

## **STANDING ORDERS FOR TENDERS AND CONTRACTS**

### **TENDERS AND QUOTATIONS**

1. The provisions in this document are subject to the procurement rules of the European Community that apply from time to time. These rules may on occasions over-ride the local arrangements of the Authority.
2. The provisions of the tendering procedures do not apply where the Chief Constable is satisfied that:
  - a) there is no effective competition for the supply as prices are fixed under statutory authority or
  - b) the contract is of such a specialised nature that no advantage would accrue from inviting competitive tenders or there is only one supplier or
  - c) the supply is urgently required and loss, damage, injury or serious operational problems could result from delay due to the advertising procedure.
3. However, details of such contracts shall be reported to the next meeting of the Police Authority where the value exceeds £100,000.
4. Except as provided in the previous section, before any contract is entered into, tenders or quotations must be sought in one of the ways described below at the discretion of the Chief Constable or his nominated agent. Where the estimated value of the contract does not exceed £10,000, the formal arrangements set out below do not apply.
  - a) Invitation for Quotation: where the estimated cost of the contract does not exceed £25,000, quotations must be invited from not less than three suppliers.
  - b) Open competitive tendering: where the estimated cost of the contract exceeds £25,000 and is subject to open competitive tendering, at least 14 days notice must be given in one or more local newspapers and, where the estimated value of the contract exceeds £200,000, in one or more newspapers and journals circulating amongst persons who undertake such contracts. The notice must state the nature and purpose of the contract, invite tenders for its execution and specify the latest date and time when tenders can be received. Tenders must be invited from all those who respond stating they wish to tender.
  - c) Selective tendering following public notice: where the estimated cost of the contract exceeds £25,000 and is subject to restricted tendering following public notice, at least 14 days notice must be given in one or more local newspapers and, where the estimated value of the contract exceeds £200,000 in one or more newspapers and journals circulating amongst persons who undertake such contracts. The notice must state the nature and purpose of the contract, invite persons to apply for permission to tender and specify the selection criteria and the latest date and time when applications can be received. After expiry of the specified period, invitations to tender shall be sent to not less than 3 and not more than 8 of the persons who have applied for permission to tender selected by the Chief Constable or his nominated agent; if fewer than 3 have applied, all considered suitable may be invited to tender.
  - d) Selected tendering from standing lists:
    - i) Lists shall be compiled and maintained by the Chief Constable of persons to be invited to tender for contracts for the supply of goods or materials of specific categories, values or amounts or for the execution of specified categories of works. He shall remove from the lists any person subsequently considered to be unsuitable.

- ii) Appeals by any person against deletion from or refusal to include in the list must be referred to the Authority.
  - iii) Not less than 3 and not more than 8 of the persons on the list must be invited to tender under this section.
  - iv) The lists must be reviewed at intervals not exceeding 5 years and notices inviting applications for inclusion in them shall be published in one or more local newspapers and in one or more newspapers or journals circulating among such persons as undertake contracts of the specified values and amounts or the type of work required.
5. Where the value of the contract exceeds the minimum value set out in the EC directives current at that time, the requirements of the directives must be met including publication in the Official Journal of the European Community.
6. Marking and custody of tender documents: Where invitation to tender is made, every invitation shall state:
- a) the place where and time by which the tender shall be submitted;
  - b) that no tender will be opened unless it is received in a plain sealed envelope which shall be clearly marked 'TENDER FOR ..' followed by the title of the contract or received electronically in the designated format;
  - c) that tenders received after the time appointed for submission will not be considered.
7. a) The Chief Executive & Clerk to the Authority shall maintain a record containing full details of all tenders received, this will include the names of the contractors selected after tenders are opened and will be available for inspection by the members of the Police Authority.
- b) Paper based tenders shall remain in the custody of the Chief Executive & Clerk until the time appointed for their opening.
- c) Electronically received tenders shall remain in their unique, secure electronic safe until the time appointed for their opening.
8. Collusive tendering: tenderers under these regulations shall complete certificates and give undertakings in the following form:
- a) where a consortium is tendering, the tenderers shall certify that:
    - i) the tender is bona fide and intended to be competitive;
    - ii) they have not entered into any agreement with any person outside the consortium with the aim of preventing tenders being made or as to the amount of another tender or the conditions on which the tender is made;
    - iii) they have not informed any person outside the consortium, other than the person calling for tenders, the amount or approximate amount of the tender, except where the disclosure in confidence of the approximate amount of the tender was necessary to obtain insurance premiums or other quotations necessarily required for the preparation of the tender;
    - iv) they have not caused or induced any person to enter into such an agreement as is mentioned in (ii) above or to inform themselves of the amount or approximate amount of any rival tender for the contract.
    - v) the tenderers shall further undertake that they will not do any of the acts mentioned in sections (ii) to (iv) above before the hour and date specified for the opening of the tender.

b) Where one body is tendering, the tenderer shall certify that:

- i) the tender is bona fide and intended to be competitive and they have not fixed or adjusted the amount of the tender by or under or in accordance with any agreement or arrangement with any other person;
- ii) the tenderers must also certify that they have not done and undertake that they will not do at any time before the hour and date specified for the submission of the tender any of the following acts:
  - (a) indicate to any person, other than the person calling for tenders, the amount or approximate amount of the tender, except where the disclosure in confidence of the approximate amount of the tender was necessary to obtain insurance premiums or other quotations necessarily required for the preparation of the tender;
  - (b) enter into any agreement or arrangement with any other person to refrain from tendering or as to the amount of any tender to be submitted;
  - (c) offer to pay or agree to pay or give any sum of money or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to another tender or proposed tender for the said work, any act or thing of the nature specified earlier in this regulation.

9. Sub-contractors or suppliers nominated to a main contractor shall be subject to the same conditions under these regulations as the main contractor.

10. Opening and acceptance of tenders

- a) Tenders received under these regulations shall be opened at one time and only in the presence of the Clerk to the Authority and Chief Constable or officers nominated by them.
- b) The Chief Constable or his nominated agent may accept a tender provided it is the most financially advantageous (the optimum).
- c) The Chief Constable or his nominated agent may accept a tender other than the optimum if the tender sum does not exceed £100,000 and it is believed to be the most suitable tender.
- d) Any proposal to accept a tender other than the optimum where the value of the tender exceeds £100,000 shall be considered by the Police Authority.
- e) The Authority shall receive from the Chief Constable a six monthly report of contracts which the Authority has entered into where other than the lowest tender was accepted.

11. Regional and National Contracts

Where the Authority is one of a number of authorities participating in a joint contract the Authority may:

- a) Agree in advance that the Authority carrying out the tender process (lead authority) shall accept the tender on their behalf provided that where it is in the best interests of this Authority not to participate they may do so. Any proposal to accept other than the optimum shall be reported to this Authority before acceptance.
- b) When the Devon & Cornwall Police Authority is the lead authority, they will act on behalf of all the participating authorities on the acceptance of the tender and will comply with this Authority's Standing Orders based on the total estimated value of the contract including other authorities' estimated expenditure.

- c) Where a national contract or framework agreement is set up on behalf of the police service either by PITO or other similar organisation, then this Authority will, in most cases, use those contracts providing that where it is in the best interests of this Authority not to participate they may do so. Wherever possible, clarification will be sought on whether the optimum tender has been accepted.
  - d) The Authority shall receive from the Chief Constable a six monthly report of all regional / national contracts that this Authority has entered into and those where this Authority has abstained.
12. If the Chief Constable is satisfied that it is not in the Authority's interest to accept the optimum tender as it stands, he shall be at liberty to negotiate a more favourable price with the supplier submitting the optimum price.
13. Contracts with extension clauses may be extended where the Chief Constable is satisfied that it is in the Authority's best interest to do so.

## **CONTRACTS**

14. Every contract made by the Authority for the carrying out of works or for the supply of goods, materials or services, except where the cost of the contract does not exceed £25,000, shall comply with these requirements unless the Authority directs otherwise.
15. A Contracts Register shall be maintained by the Chief Constable to record all such contracts.
16. These regulations do not apply to contracts made by other public authorities which are used by the Chief Constable for obtaining goods and services within already approved budget provisions.
17. Every contract shall be in writing and for work in excess of £100,000 shall be made under seal.
18. An estimate of cost shall be made for each contract. No contract shall be entered into where the tender exceeds estimated provision by more than 10% or £200,000 (whichever is the lesser) except with the express approval of the Police Authority.
19. Subject to the procedure laid down relating to tenders and contracts, all orders given to a contractor directing him to vary in any respect the work comprised in the specification shall be in writing signed by the appropriate officer. Unless there is a legal obligation to vary or the variation is within the nature of the original scheme and the total contract price will not be exceeded, the approval of the Police Authority must be obtained if the cumulative total of variations will cause an addition to the contract price 10% or £200,000 (whichever is the lesser).
20. The requirements of the previous section do not apply to fluctuations in the case of wages and materials and the Chief Constable may authorise variations in excess of the amount herein prescribed for urgent constructional or safety reasons in which case the action taken shall be reported to the next meeting of the Police Authority.
21. All payments on account to contractors in respect of contracts for building or civil engineering work shall be made on a certificate issued under the authority of and in the name of the Chief Constable or his nominated agent. Each certificate shall show:-
- a) the amount of the contract;
  - b) any additional expenditure approved;
  - c) the total amount paid under previous certificates;
  - d) the amount of the certificate;
  - e) the percentage and value of retention money where appropriate;

- f) the value of work to date;
  - g) the amount on which VAT has to be accounted.
22. Before a final certificate is issued in respect of a contract for building or civil engineering work, the supervising officer must ensure that the final account is prepared to normal professional standards and that adequate internal controls are applied to verify its accuracy and correctness for payment.
23. Provision shall be made where appropriate in every contract for building or civil engineering works for the payment of liquidated damages in all cases where such works are not completed in the time specified.
24. There shall be written into every contract a clause empowering the Authority to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation if:-
- a) the contractor has offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for:-
    - i) doing or forbearing to do, or for having done or forborne to do, any action in relation to the obtaining or execution of the contract or any other contract with the Authority; or showing or forbearing to show favour or disfavour to any person in relation to the contract or any other contract with the Authority; or
    - ii) if the like acts shall have been done by any person employed by him or acting on his behalf whether with or without the knowledge of the contractor;
  - b) or in relation to any contract with the Authority, the contractor or any person employed by him or acting on his behalf, shall have:-
    - i) committed any offence under the Prevention of Corruption Acts 1889 to 1916;
    - ii) or given any fee or reward to any officer of the Authority, the receipt of which is an offence under S 117(2) of the Local Government Act 1972.

#### **MATTERS OF URGENCY**

25. Matters of urgency shall be dealt with in accordance with the procedures in the Standing Orders of the Police Authority.