



## Hampshire Fire and Rescue Authority Contract Standing Orders

The document has been updated following amendments presented to a meeting of the Hampshire Fire and Rescue Authority on ~~xx13 February 2008~~, and approved by that meeting.

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## 1. Introduction and overview

- 1.1 By law, the Fire Authority must make standing orders with respect to contracts for the supply of goods or materials or for the execution of works which provide for:
- securing competition
  - regulating the manner in which tenders are invited
- 1.2 **Compliance** with these Contract Standing Orders (CSOs) by all staff is mandatory and contravention is a serious matter. They set out the administrative procedure that must be followed when seeking tenders and letting contracts for the supply of services and works.
- 1.3 **These** CSOs have three main purposes:
- to ensure that the Fire Authority obtains Best Value in the way it spends money, so that in turn it may offer Best Value services to the public
  - to comply with the laws that govern the spending of public money; and
  - to protect individuals from undue criticism or allegation of wrongdoing.
- 1.4 The **Treasurer** and Clerk and Monitoring Officer are the joint custodians of these CSOs and are responsible for keeping them under review. If the European Union (EU) Directives or any other law is changed in a way that affects these CSOs then that change must be observed until the CSOs can be revised. If the CSOs appear to conflict with EU Directives or any other legislation then the legislation takes precedence.
- 1.5 It is the **role** of the Director of **Professional** Services to achieve Best Value for the Authority by establishing and maintaining a purchasing network for the Authority and to have responsibility for managing a range of common use contracts.
- 1.6 These **CSOs** should be read in conjunction with any detailed practice notes provided by the Clerk and Monitoring Officer to explain how the regulations will be implemented.
- 1.7 These CSOs **apply** to all contracts for supplies, services and works entered into by staff, with some exceptions (see section 13).
- 1.8 Throughout **these** CSOs “Officer” is a general term covering all staff with budgetary or procurement responsibilities.
- 1.9 Before **carrying** out a procurement process, Best Value legislation requires that the following steps must be carried out:

- identify the need for change or improvement in service delivery
- use a formal evidence based analysis to consider the options for delivery
- evaluate those options and identify a preferred option
- ensure that sufficient budget is available and that authority has been obtained to spend it on the preferred option, in accordance with financial regulations.

1.10 The following CSOs apply where, as a result of carrying out this process, the preferred option includes entering into a contractual agreement for the provision of supplies, services or works.

## **2. Rules for all contracts**

### **Aggregation**

- 2.1 Purchases must be aggregated whenever possible. On no account should any requirement be split in an attempt to avoid using the proper procedure under these CSOs or EU procurement rules.
- 2.2 For aggregated requirements with an estimated annual value over the current EU threshold, Officers must ensure that a Prior Indicative Notice (PIN) is placed in the Supplement to the Official Journal of the European Union (OJEU) as early as possible in the year. This can be done by using 'myTenders.com' on the internet.

### **Contractor quality**

- 2.3 For all contracts, regardless of value, a contractor must be selected who:
- can confirm a business contact address and telephone number
  - has an acceptable level of public liability insurance
  - is registered for tax and holds a valid certificate (where appropriate)
  - is able to provide two independent referees from whom reference may be sought for contracts completed within the last three years.
- 2.4 The Authorised Officer will keep registers of contractors who, following limited financial and other checks, are deemed suitable for consideration as contractors for construction, buildings' repairs and maintenance. There are also other registers available from other sources such as government and local government consortia. Budget holders should note, however, that the inclusion of a contractor on these registers is no guarantee of its quality or suitability for any particular project. Advice should be sought from the keeper of the registers on suitable contractors for specific works.
- 2.5 Call-off or framework contracts for supplies and services should be used where they exist, regardless of value. Countrywide or regional arrangements exist for routine supplies and services and department-

specific contracts. Every order and contract must clearly and carefully specify the supplies, services, or works to be supplied, the agreed programme for delivery and the price and terms for payment together with all other terms and conditions that are agreed.

## **Tender Book**

- 2.6 A tender book will be maintained by the Procurement and Contracts Manager. All new contracts should be entered in the book and awarded a contract number. When the tenders are opened the officiating officers will record the response details and sign confirming the time and date.

## **3. Register of contractors**

- 3.1 A register of contractors is a list of contractors or suppliers qualified for invitation to tender for works or services. The purpose of registers is to provide the names of contractors or suppliers who have been checked for their competence and to invite only those firms on the list to tender. This avoids the need to advertise each contract and investigate each tenderer in what is frequently a short space of time.
- 3.2 For supplies and services (including consultancy services), a register should be used to invite tenders without advertising if the pre-estimated aggregate annual value of contracts is below the current EU threshold. Where the total is expected to exceed this amount, tenders may be invited using the register but each requirement must also be advertised under the EU Directives.
- 3.3 When contracts for supplies, services, or works are advertised, the criteria for selection of tenderers and contract award must be the same for those who respond to the advertisement.
- 3.4 Registers of contractors must be compiled and maintained by the Authorised Officer or his/her named delegate be approved by the Authorised Officer in consultation with the Treasurer and the Clerk and Monitoring Officer; and indicate, for each entrant, the categories of supplies, services or works and any maximum contract values for which approval has been given.
- 3.5 At least four weeks before such a register is first compiled, and thereafter every three years, an advertisement inviting applications for inclusion in the list should be published in either the local or national press and/or trade journals in order to target the appropriate market. At the time of re-advertisement, existing entrants should also be required to reapply for inclusion in the register.
- 3.6 Where the number of contractors on a list is at a level agreed by the Treasurer and the Clerk and Monitoring Officer, the formal review may be carried out every five years.

- 3.7 Sustainable development is an important element of corporate strategy. Contractors and suppliers should, therefore, be able to contribute significantly to meeting the Fire Authority's sustainable development strategy and objectives. This should be considered when deciding criteria for admission to registers and the eventual awarding of contracts.
- 3.8 Once the register is established, invitations to tender for a contract should be sent to entrants by means of the application of pre-determined and objective selection criteria.
- 3.9 Officers should continuously monitor the performance of entrants but must obtain approval of the Clerk and Monitoring Officer before taking measures to remove any contractor from the register who is not consistently meeting minimum performance criteria.

#### **4. Thresholds**

- 4.1 Thresholds are set for different values of transactions:

Below £25,000	Obtain three quotations
For transactions valued at £25,000 or above but below £100,000	Three tenders required through formal procedures
£100,000 or above but below EU threshold	Five tenders required through formal tender procedures
Above EU procurement levels	Compliance with EU procurement directives

#### **5. Low-value transactions**

- 5.1 For contracts valued at or below £25,000, tenders are not required but the principles of Best Value apply and the selection process should be documented. Wherever possible three competitive quotations should be obtained. If the contract is then awarded to any other than the lowest tenderer then the reasons for doing so should be justified and recorded in writing.

#### **6. Intermediate transactions**

- 6.1 For transactions valued £25,000 or above or below £100,000 at least three tenders must be invited. Either a formal contract must be entered into or a formal purchase order issued as appropriate, specifying the supplies, services, or works and setting out prices, terms, and conditions of contract and terms of payment. Tendering procedures should be the same as those carried out for transactions valued at above £100,000 (outlined below in Section 10 and following) except

that the Authorised Officer should be substituted for Clerk and Monitoring Officer throughout.

## **7. Full tender procedures for higher value transactions**

- 7.1 For transactions valued over £100,000 but below the EU thresholds, a formal tender process must be conducted in the manner outlined below.
- 7.2 One of three tender procedures; Open, Restricted or Negotiated, should be selected as the most appropriate for the transaction. These are designed to be essentially the same as the procedures described in EU Directives in order to provide consistency.

### **Open procedure**

- 7.3 Open tendering, where anyone can submit a tender, uses the following procedure:

*An advertisement should be placed in either the local or national press and/or trade journals in order to target the appropriate market.*

*The advertisement should specify a time limit (minimum 14 days) within which interested parties must express their interest in tendering. After the expiry of this period, invitations to tender should be sent to all the interested parties, specifying a period of not less than three weeks for the return of tenders.*

### **Restricted procedure**

- 7.4 Restricted tendering, where a number of tenders are selected from those who express an interest, is identical to that for open tendering, except that:

*If an advertisement is placed it should state that a restricted tendering procedure will be used.*

*The advertisement should specify that information is to be provided by interested parties for the short-listing process and that this shall be by their completion and return of a pre-qualification (PQQ) document on the date specified in the advertisement. Invitations to tender should be sent to no less than five tenderers selected by means of pre-determined, objective selection criteria of the PQQ (or all of them where less than five entrants meet the criteria). The invitation to tender should specify a period of not less than three weeks for the return of tenders.*

## **Negotiated procedure**

- 7.5 A procedure permitting post tender negotiation is also available but utilisation is expected to be limited and must only be used with the agreement of the Clerk and Monitoring Officer.

## **Best Value tender evaluation procedure**

- 7.6 For contracts valued £100,000 and above and for all contracts governed by EU Directives, a more complex Best Value tender evaluation procedure may be used in preference to a price-only evaluation where appropriate.
- 7.7 This evaluation, to be carried out by at least three appropriate senior officers nominated by the Authorised Officer, scores tenders objectively by using criteria which must:
- be predetermined and listed in the invitation to tender documentation in the order of importance
  - be strictly observed at all times during the tender process
  - reflect the principles of Best Value
  - include price
  - be capable of objective assessment
  - be weighted by relative importance.
- 7.8 Where this evaluation methodology is used, any resulting contract must be awarded to the tenderer who submits the most economically advantageous tender, i.e. the tender that achieves the highest score in the objective assessment.
- 7.9 The commencement of a procurement process for a contract is subject to the prior approval of the relevant Authorised Officer who has the authority to give such approval under the Authority's scheme of delegation. The giving of approval is subject to the expenditure involved having been included in approved estimates and sufficient budgetary provision having been made.

## **8. Tendering under EU directives**

- 8.1 Where EU thresholds are reached, tendering procedures should meet the requirements of EU directives as well as CSOs. Although the procedures are similar to the open, restricted, and negotiated procedures described above, there are more complex requirements which must be followed. The thresholds and procedures are dealt with in detail in a practice note issued by the Clerk and Monitoring Officer. (See Code of Practice, Practice Note 4)
- 8.2 The value of a contract is its cost over its life. Where values exceed thresholds (which are higher for works than for supplies and services) EU Directives on procurement procedures including advertisements as

appropriate in the Official Journal of the EU must be adhered to. Each year, the Authorised Officer is required to submit a return to the Department of Communities and Local Government showing the total contract value, title of contract, nationality of contractor or supplier and the EU procurement procedure used (i.e. open, restricted or negotiated). Negotiated procedures have to be justified in the return.

- 8.3 When a Best Value tender procedure is used when awarding a contract under EU Directives, the evaluation criteria must be agreed with the Authorising Officer.

## **9. Receipt and opening of tenders**

- 9.1 In all cases, every invitation to tender shall include the following:

- Full instructions on how to submit their tender to the Authority.
- Tenderers shall be advised that in exceptional circumstances where a tenderer wishes to submit a tender on paper that they may do so but:
  - no tender will be considered unless it is enclosed in a plain, sealed packet addressed to the authorised officer and endorsed with the words “Tender for .....” followed by the subject to which it relates, contract number and the latest time and day for the receipt of the tender
  - the packet should bear no mark that identifies the tenderer; and faxed or emailed tenders will not be considered.

- 9.2 The Authorised officer will keep the tender packets locked away until the time specified for their opening. Two officers must open all tenders at the same time (one of whom should be the Authorised Officer or a senior officer nominated by him and where the value of the tender is over £100,000 the other should be a member of the fire authority). The tenders must be recorded in the tender book and the officers will sign to confirm the date and time of the tender opening.

- 9.3 The Authorised officer should arrange for the opening to take place in a suitable room to ensure that the opening of tenders is secure and confidential. Tenders should not (unless no alternative accommodation is available) be opened in an open plan or shared office.

- 9.4 The authorised officer must ensure that all tenders are recorded in the tender book with the name of the tenderer and price offered and that the Tender Book is present and properly completed.

- 9.5 Where the value of the tender is expected to be over £100,000 the Authorised officer will arrange for a Member of the Fire Authority to be present at the Tender Opening

## **10. Awarding contracts**

- 10.1 The Authorising officer shall ensure that the tenders received are evaluated in accordance with the evaluation criteria that have been adopted for the contract, and stated in the invitation to tender. These criteria must be capable of objective assessment, include price and other relevant factors and be weighted by relative importance
- 10.2 The results of the tender evaluation process and the name of the tenderer, who has submitted the most economically advantageous tender i.e. the tenderer that achieves the highest score in the evaluation, should be recorded on a tender acceptance recommendation form (FM/2/2/2) which should be filed in the Tender Book.
- 10.3 A contract may only be awarded and signed by a person authorised to do so and who should ensure that the budget holder has the funds in place to sustain the contract prior to award.
- 10.4 Single tenders may only be accepted after an exception has been obtained for this purpose under the procedure set out in section 13.
- 10.5 Where the value of a contract is above the relevant EU threshold, the contract shall be awarded in accordance with the applicable UK regulations and in particular the requirements relating to a “standstill” period prior to the contract being entered into.

### **Conditions of contract**

- 10.6 All transactions must use an appropriate form of contract in a form determined by the Authorised Officer after consultation with the Clerk and Monitoring Officer.
- 10.7 Where a contract is estimated at a value over £100,000 and is new and/or of an unusual or complex nature, the Authorised Officer should be consulted to produce a suitable set of conditions of contract.
- 10.8 Every contract:
- must be made in writing, under English Law and, unless under seal, must be signed by a person authorised to do so under the scheme of delegation; and
  - must clearly and carefully specify the supplies, services, or works to be supplied, the agreed programme for delivery and the price and terms for payment together with all other terms and conditions that are agreed.
- 10.9 Every contract must also include certain clauses to protect the Fire Authority from fraud and to ensure that contractors understand what the

responsibilities of the Fire Authority are when they are acting on its behalf.

## 11. Managing contracts

- 11.1 For each contract over £100,000 the Authorised Officer must designate a project officer as primary contact.
- 11.2 For particularly large and/or strategically important contracts, the Authorised Officer should consider the appointment of a dedicated project manager prior to the award of the contract.

## 12. Electronic procurement

- 12.1 When appropriate, electronic procurement (or “e-procurement”) systems will be used in preference to paper transactions. All electronic procurement systems will be prescribed by the Treasurer in consultation with the Authorised officer.

## 13. Exceptions to Standing Orders

- 13.1 In some circumstances, however, exceptions may be granted and the general approach to this is outlined below. All requests must be made in writing, identifying the grounds for the request. Approvals must also be recorded in writing and given prior to the action being taken.

Value of Contract	Approval
Below £25,000	None
£25,000 or above but below £100,000	Director of <del>Corporate</del> <u>Professional Services</u>
£100,000 or above but below £1,000,000.	Clerk and Monitoring Officer
£1,000,000 or over	Requests to Clerk and Monitoring Officer for consideration and if recommended to be approved by the Fire Authority

- 13.2 A request for the issue of such an exception must be made to the person authorised under 13.1, with full reasons as to why this exemption is required and evidence that the issue of this exception will not prevent best value from being obtained. The decision in response to the request must also be in writing. No action shall be taken to enter into the Contract until such request has been submitted and the decision made.
- 13.3 It is understood that a waiver may be utilised where it can be demonstrated that the ability to act quickly to engage a single supplier would make economic sense and fit with service requirements, in

circumstances where there is no more effective way to secure the capacity.

- 13.4 Where a tender or quotation has been invited pursuant to paragraph 11 above the Authorised Officer may arrange for such tender or quotation to be opened as soon as it is received in his office and if he is satisfied as to its reasonableness he may accept it provided that it complies in all other respects with the appropriate parts of these Standing Orders.