

## **Think piece for the re-imagining Scottish Archaeology workshops**

*Funding: Does competitive tendering work?*

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With the advent of archaeology as a commercial proposition in the 1990s, a structure for work to be advertised, scoped and won inevitably had to be developed. As with any number of other service-based industries, competitive tendering became the norm and is the current situation for a great majority of the works undertaken by organisations undertaking paid work in a commercial sphere. To a great extent and on face value competitive tendering works. Commissioning organisations feel secure in the knowledge that they are gaining the very best value for money, they have the opportunity to weigh up each tender response against competitors, and from archaeological companies point of view, well priced, considered and planned scopes of work are successfully won; any company not winning work is clearly pricing themselves out of the market or providing the wrong service.

However, the reality of the situation is perhaps not as simple as that laid out above. Certainly, clients will feel they are driving a hard bargain and, crucially, are in control of the process. Equally, there are clearly a great number of commercial archaeology companies, large and small, successfully tending for, winning and completing projects of a wide range of values. However, there is an argument that competitive tendering does not provide value for money for the commissioning body, and from my personal experience, it can contribute to behaviours within the industry which do not encourage clarity and transparency and are not focused on providing the very best service for a client. The Aim 1 Workshops provide an opportunity to review the current structures with a more critical eye.

The principles behind competitive tendering are simple; ask a range of suppliers to cost for a job. Knowing they must compete against each other to win the work, they will give the very best price possible, and the client will get the work done whilst achieving value for money and keeping their costs down. Certainly, there are some potential advantages; it encourages competition, potentially delivers value for money and allows theoretical easy entry for new or expanding firms. It also allows clients, who often have limited understanding of the specifics of the work they are commissioning, to evaluate different tender responses against each other in a fair way.

However, there are some real issues with this process. The first and most obvious is that to keep costs down, suppliers will use substandard or inappropriate labour or materials. They might not include or

allow for some essential safety aspects which best practice would expect them to have. However, other complications can arise. The competitive tender process generally creates an environment where communication and sharing of information between the tenderer and commissioner is limited. The need to put in as low a price as possible may lead to behaviours where contractors try to claw back costs once successful in the project, meaning the savings of a low price are lost. With minimal communication, assumptions are made on both sides about how the work is going to pan out and how long it will take; these assumptions may or may not be communicated back to either party.

At the end of the tender period, the commissioning party will have the quotes they need to make their decisions, but can they be confident in what those quotes represent?

In reality, the following situation can easily occur:

A developer sends out a prospective tender to three companies from the Local Authorities recommended list of suppliers. All are Registered Organisations and are signed up to ClfA Standards. The email outlining the invitation to tender states that the development has been granted subject to conditions, one of which relates to archaeology. Therefore, the developer is looking for a quote for production of a WSI for a watching brief and asks the companies to come back with costs and a timescale within 3 days.

Company 1 does what the client asked them to, costs up the WSI, sends the quote back and says that they could complete the work within a week.

Company 2 goes back to the planning portal and finds the original recommendation letter. They realise it mentions in the background that evaluation of the site might be more appropriate, depending on the timescales for the construction work. They try to get hold of the client, but don't hear back from them before the 3-day deadline. They are confident that carrying out an evaluation is going to save the client money in the long term, as the watching brief could drag on for months, so they decide they will cost up an appropriate trial trenching scheme including reporting. They put together a proposal which outlines their reasoning, along with their quote.

Company 3 contacts the client, queries whether they want just costs for a WSI, or also for the site works. They assume that the client is correct in needing a watching brief. The client indicates they want costs to clear the condition. Company 2 costs up the WSI, provides a day rate for an archaeologist to carry out a watching brief and a series of rates for post-excavation work, all presented in a format to show where the various costs would apply.

In this situation, the client ends up with three vastly differing value of quotes ranging from a few hundred pounds to several thousand. The client reviews the quotes and is utterly confused as to why there is such a range of prices and why there are works quoted in addition to the WSI. However, they're looking for value for money, so go with the cheapest price.

Clearly the challenge is two-fold; it would be hoped that each of the responding companies would communicate clearly with their prospective client to ensure they fully understood their responsibilities before they provided their tender response. However, the rub here is that the tender is normally written by people who have considerably less experience of what they are purchasing than the supplier. All three companies are expert in their service and could no doubt advise on either the full scope of what is needed (eg not just the production of a document, but the implementation of the site works and all reporting beyond that) or outline alternative approaches which would meet the same aims, however it is the developer who has stated what they want and they will measure the tender responses against this scope.

This process discourages communication between the purchaser and the provider. It encourages contractors to use an approach of 'getting a foot in the door'; they may be aware that far more extensive works are required, but it is cannier to keep quiet, quote for the smallest aspect of that work, and then let the developer know once the work is commissioned what the full scope is.

The scenario described above is hopefully becoming less common as developers become more used to commissioning and evaluating the quality of archaeological work. It is certainly the case that these problems are rarer where large-scale tendering for infrastructure projects is involved. However, in my experience, a considerable portion of work undertaken is for clients who are unaware of their responsibilities and what services they are actually commissioning. It still feels to me that we are woefully behind where we could and should be in terms of the construction industry's understanding of what we do and crucially, how we do it. Over 25 years after the introduction of archaeology within the planning process and the email from a prospective client confidently stating 'I need a WSI to clear my planning condition' is still all too familiar. Documents such as ClfA's 'Professional archaeology: a guide for clients' and FAME's 'Which Archaeologist? The Procurement of Archaeological Services' go some way to addressing this and are useful tools to share with clients from the outset.

Beyond this, as an industry, we need to find better ways to engage with the construction industry to ensure there is a genuine and appropriately detailed understanding of our work, from the wording of archaeological conditions, to the specific implications of the range of works we carry out and how that might affect costs. This would help mitigate some of issues with competitive tendering outlined above. Further advocacy through ClfA and FAME would be possible; my perception is that the guidance

produced to date is useful but not in a format which is accessible to all levels of the construction industry. Potentially using infographics, flowcharts and similar simple representations of process might help, but the message needs to be actively carried and promoted by all individuals and organisations undertaking commercial archaeological work, from the very first point of contact with a client.

#### Further Reading

<https://www.archaeologists.net/clientguide>

<https://famearchaeology.co.uk/wp-content/uploads/2018/08/FAME-procurement-Which-Archaeologist-leaflet.pdf>

[http://constructingexcellence.org.uk/wp-content/uploads/2015/01/CE\\_Business\\_Case\\_for\\_Lowest\\_Price\\_Tendering.pdf](http://constructingexcellence.org.uk/wp-content/uploads/2015/01/CE_Business_Case_for_Lowest_Price_Tendering.pdf) (this article explores how issues with straight competitive tendering in construction are already recognised)