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The high cost of parking a procurement claim

It has been reported this week that Westminster City Council (WCC) has agreed to pay parking services provider Mouchel £600,000 to settle a dispute over the awarding of one of the UK's biggest parking contracts.

WCC said that it had been forced to reach a settlement with Mouchel, despite it considering that it had a good defence, given the expensive court costs and the risk of an outcome that could have seen WCC having to pay out up to £4million in compensation.

The dispute arose as a result of a decision by WCC in 2010 to not award the £50m parking enforcement contract to Mouchel. Mouchel had been named preferred bidder in March 2010, but the tender was revoked and reopened by WCC, using an accelerated procurement process. NSL (formerly known as NCP), the incumbent operator of the WCC's parking contract, was named successful tenderer in June 2010. However, it is understood that Mouchel contested this on the final day of the 10-day standstill period.

WCC was accused of spending more than £1m trying to award the contract, and received heavy criticism from the Labour opposition, which called for a full explanation of the "mismanaged fiasco... revealing serious failures".

The case highlights the importance to contracting authorities of:

- identifying the objectives and key requirements of the procurement at the outset;
- building these into a clear process, with a comprehensive suite of documentation to support this, including ITT with full criteria, sub criteria, weighting and scoring;
- implementing the process and using the documentation as set out fully and properly;
- ensuring that if, despite the above, it becomes necessary to change the process, this is done within a reasonable period and all bidders are kept fully informed;
- assessing the nature and impact of any problems or challenges that arise during the course of the procurement, swiftly and carefully (ideally with lawyers to retain privilege in and avoid subsequently having to disclose such review);
- identifying and implementing a strategy based on that review to eliminate or at least minimise the risks of such problems or challenges, which may range from re-running part or all of the process to standing firm and proceeding to award.

Although every procurement is different, the size of this payout may well encourage other unsuccessful bidders to commence proceedings and seek to recover at least the nuisance value of their claim. It is therefore all the more important that time and effort is invested by contracting authorities at the outset of a process to maximise the prospects of delivering a smooth and successful procurement that is, and is seen to be, fair and transparent.

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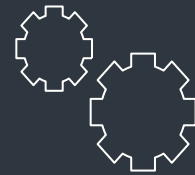
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