

Meeting: Full Council

Portfolio Area: Resources

Date: 9th September 2005

CONTRACT STANDING ORDERS - REVISED

(Corporate Procurement)

KEY DECISION

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1 PURPOSE

1.1 To obtain Members agreement to the council's revised Contract Standing Orders as shown in Appendix A.

2 RECOMMENDATIONS

2.1 That the proposed Contract Standing Orders as shown in Appendix A and minor revision to Financial Regulations as outlined in section 4.4 be approved by Full Council.

3 BACKGROUND

3.1 Contract Standing Orders form an essential part of the control framework within which the Council operates.

3.2 Contract Standing Orders are a collection of rules, which must be adhered to when officers purchase goods or services or dispose of Council property. They have been designed to ensure that the Council is compliant with UK legislation, follows best practice and achieves value for money in all its procurement activities.

3.3 A full review of both Financial Regulations and the Council's Contract Standing Orders was commissioned in 2004. Financial Regulations have since been revised following approval from Full Council on 29th September 2004.

3.4 All Heads of Service, First Line Reports to SMB and Strategic Management Board members were asked to provide their comments and issues regarding the application of the revised document.

4 REASONS FOR RECOMMENDED COURSE OF ACTION AND OTHER OPTIONS

4.1 The following developments have necessitated a complete revision of Contract Standing Orders:

- Emergence of electronic forms of procurement not allowed for in current Contract Standing Orders, such as E-auctions and electronic submission of tenders
- Emergence of innovative and collaborative forms of procurement not covered in current Contract Standing Orders, such as purchasing consortia, partnerships and joint tenders
- The requirement that the Council complies with the new Consolidated EU Procurement Directive as from 1st January 2006
- The need for Contract Standing Orders to include the requirements outlined in the ODPM's National Procurement Strategy

4.2 The document in Appendix A has been re-written with the aim of being more user friendly and, for ease of reference, is split into sections covering the different types of procurement activity and potential contract value band. Reference is made in the document to additional guidance notes and templates held on the Intranet, such as SBC standard terms and conditions. This additional documentation is currently being finalised and will assist staff further to ensure that best practice is being followed and the Council receives best value for money.

4.3 The key changes to existing Contract Standing Orders are outlined in the following table:

Description	Existing Contract Standing Orders	New Contract Standing Orders
1. Scope	<ul style="list-style-type: none"> • Contract Standing Orders only apply to contracts over £50,000. • EU Procurement Directives are not covered (only referred to) 	<ul style="list-style-type: none"> • Contract Standing Orders apply to Council expenditure of any value, be it £1 or £1 million. • Separate rules are provided for contracts in the following bands: <ol style="list-style-type: none"> a) contracts under £75,000 b) contracts above £75,000 and below EU Threshold c) contracts over EU threshold • Additional rules for specific contracts are provided, such as partnerships, consultancies and disposals.
2. Minimum Number of quotes / tenders	<p>In Financial Regulations:</p> <ol style="list-style-type: none"> a) Up to £3,000 ~ one written quote b) £3,000 to £50,000 ~ three written quotes <p>In Contract Standing Orders:</p> <ol style="list-style-type: none"> c) £50,000 to £150,000 ~ three tenders d) £150,000 to £250,000 ~ four tenders e) above £250,000 ~ Five tenders (except EU rules) 	<p>In Contract Standing Orders:</p> <ol style="list-style-type: none"> a) Up to £5,000 ~ one oral quote, in writing if over £1000 b) £5,000 to £75,000 ~ three written quotes c) £75,000 to EU threshold ~ three tenders d) EU – as per the Directive

3. Contract Signature	No rules provided for, except when the contract is under seal.	a) Under £75,000 ~ the contract must be signed by an authorised contract signatory b) £75,000 to EU ~ the contract must be signed by an authorised contract signatory (except when under seal) c) Over EU ~ under seal
4. Post Tender Negotiation (PTN)	States officers not permitted to conduct post tender negotiation	In certain cases, post tender negotiation is allowed (only with contracts under the EU threshold.)
5. Exemptions to obtaining the minimum number of quotes / tenders	a) Goods / services of specialist nature b) Sold by trade organisations c) Emergency d) Consortium e) Form part of a term contract The Borough Solicitor and Assistant Chief Executive (Finance) are able to authorise waivers of Contract Standing Orders using these exemptions.	As before, plus: a) Similar goods/services have been tendered for in the last 24 months b) Exceptional circumstances show it to be in the best interests of the Council to negotiate with an existing supplier. In addition to the Borough Solicitor and ACE (Finance), the Corporate Procurement Manager will now be able to authorise waivers of Contract Standing Orders through these exemptions.
6. Electronic tenders	No information for contracts under £50,000. Tenders over £50,000 must be made in writing in sealed orange envelopes.	Under £75,000 – fax and emailed quotes are permitted. Over £75,000 ~ tenders can be sent to Committee Services either in writing or via a secure email account.
7. Partnerships	Partnerships not covered and long term contracts discouraged (must be reported to Executive). No permission to use another Council's Contract Standing Orders.	Specific section on partnerships, collaboration and innovative/ abnormal contracting.

4.4 In view of the above changes to Contract Standing Orders, some minor alterations need to be made to Financial Regulations (mostly relating to the removal of sections which will now be covered in Contract Standing Orders). These changes are:

- Appendix C relating to the employment of consultants has been removed, as this is covered in Contract Standing Orders
- Section 28 relating to Partnerships has been removed, as this is covered in Contract Standing Orders
- Section 25.2 to 25.6 relating to the process for raising purchase orders has been added
- All references to Chief Officers now read Strategic Director

A full copy of the updated Financial Regulations has been placed in the Members library for reference.

4.5 Subject to approval at Full Council, the new Contract Standing Orders will be implemented on the 14th November 2005, allowing time for training and workshops.

5 IMPLICATIONS

5.1 Financial Implications

There will be no financial implications directly arising from the change to Contract Standing Orders. However, it is anticipated that the revised Contract Standing Orders will improve the Council's financial standing through the following of best practice, the achievement of value for money and the mitigation of risk.

5.2 Legal Implications

The revised Contract Standing Orders will assist in the adoption of compliant and improved procurement practices and with the generation of lawful and commercially sound contractual documentation. The proposed document represents a radical change to existing Contract Standing Orders and as such, may be subject to change once embedded, especially with regards to the Council's interpretation of the new EU Procurement Directive.

5.3 Policy Implications

Contract Standing Orders are in themselves a policy change

BACKGROUND DOCUMENTS

- The National Procurement Strategy for Local Government – published by the ODPM in conjunction with IDEA.
- Revised Financial Regulations – available in the Members library

APPENDICES

- Revised Contract Standing Orders Appendix A