

Regional Management Board

***CONTRACT STANDING
ORDERS***

REGIONAL MANGEMENT BOARD

TENDERS AND QUOTATIONS PROCEDURES

1. STRATEGIES

All contracts entered into shall comply with these, the Board's Contract Standing Orders and the Board's Financial Regulations.

The appropriate course of action to be taken in letting each contract shall be determined by first, its monetary value and/or that which represents, the most economically advantageous; value for money and Best Value for the Board.

All procedural matters set out in these Contract Standing Orders shall be subject to audit by the Internal and External auditors.

The processes for the handling of tenders and quotations must be complied with on all occasions.

Officers should be mindful of the other related Standing Orders set out in these Contract Standing Orders.

2. PROCEDURES

2.1 Conformity with Contract Standing Orders and Financial Regulations

All contracts and orders shall comply with the Board's Contract Standing Orders and Financial Regulations.

These Standing Orders apply to capital and revenue expenditure. The 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. SRB.

Any architect, engineer, surveyor, supervising officer or other consultant, working on behalf of the Board under contract, must comply with the requirements of these Contract Standing Orders as if they were an officer acting on behalf of the Board.

2.2 Definitions

The expression 'contract' shall, unless otherwise specified, relate to a contract for the supply or disposal of goods or materials or for the execution of works or the provision of services and shall, where the context so admits, include sub-contracts.

The expression 'contract sum' in relation to a contract to be performed over a specified period shall be to the total sum for the whole of that period.

The expression 'written quotations' shall mean an offer to supply or purchase, in writing, with details provided by a contractor using its official letter format and shall include such occasions where these are provided via facsimile transmission.

The expression 'formal quotations' shall mean an offer to supply or purchase, in writing, using standard documentation for the completion of quotations.

The expression 'formal tenders' shall mean an offer to supply or purchase, in writing, using standard documentation for the completion of tenders. 'Formal tenders' must be returned to the Clerk to the Board and dealt with in accordance with these standing orders prior to entry into contract by the Clerk.

2.3 Contracts

All contracts must comply with these Contract Standing Orders and no exceptions will be permitted without the prior approval of the Board.

Members or officers who have a direct or indirect pecuniary interest in a contract shall not be supplied with or given access to any tender documents, contracts or other information relating to such a contract.

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 Board must be obtained prior to entering into a contract.

Officers must ensure they protect the interests of the Board and it may be appropriate to enter into a legally binding contract irrespective of the level of expenditure.

In obtaining quotations and tenders, 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.

2.4 Monetary Limits

All references to monetary limits in these Contract Standing Orders shall exclude any value added tax.

All monetary limits shown in these Contract Standing Orders shall be reviewed periodically by the Treasurer and any proposed amendments shall be reported to the next meeting of the Board.

For the purpose of applying the monetary limits throughout these Contract Standing Orders, the appropriate estimated value shall be the total amount or value of the contract. 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.

2.5 Contracts Valued at Under £2,000

This Contract Standing Order shall apply to contracts for the supply or disposal of goods or materials and for the execution of works or the provision of services where the estimated contract sum is below £2,000.

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

Where considered appropriate, a minimum of three verbal or written quotations may be recorded and documentation retained for a period of six years.

2.6 Contracts Valued Between £2,000 and £20,000 (Written Quotations)

This Contract Standing Order shall apply to contracts for the supply or disposal of goods or materials and for the execution of works or the provision of services where the estimated contract sum exceeds £2,000 but does not exceed £20,000 and it has been decided not to let the contract by way of negotiation.

In any such case officers must obtain at least three written quotations unless this is not possible owing to the lack of suitable persons or firms prepared to quote. Officers shall record and retain the quotations received and where fewer than three, the reasons why three were not received.

If it has not been possible to obtain three quotations or if it is intended to accept other than the lowest quotation, where a purchase is to be made, or the highest in the case of disposal, then a report detailing the reasons for such action must be submitted for the written approval of the Treasurer and no order shall be placed or contract entered into, until such written approval has been received.

If it has been decided to let a contract between these values by way of negotiation, then this must be undertaken.

2.7 Contracts Valued Between £20,000 and £100,000 (Formal Quotations)

This Contract Standing Order shall apply to contracts for the supply or disposal of goods or materials and for the execution of works or the provision of services where the estimated contract sum exceeds £20,000 but does not exceed £100,000 and it has been decided not to let the contract by way of negotiation.

In the case of contracts with an estimated value between £20,000 and £100,000, formal quotations must be obtained via the Clerk. To institute this procedure, buying officers must submit to the Administrative Officer of the Clerk a 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, and the closing date required. The Clerk will then arrange for quotations to be invited and returned in the pre-printed sealed envelopes bearing the word 'Quotation', the name of the goods, materials, works or services being tendered for, the closing date for quotations, the full address of the Lead Brigade but no other details which might identify the person or persons submitting the quotation.

Completed quotation documents must be returned to the Clerk. The quotations will be opened at one time, jointly by a representative of the Clerk and a representative of the Treasurer. Quotation envelopes shall be date and time stamped upon receipt and, until the time appointed for their opening, shall remain in the custody of the Clerk.

Officers shall, at the time the quotations are opened, record in a book kept for the purpose:

- a) the nature of the goods, materials, works, services to be supplied or disposed;
- b) the name of each person by or on whose behalf the quotation was submitted;
- c) the date and time of receipt of each quotation as recorded on the envelope;
- d) the date and time of opening of the quotation;
- e) the names of all persons present at the opening of the quotation; and
- f) the quotation figure or where this is not immediately apparent the Officers shall record the words 'Schedule of Rates'. Where a quotation requires the submission of a schedule of rates for different types of work, in calculating the quotation 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 quotation is made.

The quotations will then be referred to the Project Manager for a report detailing recommendations and approval by the Treasurer. If it is recommended that a quotation, other than the lowest in the case of expenditure or other than the highest in the case of income, is to be accepted, then the reasons for this must be fully stated.

Once approved, the appropriate Project Manager will send a copy of the report and recommendations and all quotations received to the Clerk who will retain a copy of all relevant documents for audit purposes, will inform unsuccessful firms and will return a copy of the accepted quotation to the buying officer as approval to proceed.

Where a quotation is received after the closing time and date, the envelope shall be opened by the Clerk's representative, and the Treasurer's representative, to ascertain the name of the person or persons submitting the quotation. No details will be recorded or disclosed and the quotation papers will be returned to the provider with a letter explaining the time and date of receipt and advising that the quotation cannot be considered.

2.8 Acceptance of Quotes

Where examination of a quote reveals:

- a) any error or omission (other than an arithmetical error) the tenderer shall be notified only that their quote contains an error or omission and given the opportunity of either confirming or withdrawing the quote.
- b) any arithmetical error, subject to prior approval of the Treasurer or an officer designated by them, the necessary correction shall be notified to the tenderer in writing who shall within seven days from receipt of such notice either confirm their quote in writing as corrected or withdraw it.

2.9 Contracts Valued in Excess of £100,000 (Formal Tenders)

Any contract for the supply or disposal of goods or materials and for the execution of works or the provision of services for which the estimated contract sum exceeds £100,000 shall be let by way of:

- a) public advertisement
- b) select list following public advertisement
- c) standing list
- d) negotiation

2.10 Compliance with EU Directives

Any contract for the supply or disposal of goods or materials and services for which the estimated contract sum exceeds 236,945 EURO (£153,376) (from 1.1.04 to 31.12.05) must be advertised in the Official Journal of the European Community (OJEC) irrespective of the method of letting the contract.

Any contract for the execution of works or any construction contract for which the contract sum exceeds 5,923,624 EURO (£3,834,411) (as at 1.1.04 to 31.12.05) must be advertised in the Official Journal of the European Community (OJEC).

All such advertisements shall be placed in OJEC by the Programme Officer, who will also provide advice and guidance on all contractual matters relating to the European Union.

2.11 Public Advertisement

Any contract for which the estimated contract sum exceeds £100,000 may be let by way of public advertisement.

In such cases a minimum of 14 days' public notice should be given in one or more local newspapers circulating in the Board area and one or more national newspapers or journals circulating amongst such persons as may undertake such contracts.

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

The Programme Officer will advise the tender procedure to be undertaken and will send the appropriate paperwork to all persons applying for tender documentation.

2.12 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) In such cases, a minimum of 14 days' public notice should be given in one or more local newspapers circulating in the Board 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 contractors will be compiled.
- b) All such advertisements will be placed by the Programme Officer, who will advise on layout and content.
- c) All firms indicating an interest must be sent a questionnaire.
- d) Completed questionnaires must be evaluated by the appropriate Project Manager, Programme Officer and the Treasurer, prior to the submission of a report, recommending potential contractors to be included on the select list.
- e) Successful applicants will be included in the select list and unsuccessful applicants will be notified by the Programme Officer.
- f) Any appeal by an unsuccessful applicant or request for details of the reason for exclusion must be forwarded to the Programme Officer, who will provide a written response.
- g) All those included on the select list must be invited to tender. If there are fewer than four persons who have expressed an interest or who meet the select list criteria, then the written approval of the Programme Officer must be sought, prior to inviting tenders.

2.13 Standing Lists

This Contract Standing Order shall have effect where the Board has determined that a list(s) shall be kept of persons to be invited to tender for contracts for the supply of services, goods or materials or the execution of work of specified categories, values or amounts.

The list shall: -

- a) Contain the names of all persons who wish to be included in it and are approved by the Board, and
- b) Indicate whether a person whose name is included in it is approved for contracts for all or only some of the specified categories, values or amounts.

- c) At least four weeks before the list is first compiled, notices inviting applications for inclusion in it shall be published in one or more local newspapers circulating in the Board's area and in one or more national newspapers or journals circulating among such persons who undertake such contracts. The wording of any such advertisement must clearly indicate that a standing list of contractors will be compiled. Once responses to the advertisement are finalised, the procedure must be followed except that the approval by the Board or appropriate committee of the standing list is required and a report must be submitted accordingly.
- d) The list shall be amended as required from time to time. Any officer recommending the removal of any named person or organisation from a standing list must submit a report with full justifications for such removal.
- e) Where, an invitation to tender for a contract is limited to persons whose names appear on the list maintained under this Standing Order, an invitation to tender for that contract shall be sent to at least four of the persons whose names appear on the list as being approved for a contract for that value or amount or of that category and if there are fewer than four persons, to all such persons. One of those invited to tender must be the previously successful contractor, if the contract or a similar contract has been let on a prior occasion and that contract was performed satisfactory. In addition to the previously successful contractor, the other contractors must be selected on the basis of rotation, in order to allow all persons on the select list the opportunity to submit tenders at some stage.

2.14 Negotiation

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

Officers wishing to let a contract by way of negotiation must obtain the prior written approval of the Programme Manager and Treasurer.

The outcome of all such negotiations, together with the initial reasons for the selection of letting a contract in this manner, must be reported to the Board for approval prior to any contract being let.

The following procedures will be adopted in all negotiations:

- a) A record of the discussions held with prospective contractors shall be kept and shall be signed and dated by all officers present at the negotiations.
- b) Each officer must comply with any official guidance given concerning gifts and hospitalities.
- c) Any terms agreed subject to the approval of the Board must be confirmed in writing by the prospective contractor.
- d) No information shall be given to a potential contractor as to any competitor's quotation or tender, particularly prices and discounts.
- e) All negotiations must be held in an open and fair manner.
- f) Only officers designated by the Programme Manager shall be permitted to conduct negotiations. A minimum of two officers must be present during all negotiations.
- g) All potential contractors shall as far as possible be interviewed on the same day.

2.15 Special Exceptions

Competitive tenders/quotations need not be obtained where the Treasurer and Programme Manager are satisfied that:

- a) The goods or materials are purchased or sold at auction, public fairs or markets.
- b) The goods or materials, or the works or services to be executed are obtainable only from one contractor and no satisfactory alternative is available.
- c) There are less than three firms known to be in the market for particular goods, materials, works or services. In such cases, tenders shall be invited from such lesser number of firms.
- d) The prices of the goods or materials or works or services are wholly controlled by trade organisations or government order and no reasonable satisfactory alternative is available.
- e) The work or services to be executed, or the goods or materials to be supplied, constitute an extension of an existing contract provided that such an extension is at rates or prices within 10% of the initial contract awarded competitively following invitation to tender.

Where a contract or agreement is entered into and its value is between £2,000 and £100,000 a report must be submitted to the Treasurer prior to entering into the contract or agreement or as soon as possible thereafter.

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 Board prior to entering into the contract or agreement or as soon as possible thereafter.

2.16 Submission, Opening and Registration of Tenders

Where tenders are invited, no tender will be considered unless contained in a plain envelope which shall be securely sealed and shall bear the word 'Tender' followed by the subject to which the tender relates, but shall not bear any distinguishing matter or mark intended to indicate the identity of the sender. All pages within the tender must be numbered and stamped. Such envelopes shall be addressed to the Clerk to the Board. The envelope shall be date and time stamped upon receipt and, until the time appointed for its opening, shall remain in custody of the Clerk.

Tenders submitted shall be opened at one time by the Clerk or an officer designated by him/her in the presence of:

- a) The Treasurer or an officer designated by him/her;
- b) The Project Manager; and
- c) Designated Members of the Board.

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

The Clerk or an officer designated by him/her shall, at the time the tenders are opened, record:

- a) The nature of the goods or materials to be supplied or the works to be executed or the services to be supplied;
- b) The name of each person by or on whose behalf the tender was submitted;
- c) The date and time of receipt of each tender as recorded on the envelope;
- d) The date and time of opening of the tenders;
- e) The names of all persons present at the opening of the tenders; and
- f) The tender figure or where this is not immediately apparent the Clerk shall record the words 'Schedule of Rates'.

2.17 Late Tenders

The tender shall be opened by the Clerk following the meeting to ascertain the name of the tenderer but no details of the tender shall be disclosed. Any tender received after the specified time shall be returned promptly to the tenderer by the Clerk, with an explanation regarding why it cannot be accepted.

2.18 Acceptance of Tenders

It shall be clearly stated in the documents of tender the criteria to be used in selection and a statement that the Board does not bind itself to accept the lowest or any tender.

A tender which is other than the lowest tender and is not within the amount of the approved budget shall not be accepted until the Board has considered a written report thereon from the Programme Manager and Treasurer.

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.

Notification of the acceptance of a tender shall be given to the successful tenderer by the Clerk in writing clearly marked "subject to contract" in those cases where a subsequent formal contract let by the Clerk to the Board is required by these Contract Standing Orders.

Where examination of a tender reveals:

- a) any error or omission (other than an arithmetical error), the tenderer shall be notified only that their tender contains an error or omission and given the opportunity of either confirming or withdrawing the tender.
- b) any arithmetical error, subject to the prior approval of the Treasurer, the necessary correction shall be notified to the tenderer in writing who shall within seven days from receipt of such notice either confirm their tender in writing as corrected or withdraw it.

2.19 Contents of Contracts

Every contract in writing must specify:

- a) The goods, materials, works, services, matters or things to be furnished, had or done and the conditions to apply.
- b) The price to be paid with a statement of discounts or other deductions and the terms and conditions of payment.
- c) The time or times within which the contract is to be performed.
- d) Such other matters as are required by these Contract Standing Orders to be included.

Unless the Clerk, having regard to all the circumstances, consider it to be unnecessary, in every written contract for the supply of goods, materials, works or services to a value of more than £100,000 a clause shall be inserted to secure that should the contractor fail to deliver the goods, materials, works or services or any proportion thereof or supply goods, materials, works or services of unsatisfactory quality within the time or times specified in the contract, the Board, without prejudice to any other remedy for breach of contract, shall be at liberty to determine the contract either wholly or to the extent of such default and to purchase other goods, materials, works or services, as the case may be, of the same or similar description to make good:

- a) Such default, or
- b) In the event of the contract being wholly determined, the goods, materials, works or services remaining to be delivered.

The clause shall further secure that the amount by which the cost of so purchasing the goods, materials, works or services exceeds the amount which would have been payable to the contractor in respect of the goods, materials, works or services, as the case may be, replaced by such purchase, if they had been delivered in accordance with the contract, shall be recoverable from the contractor. The purpose of this paragraph shall be drawn to the attention of all persons tendering for a contract with the Board for the supply of goods, materials, works or services exceeding £100,000 in amount or value.

Unless the Clerk, together with the Treasurer, having regard to all the circumstances, consider it to be unnecessary, contracts for the execution of works which exceed £100,000 in value or amount shall provide for liquidated damages to be paid by the contractor in case the terms of the contract are not duly performed, and the Board may require and take sufficient security for the due performance of any contract.

2.20 Signature of Contracts

Every contract which exceeds £100,000 in value or amount and/or requires to be sealed shall be in writing and signed by the Clerk of the employing Authority of the Project Manager.

2.21 Standards

The European Procurement Directive advises that in relation to technical specifications in contract documents, the relevant European Standard should be quoted. A European Standard is a common technical specification, a British Standard implementing a European Standard or a European technical approval. A Common Technical Specification is a technical specification drawn up in accordance with a procedure recognised by the member states, with a view to uniform application in all member states and which is published in the Official Journal.

A Technical Specification can, however, be used, but should refer to any European Standards which are relevant. A Technical Specification includes technical requirements defining the characteristics required, e.g. quality, performance, safety or dimensions and requirements in respect of quality assurance, terminology, symbols, tests and testing methods, packaging, marketing and labelling.

There are some exceptions where European Standards would not be referred to, such as: where there is obligation to define by reference to technical requirements which are mandatory in the UK; where relevant European Specifications do not include provision for establishing conformity or it is technically impossible to do so; where reference to the relevant European Specifications would conflict with certain European Directives; where goods would be incompatible with equipment already in use; where goods are of a genuinely innovative nature. If a European Standard does not exist, the technical specification should refer to British technical specifications recognised as complying with Directives on technical harmonisation or quote British Standards implementing International Standards, other British Standards or other standards, in that order of preference. It should be noted that these regulations do not apply to purchases whose value is below the current thresholds.

Where an appropriate Standards Specification or Standard Code of Practice is current at the date of the tender/quotation, every written contract shall require that all goods and materials used or supplied and all standards of work shall be in accordance with that Standard Code of Practice or to a detailed specification.

2.22 Cancellation of Contracts in Case of Corruption

Every contract must state that the contracts can be cancelled and any resulting loss recovered, if the contractor, or their employees or agents with or without their knowledge:

- a) Does anything improper to influence the Board or any of its servants, agents or employees, to give them the contract.
- b) Commits an offence under the Prevention of Corruption Acts 1889 to 1916 or Section 117(2) of the Local Government Act 1972.

2.23 Assignment and Underletting of Contracts

In every contract, the contractor shall be prohibited from assigning or underletting the contract, or any part of it, or sub contracting, except in the case of an emergency or with written consent, and if the tenderer at the time of tendering states his/her desire to sub let any portions of the work not usually done by him/her, consent may be given provided the sub contractor is a person approved for the purpose. The principal contractor shall be responsible, however, for all work done by such sub contractor and for it be carried out under the same conditions as if executed by himself/herself.

2.24 Pecuniary and Other Interests

Any employee of any constituent Fire Authority with a pecuniary or other interest in any contract let for the Board's work must, whether or not they have been directly involved in the award of such a contract, submit a report to the Programme Office detailing the nature of their interest.

The Programme Office 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.

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.

Note:

Reference throughout this document to "The Treasurer" and "The Clerk" refer to those of the Regional Management Board unless otherwise stated.