

Feedback on SOA-QPS2 Review

By IBM China / Hong Kong Limited

IBM Response to Consultation on the Standing Offer agreement for Quality Professional Services 2 (SOA-QPS2) in the Government of the Hong Kong Special Administrative Region

1. Introduction

Since 1994, the Office of Government Chief Information Officer (OGCIO) had adopted a bulk supply arrangement to enable Government bureaux / departments (“b/ds”) to obtain IT professional services as and when required. The current arrangement, called the Standing Offer Agreement for Quality Professional Services 2 (SOA-QPS2) was launched in July 2009 and is due to expire in July 2013. This document presents the views of IBM in response to OGCIO’s request for IT industry views – presented in the consultation document dated 15 March 2012.

2. Views/Recommendations from IBM

(a) Categorisation of Services and Suppliers

IBM has no specific comments on this topic.

(b) Participation by Suppliers

Within the current SOA-QPS2, the number of contractors included in each of the service categories is limited to 8 to 9, which is increased from the previous SOA-QPS arrangement. We understand that OGCIO is considering the possibility of increasing the number of contractors in each service category to reflect the increase of the Government IT expenditure in recent years.

IBM recommends that the current number of contractors per service category should not be increased, and would prefer to see a reduction in number to the same levels for SOA-QPS. Our view is that any increase in the number of contractors per service category would significantly reduce the attractiveness of the SOA-QPS2 arrangements to quality contractors as this would result in additional cost because of lower overall percentage of successful bids.

(c) Length of Contracts

IBM considers that the current length of contracts at 48 months is appropriate to reflect the pace of change in the IT industry. As the pace of change continues to accelerate, OGCIO may wish to consider reducing the contractual period to 36 months in order to continue to maintain relevance to current market conditions.

(d) Bidding Performance

IBM considers that the current requirement is both onerous for contractors and results in behaviours which are contrary to the Government's objectives. Because contractors do not wish to lose evaluation rating scores, the current arrangement encourages the contractors to bid for every single tender in the allotted categories - whether or not their capable resources is available of providing the service. This is wasteful for both b/ds and contractors. We would strongly support a revision which allows contractors to maintain a full mark for bidding performance if they bid for 50% of tenders.

(e) Categorisation of Human Resources

IBM has no specific comments on this topic.

(f) Sub-contracting

IBM has no specific comments on this topic.

(g) Timing for Proposal Submission

IBM would strongly support a move to extend the proposal submission time from 20 to 30 working days in the case of more complex projects. In our view this will improve the overall quality of proposals which will be of direct benefit to b/ds.

(h) Payment for Services

IBM recommends that the time gap between any consecutive payment milestones should not exceed 90 calendar days, in order to avoid unfair financial burden on contractors.

(i) Continuity of Project Staff

IBM has no specific comments on this topic.

(j) Project Delay

IBM has no specific comments on this topic.

(k) Other Recommendations

(1) Terms & Conditions

HKSAR Government always strives for fair competition in procurement and tendering process. As a multinational original manufacturer of IT products, in terms of the unlimited liabilities of indirect damage, it is unfavourable to the multinational original manufacturer when compared to local small and medium service limited companies. In order to attract more original manufacturers to directly participate with Government procurement process, we would suggest OGCIO to allow counterproposals with a reasonable cap on liabilities.

A possible alternative to help the Government setting the cap in the proposal stage and avoid excessive resources spent on determining the amount of the liability cap case by case is to pre-determine the cap based on the nature of services and the project value. Projects with similar nature tend to have similar project values and risk levels. Under this principle, a fixed cap can be set for projects below a certain value and another cap for projects over that value. Each of the 4 categories may use the same approach. In other words, there will be a total of 8 pre-determined caps used.

While the unlimited liability clause continues to apply to infringement of IP Rights, unlawful conduct, property damage, death and personal injury, we see some jurisdictions have begun to explore the possibility of capping some, in particular in the cases of property damage, and personal injury. We encourage the Government to continuously look into these changes so as to strike the best suitable practice and interest for both the Government and the IT industry.

(2) Selection of Contractors and Quality Considerations

The current 60/40 price-quality score used in the current scheme places too little emphasis on quality for certain projects / services which is demanding for specific skills or consultants with certain experience. B/ds should be given the flexibility to adopt alternative marking schemes with higher emphasis on quality, in order to balance the relative importance of quality and price for individual projects.

For further communication, please contact the following

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