

Constitution - extract

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Contract Procedure Rules

1.0 General Provisions

- 1.1 Every contract made by the Council or by a Committee, Working Party or officer acting on their behalf shall comply with the EEC Treaty and with any relevant Directives of the EEC for the time being in force in the United Kingdom and, except as hereinafter provided, this standing order.
- 1.2 It shall be a condition of any contract between the Council and any person (not being an officer of the Council) who is required to supervise a contract on their behalf that, in relation to such contract, he shall comply with the requirements of this standing order as if he were a Service Manager of the Council.
- 1.3 Exemption from any of the following provisions of this standing order may be made by direction of the Council, a Committee or Working Party duly authorised in that behalf, an officer of the Council duly authorised in that behalf, where they or he, are or is satisfied that the exemption is justified in special circumstances.
- 1.4 Members shall be informed in accordance with the arrangements for notification approved by the Council from time to time of the circumstances of every exemption made by a Committee or by an officer.
- 1.5 A record of any exemption made in accordance with 1.3 above shall, if not made in the minutes of the Council, be made in a register maintained by the Director of Health and Corporate Services.

2.0 Invitation of Tenders

- 2.1 Where the estimated value or amount of a proposed contract costs more than £50,000, and in any other case where the Council or appropriate Committee determine, tenders shall be invited in accordance with either paragraph 2.2, 2.3 or 2.4

2.2.0 SELECT TENDERING - AD HOC LIST

2.2.1 This paragraph shall apply where the Council, Committee, Working Party or officer duly authorised in that behalf, have decided that invitations to tender for a contract are to be made to some or all of those persons or bodies who have replied to a public notice.

2.2.2 For the purposes of this paragraph, public notices shall be given:

2.2.2.1 in at least one local newspaper, and

2.2.2.2 where the estimated amount or value of the contract exceeds £50,000 in at least one newspaper or journal circulating

among such persons or bodies who undertake such contracts, and

2.2.2.3 at the discretion of the Council, Committee Working Party or Officer, to all or a selected number of persons or bodies named in the list maintained under paragraph 2.3

2.2.3 The public notice shall:-

2.2.3.1 specify details of the contract into which the Council wish to enter,

2.2.3.2 invite persons or bodies interested, to apply for permission to tender, and

2.2.3.3 specify a time limit, being not less than 14 days, within which such applications are to be submitted to the Council.

2.2.4 After the expiry of the period specified in the public notice invitation to tender for the contract shall be sent to:-

2.2.4.1 not less than 4 of the persons or bodies who applied for permission to tender, selected by the Council, Committee or Working Party or officer of the Council duly authorised in that behalf or –

2.2.4.2 where fewer than 4 persons or bodies have applied or are considered suitable, those persons or bodies which the Council, Committee or Working Party or officer of the Council duly authorised in that behalf consider(s) suitable.

2.3.0 SELECT TENDERING – STANDING LIST

2.3.1 This paragraph shall apply where the Council, Committee or Working Party or officer of the Council duly authorised in that behalf, have decided that invitations to tender for a contract are to be limited to those persons or bodies whose names shall be included in a list compiled and maintained for that purpose.

2.3.2 The list shall:

2.3.2.1 be compiled and maintained by the Council, Committee or Working Party or officer of the Council duly authorised in that behalf.

2.3.2.2 contain the names of all persons or bodies who wish to be included and who are approved by the Council, Committee or Working Party or officer of the Council duly authorised in that behalf; and

2.3.2.3 indicate in respect of a person or body whose name is so included, the categories of contract and the values or amounts in respect of those categories for which approval has been given.

2.3.3 At least 4 weeks before a list is first compiled, notices inviting applications for inclusion in it shall be published:

2.3.3.1 in at least one local newspaper; and

2.3.3.2 in at least one newspaper or journal circulating among such persons or bodies as undertake such contracts.

2.3.4 The list shall be reviewed at least every three years.

2.3.5 Invitations to tender for a contract shall be sent to:

2.3.5.1 not less than 4 of those persons or bodies selected by the Council, Committee or Working Party or officer of the Council duly authorised in that behalf, from among those approved for a contract of the relevant category and amount or value, or

2.3.5.2 where fewer than 4 persons or bodies are approved for a contract of the relevant category and amount or value, all those persons or bodies.

2.4.0 SELECT TENDERING – OPEN TENDERING

2.4.1 This paragraph shall apply where the Council, Committee or Working Party or officer of the Council duly authorised in that behalf, have decided that tenders for a contract are to be obtained by open competition.

2.4.2 At least 14 days public notice shall be given in one or more local newspapers and also, wherever the values of the contract exceeds £50,000 in one or more newspapers or journals circulating among such persons or bodies as undertake such contracts. The notice shall express the nature and purpose of the contract, state where further details may be obtained, invite tenders for its execution and state the last date and time when tenders will be received.

3.0 Dealing with Tenders

3.1 The receipt, custody and opening of tenders shall be dealt with in the manner prescribed in the Code of Practice for the receipt, custody and opening of tenders which may be amended from time to time by the Director of Health and Corporate Services after consultation with at least two Council Spokespersons.

3.2 A tender other than the lowest tender if payment is to be made by the Council or the highest tender if payment is to be received by the Council shall only be accepted by the Cabinet, having considered a report by the appropriate officer or other authorised person (save where otherwise permitted by the Council's Scheme of Delegation).

4.0 Post Tender Matters

- 4.1 A register of all contracts placed by the Council shall be kept and maintained by such officer or officers as the Council may determine. Such register shall for each contract, specify the name of the contractor, the works to be executed or the goods to be supplied and the contract value. The register shall be open to inspection by any Member of the Council.

Nominated Sub-Contractors and Suppliers

- 4.2 Where a sub-contractor or supplier is to be nominated to main contractor, the following provisions shall have effect:

4.2.1 Where the estimated amount of the sub-contract or the estimated value of the goods to be supplied by the nominated supplier does not exceed £10,000 then, unless the appropriate Chief Officer is of the opinion in respect of any particular nomination that it is not reasonably practicable to obtain competitive tenders, tenders shall be invited for the nomination.

4.2.2 Where the estimated amount of the sub-contract or the estimated value of the goods to be supplied by a nominated supplier is £10,000 or more then, unless the Council, Committee, Working Party or Officer duly authorised in that behalf determine in respect of any particular nomination that it is not reasonably practicable to obtain competitive tenders, tenders shall be invited in accordance with Section 2 of this Code.

4.2.3 The provisions of Sections 3 and 4.1 shall apply to tenders received under this paragraph.

Contract Conditions

- 4.3 Every contract which exceeds £10,000 in value or amount shall:

4.3.1 be in writing and signed by an officer of the Council duly authorised in that behalf;

4.3.2 specify the goods materials or services to be supplied and the work to be executed; the price to be paid together with a statement as to the amount of any discount(s) or other deduction(s); the period(s) within which the contract is to be performed and such other conditions and terms as may be agreed between the parties, and

4.3.3 In appropriate cases, where a contract exceeds £50,000 in amount or value, provide for the payment of liquidated damages by the contractor where he fails to complete the contract within the time specified.

4.3.4 The Council may also require a contractor to give sufficient security for the due performance of any contract.

- 4.4 Where an appropriate British Standard Specification or British Standard Code of Practice issued by the British Standards Institution is current at the date of the tender, every contract shall require that all goods and materials used or supplied, and all the workmanship shall be at least of the standard required by the appropriate British Standards Specification or Code of Practice.

4.5 There shall be inserted in every written contract a clause empowering the Council to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation, if the contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the contract or any other contract with the Council, or for showing or forbearing to show favour or disfavour to any person in relation to the contract or any other contract with the Council, or if the like acts shall have been done by any person employed by him or acting on his behalf (whether with or without the knowledge of the contractor), or if in relation to any contract with the Council, the contractor or any person employed by him or acting on his behalf shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916, or shall have failed to comply with the provisions of or committed any offence under the Public Interest Disclosure Act 1998 or shall have given any fee or reward the receipt of which is an offence under section 117(2) of the Local Government Act, 1972.

5.0 Contracts for Building, Constructional or Engineering Works

5.1 The Head of Paid Service shall arrange for the keeping of a contract register or registers to enable the Head of Paid Service or Monitoring Officer to monitor the state of account on each contract between the Council and contractors, including monitoring of payment of professional fees and all payments made on each contract.

5.2 Payments to contractors on account of contracts shall be made only on a certificate issued by the architect or engineer (or private architect, engineer or consultant where engaged by the Council) as appropriate, or other officer nominated by the Head of Paid Service in writing for the purpose.

5.3 Subject to the provisions of the contract in each case, every extra or variation, shall, unless otherwise evidenced to his satisfaction, be authorised in writing by the architect or engineer (or private architect, engineer or consultant) as may be appropriate or other officer nominated by the Head of Paid Service in writing for the purpose.

5.4 Any such extra or variation, the estimated additional cost of which exceeds £10,000 and which cannot be met from within the Contract sum, shall be reported to the Chief Finance Officer who will advise Members as part of budget monitoring.

5.5 Subject to the requirements of the Contract, the final payment certificate of any Contract shall not be issued until the appropriate officer or consultant has produced to the Head of Paid Service a detailed statement of account, and all relevant documents if required.

5.6 The Head of Paid Service, shall, to the extent he considers necessary, examine final accounts for contracts and he shall be entitled to make all such enquiries and receive such information and explanations as he may require in order to satisfy himself as to the accuracy of the accounts.

5.7 Claims from contractors in respect of matters not clearly within the terms of any existing contract shall be referred to the Legal Services Manager Services for consideration of the Authority's legal liability and to the Chief Finance Officer for financial consideration before a settlement is reached.

- 5.8 Where completion of a contract is delayed beyond the end of the approved contract period, it shall be the duty of the Head of Paid Service, or other appropriate Service Manager to take appropriate action in respect of any claim for liquidated damages and to report his action in accordance with the arrangements for notification approved by the Council from time to time.
- 5.9 In any case, where the total cost of any work carried out under a contract, exceeds by more than 5% the approved contract sum, (after allowing for pay and price increases), a report of such cost shall, after agreement of the final account, be made in accordance with the arrangements for notification approved by the Council from time to time.

