procurement Directive (Directive 2004/18/EC), due to become law in the UK later this year. Finally, perhaps in anticipation of the new directive and in response to the increased use of online auctions, the Construction Industry Council (CIC) published a briefing note early in 2004, reviewing the use of online auctions within the construction industry. It is within this context that the Association of Geotechnical and Geoenvironmental Specialists (AGS) decided to review the impact on the Geotechnical Industry and to prepare this position paper.

The European Directive defines when online auctions should and should not be used to procure products and services:-

*"...provision should be made for such electronic auctions to deal only for contracts for works, supplies or services for which the specification can be determined with precision."*

*"..those aspects of the tenders which imply an appreciation of non-quantifiable elements should not be the object of electronic auctions. Consequently, certain works contracts and certain service contracts having as their subject-matter intellectual performances, such as design of works, should not be the object of electronic auctions"*

Extract from: - Directive 2004/18/EC.

Specifically it highlights the need for the product or service to be defined with precision, and furthermore, that products and services that have a non-quantifiable element to them, such as design and other professional services, should not be subject to procurement through online auctions. This is a view that is reflected within the CIC briefing note:-

*"Online bidding should be used only for the supply of commodities (Tactical Procurement) and not building design and engineering services, or complex construction services (Strategic Procurement)"*

Extract from: - Online Bidding - A CIC Briefing Note, CIC, 2004.

It seems that most commentators agree that anything procured through an online auction must be defined with precision. The implication being that quality, programme, and health and safety aspects of the product or service are sufficiently equal such that it is appropriate that price becomes the sole determinant of value. It is the practical implementation of these principles where some of the difficulties arise, particularly in ensuring that all quality, programme and health and safety drivers are equivalent.

The difficulty lies in determining which products and services can be defined with sufficient precision, such that they may be considered suitable for procurement through an online auction. The question of course is difficult to answer and often depends upon ones position within the supply chain. Through consideration of some specific examples from the geotechnical and environmental sector it is possible to illustrate some of these difficulties.

For example, a main contractor may regard the procurement of several driven pre-cast bearing piles as a sufficiently well defined so as to consider their purchase suitable for an online auction. However, in most cases the pile length and pile dimensions will be determined by the piling contractor to accommodate a particular load. This will involve an assessment of the ground conditions and of the equipment required to drive the piles in those particular circumstances in order to design the piles. It could therefore be argued unless the pile dimension, length and installation equipment is defined by the client that procurement of pre-cast bearing piles is not suitable for an online auction.

Another difficulty arises from the time and effort that is involved in ensuring that quality, programme and health and safety drivers are equivalent. This is particularly the case for small geotechnical works e.g. a site investigation, where it is common for final terms to be agreed after selection of the contractor has been made and which could, for example, mean an amendment to the programme, the limits of liability etc. For an online auction to be viable the contractor must agree with the terms being offered by the client in the first instance, and so is left in a take it or leave it situation.

In many cases it is possible to define the product or service with sufficient precision so that it may be procured through an online auction but it is rarely practicable or justifiable in terms of time, or cost if the criteria of equivalent programme, quality and health and safety requirements are to be met. The real danger is that without this effort to ensure equivalence that all that will be achieved is a short term reduction in client cost at the expense of quality, which may ultimately cost the client more in the long term.

In summary, the complex and variable nature of civil engineering in general, and ground engineering in particular, makes the implementation of online auctions difficult and arguably inappropriate for most geotechnical and environmental works. The AGS will continue to monitor the use of online auctions in the Geotechnical and Environmental sector and to gather the experiences and views of its members but for the immediate future it believes that the use of online auctions within the Geotechnical and Environmental sector is not appropriate.