

**WEST MIDLANDS FIRE SERVICE
PROCUREMENT STANDING ORDERS**

1. POLICY

It is the policy of the Authority that all expenditure or income, incurred or received, in relation to any Contract into which the Authority enters, shall be processed in accordance with the Standing Orders to achieve probity and public accountability and ensure value for money and Best Value.

2. STRATEGIES

All Contracts entered into shall comply with the **Procurement** Standing Orders and the Authority's Financial Regulations.

When letting a Contract, its monetary value and strategic importance shall determine the appropriate course of action in accordance with the Brigade's Procurement Policy (Standing Order 8/1) and related guidance.

All procedural matters set out in the **Procurement** Standing Orders shall be subject to audit by the Authority's Internal and External auditors.

The **Procurement** Standing Orders must be complied with on all occasions.

3. PROCEDURES

3.1 Conformity with Procurement Standing Orders and Financial Regulations

The Standing Orders apply to capital and revenue expenditure. The Standing Orders shall also apply in respect of income, excluding income obtained from external funding, partnerships, sponsorship, or any special funding obtained as part of a bidding process, e.g. a **Private Finance Initiative** (See Standing Order 22/2).

3.2 Pecuniary and Other Interests

Any employee of the Authority with a pecuniary or other interest in any Contract let by the Authority must, whether or not they have been directly involved in the award of such a Contract, submit a report to the Personnel Section detailing the nature of their interest.

The Personnel Section will maintain a register of pecuniary interests for inspection by auditors and will verify annually that any declared interests are still current.

Employees should not let personal or private interests affect their judgement of the public interest. Members and employees should treat these non-pecuniary interests on the same basis as the law requires them to treat pecuniary interests. **Members' interests shall be registered by the Clerk to the Authority.**

Employees should ensure that hospitality given or received in connection with their appropriate duties can always be justified in the public interest. Similarly, gifts should not be accepted, the only exception being items of a very minor complementary or token nature which could in no way be construed as offering financial or other material inducement (see Standing Order 2/15 for further guidance).

3.3 Definition of Terms:

'the Authority': where context allows, shall include reference to a Committee or Sub-Committee or person acting in accordance with delegated authority on behalf of the Authority.

'Contract': an agreement for the provision of goods, services or works.

'Contract Sum': the total sum for the whole period of the Contract excluding VAT.

'Written Quotations': an offer by the supplier/Contractor to provide goods services or works in writing.

'Formal Quotations': an offer to provide goods, services or works in writing, using the Authority's standard quotation documentation, as provided by the Secretariat Section.

'Formal Tenders': an offer to provide goods, services or works in writing, using the Authority's standard documentation for the completion of tenders as provided by the Secretariat Section.

'supplier': a person or business supplying, tendering or quoting for goods, services or works

'most economically advantageous tender': represents best value when assessing both quality and cost. Typically used as the basis to assess more complex tenders higher in value and/or risk.

'buying officer': the end user who has a requirement for a good, service or works to be purchased from a third party in order to support the service of the brigade.

'specification': description of the characteristics of a commodity or service required or desired.

'whole life costs': all costs associated with the acquisition, use, maintenance and disposal of the good(s) being purchased.

'third party framework agreement': an arrangement set up by a third party organisation for the procurement of specific goods, services or work with agreed supplier(s) that may be utilised by other organisations as specified in the contractual agreement.

3.4 Letting Contracts

The letting of all Contracts shall comply with any legislation and/or any overriding requirement of the European Union.

Financial provision must exist within the approved budgets; if it does not, the specific approval of the Authority must be obtained prior to entering into a Contract.

Buying Officers shall ensure that a Purchase Order is raised for the provision of all goods, services or works.

Buying officers must determine whether there is an existing contract already in place for the goods, services or works to be purchased. This information can be obtained from the Supply Chain Section.

Buying officers must ensure they protect the interests of the Authority and it may be appropriate to enter into a legally binding Contract irrespective of the level of expenditure. Clarification can be sought from the Supply Chain Section.

In obtaining quotations and tenders, buying officers must ensure that the appropriate levels of quality are specified and when considering quotations and tenders, that outcomes are evaluated on a comparable basis.

In respect of income, the Procurement Standing Orders and values shall apply e.g. for the disposal of assets.

3.5 Monetary Limits

For the purpose of applying the monetary limits throughout the Procurement Standing Orders, the appropriate estimated value shall be the Contract Sum. In the case of purchase orders placed for continuous supply, or where a series of orders are placed for the same or similar purposes, the value shall be the aggregate estimated amount or value for any Contract period.

3.6 Contract Sum Guidance

The procurement process adopted is dependent on the value of the purchase. Please refer to the table below to determine the process to be adopted and refer to the appropriate section within this order to obtain guidance.

Before commencing any quotation or tendering exercise, buying officers should check whether an existing contract/framework agreement is already in place with the Supply Chain Section.

If an existing contract/framework agreement is not in place, the appropriate procedure shall be followed, determined by the table below. For all purchases in excess of £2,000 Section 3.11 shall be followed if it has been proposed to let a contract by way of negotiation.

Value of Purchase (Contract Sum)	Procurement Process	Procedure
Under £2,000	Obtain 3 quotations if appropriate.	Section 3.7
£2,000 - £20,000	Written Quotations	Sections 3.8 & 3.11
Above £20,000 up to £100,000	Formal Quotations	Sections 3.9 & 3.11
In excess of £100,000	Formal Tender	Sections 3.10 & 3.11
Goods or Services in excess of £144,371 Works or Construction in excess of £3,611,319	Formal Tender (in accordance with EU Legislation).	Sections 3.10 & 3.11

3.7 Contracts Valued at Under £2,000

This section shall apply to Contracts for the provision of goods, services or works where the estimated Contract Sum is below £2,000 and there is no existing Contract in place.

Due regard shall be had to the desirability of securing competition in appropriate cases and, in so doing, buying officers must take steps to obtain the best value for money and be prepared to justify the method of selection of the supplier.

Where considered appropriate, a minimum of three verbal or written quotations may be recorded and documentation retained for a period of six years. In circumstances where three quotations have not been obtained, the reasons to justify the method of selection shall be recorded.

3.8 Written Quotations (Contracts valued between £2,000 and £20,000)

This section shall apply to Contracts for the provision of goods, services or works where the estimated Contract Sum is between £2,000 and £20,000 and there is no existing contract or agreement in place.

Buying officers should obtain at least three written quotations. Buying Officers shall record and retain the quotations received and where fewer than three, the reasons why three were not received must be justified and approved by the Director with Line Management responsibility.

All associated documentation is to be retained for six years.

3.9 Formal Quotations (Contracts valued between £20,000 and £100,000)

In the case of Contracts with an estimated value between £20,000 and £100,000, formal quotations must be obtained via the Secretariat Section.

The Supply Chain Manager shall approve the list of suppliers and documentation to ensure compliance with this Standing Order and the Brigade's Procurement Policy (Standing Order 8/1). Following approval, buying officers must submit to the Administrative Officer, Secretariat Section a completed specification, a note of any special conditions applying, a list of firms, of which there must be a minimum of three, from which quotations are to be invited, an estimate of the predicted contract value and the closing date required (this should be a minimum of 2 weeks from the date the quotation is sent out). The quotation request must be submitted at least one week prior to the quotation needing to be sent out. The Secretariat Section will then arrange for quotations to be invited and returned.

Completed quotations must be returned to the Secretariat Section. The time of receipt of quotations shall be recorded and quotations shall remain in the custody of the Administrative Officer, Secretariat Section until the time of opening. The quotations will be opened by a member of the Finance Section and a member of the Secretariat Section, and then forwarded to the appropriate Buying Officer.

At the time the quotations are opened, the following information shall be recorded:

- the nature of the Contract;
- the name of each person by or on whose behalf the quotation was submitted;
- the date and time of receipt of each quotation;
- the date and time of opening of the quotation;
- the names of all persons present at the opening of the quotation; and
- the quotation value or where this is not immediately apparent the Officers shall attempt to calculate the total quotation value from the information provided. Where it is not possible to calculate the total quotation value, the words 'Schedule of Rates' shall be recorded.

The quotations will then be referred to the appropriate buying officer for a report detailing recommendations and approval by the appropriate Director with line management responsibility to proceed.

Where a quotation is received after the closing time and date, the quotation shall be opened by the Administrative Officer, Secretariat, to ascertain the name of the person or persons submitting the quotation. No details will be recorded or disclosed and the supplier will be notified by the Administrative Officer, Secretariat Section that the quotation cannot be considered.

Where examination of a quote reveals:

- any error or omission (other than an arithmetical error) the supplier shall be given the opportunity to clarify their quotation;
- that the offer requires clarification, the buying officer shall contact the supplier to seek clarification; or
- an arithmetical error, subject to prior approval of the Finance Officer or an officer designated by him/her, the necessary correction shall be notified to the supplier in writing who shall within seven days from receipt of such notice either confirm their quote in writing as corrected or withdraw it.

Once approved, the appropriate buying officer will send a copy of the report and recommendations and all quotations received to the Secretariat Section and place an order with the successful supplier. The Secretariat Section will retain a copy of all relevant documents for audit purposes, and for a period of six years, and will communicate the outcome to unsuccessful suppliers.

3.10 Formal Tenders (Contracts valued in excess of £100,000)

For any Contract for the provision of goods, services or works where the estimated Contract Sum exceeds £100,000, a sourcing strategy shall be agreed between the buying officer and the Supply Chain Section in accordance with the Brigade's Procurement Policy (Standing Order 08/01). Formal tenders must be obtained via the Secretariat Section.

3.10.1 Compliance with EU Directives

The EU Procurement Directives set out the legal framework for public procurement. They apply when public authorities and utilities seek to acquire goods, services, civil engineering or building works. They set out procedures which **must** be followed before awarding a contract when its value exceeds thresholds. They are incorporated into UK law by the Public Contract Regulations 2006.

It is necessary to advertise in the Official Journal of the European Union (OJEU) in the case of contracts to which the Regulations apply. For example, Part B Services (e.g. Catering Services) do not need to be advertised. To confirm whether a contract requires advertising, buying officers shall contact the Administration Officer, Secretariat and/or the Procurement Contracts Team to seek advice.

Any contract for the provision of goods or services for which the estimated contract sum exceeds £144,371 (211,000 Euro) must be advertised in the OJEU irrespective of the method of letting the contract.

Any contract for the execution of works or any construction contract for which the estimated contract sum exceeds £3,611,319 (5,278,227 Euro) must be advertised in the OJEU irrespective of the method of letting the contract.

It should be noted that the Contract Sum is the total estimated value over the **whole** of the contract life.

The above thresholds are applicable to 'Public Contracts' with effect from 31st January 2006 and are revised periodically.

All OJEU notices shall be arranged by the Administrative Officer, Secretariat Section who will also provide advice in this regard.

General guidance regarding EU procurement rules can be accessed on the Office of Government Commerce website <http://www.ogc.gov.uk/>.

Specific guidance relating to procurement can be sought from the Procurement Contracts Team.

3.10.2 Contract Award Process

The sourcing strategy shall encompass the Contract award process, which may be by:

- public advertisement (see Section 3.10.3);
- select list following public advertisement (see Section 3.10.4);
- negotiation (see Section 3.11); or
- standing list and pre-qualified suppliers (see Section 3.12)

3.10.3 Public Advertisement

Any Contract for which the estimated Contract Sum exceeds £100,000 **must** be let by way of public advertisement.

The sourcing strategy developed in conjunction with the Supply Chain Section shall determine the appropriate method of advertisement, which may include; local and national newspapers, trade journals or appropriate Internet sites.

All such advertisements will be placed by the Administrative Officer, Secretariat Section, who will advise on layout and content.

Advertisements must ask for suppliers to demonstrate their capability in areas specific to the nature of goods, services or works being tendered (e.g. technical capacity, financial stability, similar contract experience).

Responses to the advertisement must be assessed to ensure they meet the minimum criteria.

The Secretariat Section is responsible for administering the formal tender process and will send the appropriate paperwork to all persons applying for tender documentation who meet the minimum criteria.

Those suppliers who do not meet the minimum criteria will be notified by the Secretariat Section indicating the areas of criterion they failed to demonstrate or areas where information was omitted.

3.10.4 Select List Following Public Advertisement

If it is intended that after public advertisement a select list will be compiled then the procedure below must be followed:

- A minimum of 14 days' public notice should be given in one or more local newspapers circulating in the Authority area and one or more newspapers or journals circulating amongst such persons as may undertake such Contracts. The wording of any such advertisement must clearly indicate that a select list of potential suppliers will be compiled.
- All such advertisements will be placed by the Administrative Officer, Secretariat Section, who will advise on layout and content.
- All firms indicating an interest must be sent a questionnaire, which will be formatted by the Secretariat Section in conjunction with the appropriate buying officer.
- Completed questionnaires must be evaluated by the appropriate buying officer in conjunction with the Supply Chain Section and other stakeholders as appropriate against a set of predetermined criteria. Suppliers who meet the prequalification criteria will be included on the select list. The Administrative Officer, Secretariat Section, will notify suppliers that they have been included.
- Unsuccessful applicants will be notified by the Administrative Officer, Secretariat Section.
- Any appeal by an unsuccessful applicant or request for details of the reason for exclusion must be forwarded to the Administrative Officer, Secretariat Section, who will provide a written response. From evaluation records that must be kept by the Spending Officer.

- All those included on the select list must be invited to tender. If there are fewer than three persons who have expressed an interest or who meet the select list criteria, then the written approval of the appropriate Director must be sought, prior to inviting tenders.

3.10.5 Assessment Criteria

Under the EU regulations, there is an obligation to state the criteria on which decisions are based in addition to the relative weighting given to each criterion.

Assessment criteria and their relevant weightings should be determined and agreed prior to the evaluation of suppliers and/or tenders.

The award criteria for an offer being evaluated on the basis of the 'most economically advantageous tender' may include: whole life costs, quality, functional characteristics, after sales service, technical assistance, price.

Once the tender information is completed the buying officer should forward to the Administrative Officer, Secretariat Section who shall send out to all pre-qualified suppliers.

3.10.6 Submission, Opening and Registration of Formal Tenders

All tenders must be opened at the same time, as soon as possible after the closing date and time by the Clerk or an officer designated by him/her in the presence of: -

- the Finance Officer or an officer designated by him/her;
- the Chief Fire Officer or an officer designated by him/her; and
- designated Members of the Authority.

The tenders shall be initialled and dated immediately by the Members present when the tenders are opened.

For the e-tendering pilot, tenders shall be returned to the Administration Officer, Secretariat Section. At the next available Executive Committee Meeting following the closing date and time, the Administration Officer, Secretariat Section shall electronically open all tenders received, in the presence of: -

- the Finance Officer or an officer designated by him/her;
- the Chief Fire Officer or an officer designated by him/her; and
- designated Members of the Authority.

At the time the tenders are opened, the following information shall be recorded:

- the nature of the Contract;
- the name of each person by or on whose behalf the tender was submitted;
- the date and time of receipt of each tender;
- the date and time of opening of the tender;
- the names of all persons present at the opening of the tender; and
- the tender value or where this is not immediately apparent the Officers shall attempt to calculate the total tender value from the information provided. Where it is not possible to calculate the total tender value, the words 'Schedule of Rates' shall be recorded.

The tenders will then be referred to the appropriate buying officer for evaluation.

Where a tender is received after the closing time and date, the tender shall be opened to ascertain the name of the person or persons submitting the tender. No details will be recorded or disclosed and the supplier will be notified that the tender can not be considered.

3.11 All Contracts Valued in excess of £2,000

The following procedures shall apply for all contracts in excess of £2,000.

3.11.1 Negotiation

This section of the Standing Order shall have effect where it has been decided that it would be in the best interests of the Authority that a Contract shall be let by way of negotiation.

If the Contract Sum is above the EU threshold, then negotiations are only permitted if the 'negotiation procedure' is used.

Officers wishing to let a Contract by way of negotiation must obtain the prior written approval of the Director Administration. Once approval is obtained, the Supply Chain Section shall agree a negotiation strategy with the buying officer and support or conduct negotiations as appropriate.

The following procedures shall be adopted in all negotiations:

- An agreed record of the discussions held with prospective suppliers shall be kept.
- Any agreement must be confirmed in writing by the prospective supplier.
- No information shall be given to a potential supplier as to any competitor's quotation or tender, particularly prices and discounts.
- All negotiations must be held in an open and fair manner.
- Each supplier should be given the same opportunity to revise their offer
- Only officers designated by the Director Administration or Supply Chain Manager shall be permitted to conduct negotiations.
- A minimum of two officers must be present during all negotiations unless negotiations are to be conducted by a member of the Supply Chain Section.

3.11.2 Developing the Invitation to Tender

All tenders will be developed using the standard tender documentation, provided by the Secretariat Section. The invitation to tender should be developed in conjunction with the Supply Chain Section and should include:

- the needs of the Authority;
- the specification of goods, services or works;
- the schedule of rates or pricing schedule;
- the terms and conditions of payment;
- the time or times within which the Contract is to be performed;
- the basis (lowest whole life cost or most economically advantageous tender) on which the tenders will be evaluated;
- the assessment criteria against which the tenders will be evaluated;
- the specimen contractual agreement; and
- the estimated value of the contract.

Buying officers shall provide Sandwell Legal with contract details via the Administrative Officer, Secretariat, to enable contract signing to be carried out without delay.

3.11.3 Developing Specifications

The specification stage is the first key stage in obtaining value for money.

Specifications should set out the characteristics of the goods, service or works to be purchased to enable the supplier to determine and understand that which is to be supplied. This information can be in the form of a description of the physical, functional or performance characteristics. It can include a description of any requirement for inspecting, testing or preparing a material, equipment, supplies, service for delivery.

The views and requirements of users of product/service should be obtained so that the specification is representative of their requirements.

Specifications must not be written to discourage competition.

Where possible the specification shall be outcome based rather than output based. A technical specification may be useful in some circumstances; such specifications shall be described in terms of European standards. When using a technical standard, care must be taken not to name proprietary items. When using a choice of standards, standards shall be comparable.

For purchases where the value is above the EU threshold, technical specifications in contract documents shall quote the relevant European Standard (e.g. ISO 19001).

If a European Standard does not exist, the technical specification shall refer to British technical specifications or quote British Standards if available.

Consideration shall be given to the following areas when developing specifications:

- Scope, Classification, or Description
- List of Requirements
- Definition of terms
- Measurements
- References to relevant technical specifications/publications
- Sampling, inspection and test procedures
- Packaging and delivery information

Tenders must be evaluated to identify the offer that represents best value; this may be on either a 'lowest whole life cost' basis or 'most economically advantageous tender' basis.

Specifications should not be over specified to benefit a particular supplier, the final specification must be signed off by a second person.

3.11.4 Tender Evaluation

Tenders shall be evaluated to assess how requirements will be met and to ensure that consideration has been given to the cost and quality of the solutions offered. Evaluations shall be carried out by the Buying Officer and the Supply Chain Section following receipt of completed tenders.

Evaluations shall be carried out in an open and transparent manner ensuring that all tenders submitted are treated equally.

All completed tenders shall be evaluated against the assessment criteria as set out in the Invitation to Tender documentation.

If appropriate, supplier and reference site visits can be used to validate and supplement the information received from suppliers. The results and findings from visits shall be carefully documented and scored, so that objective feedback can be given if the supplier in question fails to be selected or awarded the contract as a result.

Taking up references can be useful in validating parts of the supplier's response and/or gaining a more objective assessment of its capability and suitability. The information can be obtained through normal contact (phone, email etc) or through a visit to the referee's site.

Where examination of a tender reveals:

- any error or omission (other than an arithmetical error) the supplier shall be given the opportunity to clarify their tender;
- that the offer requires clarification, the Buying Officer shall contact the supplier to seek clarification; or
- an arithmetical error, subject to prior approval of the Finance Officer or an officer designated by him/her, the necessary correction shall be notified to the supplier in writing who shall within seven days from receipt of such notice either confirm their tender in writing as corrected or withdraw it.

3.11.5 Acceptance of Quotations and Tenders

Approval to accept quotations and tenders is summarised in the table below.

Contract Sum	Accepting Quotations/Tenders Approval Required
Up to £2,000	If lowest quote, accept. If accept other than lowest quote, reasons to be recorded and retained by buying officer.
Above £2,000 up to £20,000	If lowest quote, accept. If wish to accept other than the lowest quote, report to be submitted to Director with Line Management Responsibility to obtain approval.
Over £20,000 and up to £100,000	Buying officer must submit written report to Director Administration to obtain approval prior to acceptance.
In excess of £100,000	Buying officer must submit written report to Authority to obtain approval prior to acceptance.

It shall be clearly stated in the documents of tender that the Authority does not bind itself to accept the lowest or any tender.

Tenders may be evaluated on a lowest whole life cost or most economically advantageous tender basis.

A tender which is other than the lowest tender if payment is to be made by the Authority or other than the highest tender if payment is to be made to the Authority or which is not within the amount of the approved budget shall not be accepted until either the Director Administration (for tenders up to the value of £100,00) or the Authority (for tenders exceeding £100,000) has considered a written report from the buying officer. Where the product/service relates to the Director Administration's responsibility, the Director Administration shall forward the written report to another Director for approval.

Where a tender requires the submission of scheduled rates for different types of work, in calculating the tender value, account shall be taken of the amount of each type of work required as a proportion of the whole amount of work in respect of which the tender is made.

Once approved, the appropriate buying officer will send a copy of the report and recommendations and all tenders received to the Secretariat Section.

For all purchases covered by the procedural requirements of the EU Procurement Directives, a minimum ten day mandatory standstill period is required between communicating the award decision by email or fax and also by post to all tenderers prior to entering into a contractually binding agreement. Buying Officers shall consult with the Secretariat Section prior to awarding any formal tenders to ensure that the standard documents regarding the outcome of tender evaluation are used and the correct legal procedures are adhered to.

Notification of the acceptance of a tender shall be given to the successful tenderer by the Chief Fire Officer in writing clearly marked "subject to Contract" in those cases where a subsequent formal Contract let by the Clerk to the Authority is required by these Procurement Standing Orders. **Buying officers shall arrange notification in conjunction with the Secretariat Section.**

The Secretariat Section will retain a copy of all relevant documents for audit purposes and will inform unsuccessful firms.

If it is determined that the contract for the goods, services or works is no longer required and therefore the procurement exercise needs to be terminated, the buying officer shall forward all associated documentation with an explanation of why the exercise was terminated to the Secretariat Section so that suppliers can be notified and documentation can be held on file for audit purposes.

For EU Tenders, Secretariat shall publish details of the successful firm(s) in a Contract Award Notice placed in OJEU as soon as is possible following contract award.

3.11.6 Contents of Contracts

Every Contract in writing shall specify:

- the goods, services or works to be provided and the conditions to apply;
- the price to be paid with a statement of discounts or other deductions and the terms and conditions of payment;
- the time or times within which the Contract is to be performed; and
- such other matters as are required by these Procurement Standing Orders to be included.

3.11.7 Signature of Contracts

Every Contract where the Contract Sum exceeds £100,000 in value or amount shall be in writing and signed by the Clerk to the Authority or sealed with the Common Seal of the Authority.

Where it is considered necessary to enter a legally binding contract and the Contract sum is below £100,000 then Sandwell Legal Services should be consulted.

3.12 Use of Standing Lists and Pre-Qualified Suppliers

This Section of the Standing Order shall have effect where it has been determined that a standing list of suppliers shall be held for nominated categories of supply. The Constructionline/National Pre-Qualification Service database (a Government sponsored database of pre-qualified suppliers) shall be used to maintain a standing list and to identify pre-qualified suppliers to submit quotations or tenders.

The number of quotations and tenders shall be invited in accordance with the table below: -

Estimated Value of Supply (Contract Sum)	Number of Quotations/ Tenders (Minimum)
£0 - £2,000	Up to 3
Above £2,000 and up to £20,000	3
£20,000 - £100,000	3
Over £100,000	3
Above EU Threshold	See paragraph 3.10.1

To promote partnership working and effective supplier relationship management a list shall be maintained on Constructionline of suppliers that are approved to submit tenders for the specified categories of supply.

The list shall: -

- contain two approved suppliers for each category of supply within the value bands; and
- be reviewed annually by the Estates Manager and the Supply Chain Manager and updated using the following methodology.

The two suppliers that have been awarded the greatest proportion of business in the previous 12 month period shall be approved providing that the service levels have been satisfactory for contracts completed in that period.

For contracts above £2,000 Constructionline will be used to select additional suppliers to tender based on the following criteria:

- Financial Standing
- Technical Competence
- Experience of Similar Works
- Any other Criteria which can directly be related to the performance of the contract as determined by the Buying Officer.

The contract shall be awarded in accordance with this Standing Order however in addition, prior to awarding a works contract to a supplier that has not been used for a 12 month period, the Health and Safety policy and record of the supplier shall be evaluated.

3.13 Variations to Fixed Price Construction Contracts

If there is a variation to the original contract within 10% of the original Contract Sum, up to a maximum value of £10,000, the buying officer can authorise the additional sum subject to sufficient funds being available. If the variation is increased to more than 10% of the original Contract Sum then a report shall be submitted to obtain the written approval of the Director Administration. In addition, buying officers shall notify the Finance Officer of any budgetary implications.

3.14 Extensions of Existing Contracts

Negotiations shall be undertaken to extend existing contracts awarded competitively or following invitation to tender.

The extended Contract may involve further work at the same site or similar work at a different site.

The extension must be approved in writing in advance with the Director Administration with a copy to the Supply Chain Manager. The Director Administration must be satisfied that:

- the existing contract was let following full completion in accordance with Standing Orders;
- the new requirement for goods, services or works is sufficiently similar in nature and extent;
- rates for goods, services or works which cannot be based directly on the existing Contract can be negotiated equitably. A written report should be compiled detailing the circumstances and outcome of these negotiations and submitted to the Director Administration;

- the likely benefit of further competition would be outweighed by the administrative cost and/or delay involved;
- the additional volume and value of **goods, services or works** does not breach EU Legislation;
- the interests of the Authority will not be compromised; and
- there is sufficient budget provision available.

Extensions should not be agreed with suppliers until approval has been obtained.

3.15 Special Exceptions

Officers wishing to enter into a contract where there is deemed to be a 'special exception' **must** obtain prior approval from the Director Administration. Competitive tenders/quotations need not be obtained where the Director Administration is satisfied that:

- i) the goods or materials are purchased or sold at auction, public fairs or markets;
- ii) the provision of goods, services or works are obtainable only from one supplier and no satisfactory alternative is available;
- iii) there are less than three suppliers known to be in the market for particular goods, services or works. In such cases, tenders shall be invited from such lesser number of suppliers;
- iv) the prices of the goods, services or works are wholly controlled by trade organisations or government order and no reasonable satisfactory alternative is available;
- v) tenders have or will be invited on behalf of any consortium, collaboration or similar body of which the Authority can utilise, in accordance with any method adopted by such a body;
- vi) such purchase of goods, services or works as the Authority may from time to time deem expedient to make in the open market;
- vii) where the goods, services or works are so urgently required as not to permit the invitation of tenders. In such case, the prior approval of the duty Principal Officer must be obtained; or
- viii) an existing third party framework agreement can be used. In addition, prior approval of the Supply Chain Manager must be obtained.

Where a Contract or agreement is entered into under Section 3.15 (above) and its value is more than £2,000, a report must be submitted to the Director Administration prior to entering into the Contract or agreement or as soon as possible thereafter if [paragraphs 3.15 \(vii\)](#) applies.

Where a contract or agreement is entered into under [paragraph 15](#) (above) and its value exceeds £100,000, a report must be submitted to the Authority or an appropriate committee prior to entering into the contract or agreement or as soon as possible thereafter if [paragraph 3.15\(vii\)](#) applies.

Where an exception has been granted under [Section 3.15 \(vi\)](#) it will be deemed to be in force until such time when an alternative method of procurement is considered to represent better value for money. Once the original report has been submitted to the Director Administration, no further reports are required when items are called off the original Contract.

4. CROSS REFERENCES

Standing Order 1/6 - Authorisation, Certification and Retention of Documents

Standing Order 1/22 - Anti Fraud and Corruption Policy

Standing Order 2/12 - Official Conduct

Standing Order 2/22 - Declaration of Membership of External Organisations and Possible Conflict of Interest

Standing Order 2/25 - Secondary Employment Policy

Standing Order 2/15 - Acceptance of Donations, Gifts and Hospitality

Standing Order 8/1 – Procurement Policy

Standing Order 22/2 – Partnership Working

The Authority's Financial Regulations

5. RESPONSIBILITY AND REVIEW/AMENDMENT DETAILS

5.1 Responsible Director/Department

Director, Administration

5.2 Last Amended

January 2004 by Administration Officer, Secretariat.

April 2006 by Administration Officer, Secretariat and Senior Buyer, Supply Chain Section.