

Due Diligence for Tendering and organisation Review – How do the purchasers view your company or organisation?

The requirement to tender is moving inexorably down supply chains, for example to RSLs, and to companies and organisations seeking to sub-contract with non public sector bodies such as umbrella organisations, bigger charities and private companies. In these circumstances the process of "due diligence" becomes crucially important, not just for the purchaser, but probably more importantly for the supplier. But what is Due diligence? and why is it important?

The term first came into common use as a result of the United States' Securities Act of 1933. The Act included a reference to the "Due Diligence defense" which could be where a broker and or dealers were accused of inadequate disclosure of material information with respect to the purchase of securities to investors. So long as brokers and dealers exercised "due diligence" in their investigation into the company whose shares they were selling, and disclosed to the investor what they found, they would not be held liable for nondisclosure of information that was not discovered in the process of that investigation.

The early 1930s was a time when the world was recovering from the "Great Depression", a time of many unscrupulous money making practices. There was a spate of companies set up, without any financial or other backing being used by dealers and brokers as a route to quick finance. Of course the shares sold had no value on the money markets, the cash going straight into the pockets of the brokers and dealers.

In compliance with the Act brokers and dealers across the world community quickly established, as a standard practice, the conducting of due diligence investigations of any stock offerings in which they involved themselves. Originally the term was limited to public offerings of equity investments, but over time it has come to be associated with investigations of private mergers and acquisitions as well. The term has slowly been adapted for use in other situations as a way of preventing unnecessary harm to either party involved in any business transaction.

Originally the areas of concern were largely related to finance, taxation and legal matters. The process has now extended to include a wide range of considerations regarding the effective operation and management of a company. The areas covered now extend to include workforce matters, especially within the context of TUPE, IT, environment and the commercial situation of the company such as credit worthiness and financial history. Other areas now include intellectual property, land and buildings, personal property, insurance liability coverage and history, debts and mortgages, employee benefits, the status and skills of the individuals involved in governance and international transactions.

It is possible to see the tendering process as a formalised due diligence procedure with the element of competition added. It is difficult to see how, especially in times of financial stringency, any public body can hand over an amount of money, however small, to an external organisation without undertaking a process of due diligence of some kind.



The due diligence process assumes real importance for any organisation considering entering into a binding agreement or contract with another non-publicly funded body.

Regardless of who the organisation is or the claims which they make it is essential that a due diligence process is undertaken before entering into any contract or sub-contract, before entering into any kind of consortium arrangement or merger with another organisation. This is standard business practice and should become routine in the development of all and every type of collaborative arrangement.

- a) Undertaking the due diligence process forms the second stage of the four stage Tfc consortium development package.
- b) As part of the winter programme of training Tfc are offering a briefing devoted to Due Diligence which will provide a checklist for organisations to use when considering which organisations they will consider as suitable for entering into a contractual arrangement of any kind. Details of the programme are available on the Tfc website www.tenderingforcare.com
- c) A very detailed due diligence process forms the core activity for the Tfc OCN accredited, level 3 with six credits "Tendering and Procurement Practice course please see www.tappocn.org.uk
- d) In item 12) of the October 2009 issue of Roundup we set out a very basic due diligence process which is designed to help organisations who wish to select a service to provide help and advice for the tendering process.

Due Diligence for Tendering can be undertaken in the form of an organisation review

This considers all aspects of the company or organisation which are reviewed:

- as part of the PQQ
- during the tender award phase

We also look at policies and procedures and matters relating to financial sustainability

Our report identifies gaps and makes recommendation as to how competitiveness might be improved leading to increased tendering success.

Please contact us for details.

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