

LEICESTERSHIRE POLICE AUTHORITY

CONTRACT STANDING ORDERS

**APPROVED BY FINANCE AND GENERAL
PURPOSES COMMITTEE**

ON 24 MARCH 2009

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PREFACE

A. Introduction

This preface is intended to assist persons who are either regularly purchasing goods or services on behalf of the Constabulary or the Police Authority, or might more occasionally wish to purchase goods or services of substantial value.

B. Context

Contract Standing Orders are quite simply rules to ensure that the Constabulary or Authority gets good value for money. It therefore sets out a procedure that encourages a fraud free environment for making the relevant purchase. The rules are only rules and if a different method of achieving the end is justified then this can be done, but will need express permission of the Police Authority (or possibly the Chief Constable - if within his delegated powers). In most situations, however, you will find the Contract Standing Orders will be sufficiently broad to cater for your particular purchase.

C. Which Route To Choose?

Different procedures apply according to the value of the proposed transactions. These can be summarised as follows. Note that the value of a contract includes all the estimated costs involved including the cost of maintenance or support provision. Hence a contract providing for payments of £4k per annum for 3 years is a contract with a value of £12k.

Purchase of goods or services under the value of £A

- *The official order form approved by the Finance Director should normally be used Although you are not obliged to obtain 3 quotations, you must ensure the Authority obtains good value for money*
- *Such agreements to purchase the goods or services should normally be in writing*
- *It is unlikely that contracts to this value would have any implication regarding E.U. Procurement Directives*
- *You should make sure that the purchase is within the powers delegated to you by the Chief Constable and the funding is contained within your budget.*

Transaction valued at more than £A but less than £B

- ◆ *For these transactions the Procurement department must be consulted and will provide advice and support during the tendering process*
- ◆ *Such contracts must be in writing*
- ◆ *The format for drafting and issuing contractual documentations must be agreed with the Procurement department. (see SO 9.4)*
- ◆ *Suitable conditions of contract specific to the contract will be applicable. (see SO 9.2)*
- ◆ *It may be likely that a contract to this value could have E U Procurement Directive implications*

- ◆ *Ensure that you have authority of the Chief Constable to conclude the transaction in relation to this matter this should include an agreed business case and confirmation of budget availability.*
- ◆ *transactions that fall within these values require three prior written quotations from suitable contractors.*

Transactions over the value of £B

The Procurement Department must manage the Procurement process.

- *These transactions may well have E.U. Procurement Directive implications – see the Annex to the Standing Orders*
- *The provisions of E.U. Procurement Directives are mandatory.*
- *The contract for this transaction must be in the name of and sealed by the Police Authority*
- *Check that you know the budget amount for this particular transaction. The budget amount will have been fixed either specifically by the Police Authority or one of its committees, or by the Chief Constable using his delegated powers*
- *transactions of this value must follow a tendering process. Tenders will be invited from at least 3 proposed contractors*
- *The tendering process is quite formal and is detailed in SO 6 and SO 7.*
- *Should it not be possible to obtain three quotations and either two or only one supplier exists to provide a quotation then a dispensation must be agreed by the Police Authority prior to any contract award. The Procurement department will assist in obtaining this dispensation should this be an appropriate method of Procurement. See section 3.1.*
- *These processes are designed to reduce the likelihood of fraud, and ensure the Constabulary or Authority obtains the best deal possible.*

D. Collaboration

Where a contract is let by one of the East Midlands forces or authorities on behalf of one or more of the constituent authorities, the Contract Standing Orders adopted by that authority shall apply.

Where a contract is let by any other UK Police Authority, Emergency Service or other Collaborative Agency then the Contract Standing Orders adopted by that Police Authority, Emergency Service or Collaborative Agency shall apply.

E. Web Based Tendering

The Procurement department use the www.bluelight.gov.uk site (known as Bluelight Procontract) to invite quotations for all Procurement work.

Bluelight Procontract enables quotations, formal tenders and OJEU tenders to be undertaken electronically. EU contract notices and award notices are electronically submitted to OJEU from Bluelight Procontract, ensuring compliance with EU Procurement Directives.

Suppliers register on Bluelight Procontract, free of charge and are notified of any contracts that are advertised under the category codes that they have registered against.

All quotations and tenders (including EU tenders) are retained on Bluelight Procontract for 12 years, complying with the Forces Retention of Documents policy.

F. Equalities Duties Legislation

The equalities duties legislation ensures that public authorities need to when carrying out their duties, have due regard to comply with The Race Relations (Amendment) Act 2000, the Disability Discrimination Act 2005 and the Equality Act 2006.

Under the equalities duties, a contractor carrying out functions of a public nature, for the duration of the contract, the contract would itself be a public authority and have a duty to comply with the equalities duties when carrying out those functions.

All Procurement activity within Force must include the equalities duties for all stages of the procurement process. This includes the advertisement, specification, selection of contractors, evaluation of contractors and managing the contract.

An equality impact assessment is completed for all contracts and where the impact assessment rating is medium or high, equality policies are assessed by the Force.

G. Contacts

If you have any questions concerning the Standing Orders please contact Finance Director on extension 2244, the Chief Executive on extension 8981 or the Procurement department directly.

CONTRACT STANDING ORDERS

1. Miscellaneous

1.1 Where appropriate in these Standing Orders:

- (1) the term "contract" means a legally binding agreement for works or for the supply of goods, materials or services;
- (2) the term "Chief Constable" includes an officer authorised to act on his behalf for the purpose specified (e.g. as mentioned in the Financial Procedure Manual); and
- (3) the term "consultant" includes anyone employed to supervise and manage a contract on behalf of the Police Authority and who is not an officer of the Authority or Leicestershire Constabulary; and
- (4) the term "FGPC" means the Finance and General Purposes Committee but the full Police Authority may also exercise the powers allocated to FGPC in these Standing Orders.

1.2 Every contract made or tendering procedure adopted by the Police Authority must comply with:

- (1) All aspects of EC Procurement Directives currently in force; and
- (2) these Standing Orders, so far as no exceptions have been made under Standing Order 2.
- (3) UK Law

A reference to the EC Procurement Directives is contained in the Annex hereto.

1.3 A consultant must comply with these Standing Orders as if he or she were the Chief Constable of the Leicestershire Constabulary and the service contract must state this obligation.

1.4 The amounts £A and £B in these Standing Orders have the values given in Standing Order 1.6 below. By notification to the Chief Constable and Chief Executive, the Finance Director may adjust any such values.

1.5 Subject to any alterations made by the Finance Director in accordance with Standing Order 1.5:

£A = £5,000

£B = £139,893 see covering report

2. Exceptions

2.1 Exceptions to Standing Order 3.1 may be made in accordance with Financial Regulations.

2.2 Exceptions to Standing Orders 3.1 or 3.2 onwards may be made:

- (1) by the FGPC;
- (2) by the Chief Executive in consultation with the Chairman of the Police Authority;
- (3) if the tender is invited on behalf of a partnership of which the Police Authority is a member and the tender is being invited in accordance with the method prescribed by that partnership.

- 2.3 Before making an exception under Standing Order 2.2(2) the Chief Executive must consult the Treasurer or the Finance Director and, after the exception has been made, the circumstances must be reported to FGPC and recorded in the minutes.

3. **Inviting Quotations and Tenders**

- 3.1 Where the estimated value of a proposed contract is more than £A written quotations must be invited from at least three suitable contractors. This process must be managed by the Procurement department. The Chief Executive may authorise that only two, or exceptionally one, quotation(s) be sought if he is satisfied, on reasonable grounds, that three quotes cannot be obtained. The Chief Executive will record such reasons. No quotation other than the lowest that meets the specification may be accepted without the written authority of the Chief Executive. In such circumstances, the Chief Executive will consider factors such as timeliness, capability or reliability of the contractors, relative price differential of quotes, and budget holder's professional judgment, but the overriding factor shall be to obtain best value for the Authority.

4. **Selective Tendering from List of Approved Contractors for Estates Procurement**

- 4.1 *The list of Approved Contractors used by the Estates department is kept and compiled by Procurement of behalf of the Estates Department, in accordance with the requirements of the Authority.*
- 4.2 Lists must show the type and value of work for which each contractor is approved.
- 4.3 The lists must be reviewed at least every five years. Where a list is being reviewed, those already on the list must be asked if they wish to stay on it subject to satisfactory past performance and financial standing.
- 4.4 An approved contractor considered by the Finance Director to be unsatisfactory may be removed or suspended from any list.
- 4.5 *All contractors capable of undertaking such works, must be invited to tender for a contract, subject to the Chief Constable or Chief Executive being satisfied as to their capability, having regard for their performance and other commitments. Where the past performance or current financial standing of a contractor appears unsatisfactory to the Chief Constable or Chief Executive, shall consider the exclusion of that contractor from tendering for a particular contract*

5. **Submitting Tenders**

- Leicestershire Constabulary endeavours to use Bluelight Procontract for the majority of tenders undertaken. Bluelight Procontract allows suppliers to upload their tender responses until the deadline date and time. Late tenders can be uploaded only before the tenders are opened. Where hard copy tenders are required, they will be considered only if it is received in a sealed, plain envelope with the words "tender for" and the title of the contract written on it. There must be no mention of the sender's name or any way of identifying the sender from the envelope.*
- 5.1 All the tenders received must be opened on the same occasion and in the presence of two officers designated respectively by the Chief Executive and the Chief Constable. In the case of tenders invited by the Chief Executive, the Treasurer must designate the second officer.

- 5.2 Those present at the opening of tenders must ensure that a list of tenders is made (name of bidder, tender value, date opened), *this is automatically recorded for tenders opened electronically via Bluelight Procontract*. The list must be signed by those present and be kept by the Chief Executive.
- 5.3 A tender received after the time fixed for receipt of tenders can only be considered if the Chief Constable or Chief Executive is satisfied that there is good reason for its late arrival and that it was received before any other tender was opened. If a late tender is not to be considered, it may be opened just to find the name and address of the tenderer so that it can be returned.
- 5.4 The Chief Constable or Chief Executive may allow a tender, that does not comply with these Standing Orders, to be considered provided he is satisfied that the breach was due to inadvertence and that no advantage to the tenderer or detriment to any other person has occurred as a result. The Chief Constable or Chief Executive, as the case may be, will record such reasons.

6 **Accepting Tenders**

(NOTE: The term 'best tender' means the lowest if payment is to be made by the Authority and the highest if payment is to be received by the Authority. The term "best tenderer" means the contractor that submits the best tender).

- 6.1 The Chief Constable or Chief Executive may accept the best tender for schemes that have been approved by the Police Authority and for which adequate budget provision has been made.
- 6.2 Tenders other than the best tender may be accepted only by the Authority after it has considered a written report on the matter.
- 6.3 Before accepting a tender, the Chief Constable or Chief Executive, as the case may be, must make any enquiries he considers appropriate as to the capability and commitments of the best tenderer, including obtaining references and requesting the Treasurer or the Finance Director to obtain a report on the tenderer's financial status.
- 6.4 If enquiries reveal the best tenderer to be an unsatisfactory contractor, the next best tender shall be treated as the best tender and so on.
- 6.5 If errors are discovered on examination of the tender which is being considered for acceptance the tenderer must be given details and be asked to confirm or withdraw the tender as submitted. The tenderer is to be allowed 7 days to reply.

7. **Form of Contracts**

- 7.1 All contracts must be in writing.
- 7.2 Leicestershire Constabulary terms and conditions of contract for either the supply of goods or the provision of services will be applicable to any contract placed. However, there may be exceptional circumstances where other terms and conditions of contract are proposed. The Procurement department must be consulted in such circumstances for advice and support. East Midlands Regionally Forces terms and conditions of contract will be applicable where any East Midlands collaborative contract has been agreed.

7.3 All contracts above £B must be sealed by the Police Authority. All contracts valued at £B or below but above £A must either be signed by the Chief Constable or Chief Executive.

7.4 All contracts must state:

- (1) the work to be done or the goods, materials or services to be supplied;
- (2) the price and any deductions; and
- (3) the time within which the contract is to be carried out.
- (4) The Terms and Conditions of contract applicable.

8. **Review**

These Standing Orders were approved by minute of the FGPC on 24 March 2009. They will be reviewed not later than March 2011.

ANNEX TO CONTRACT STANDING ORDERS

Leicestershire Police Authority is subject to the requirements of European Community Services Directive 92/50/EEC (as enacted into UK law by Statutory Instrument), for certain of our contracts for services and 93/36/EEC for certain of our contracts for the supply of goods.

Leicestershire Police Authority must comply with the requirements of EC procurement legislation in the process of awarding all relevant contracts for which it is responsible.

The legislation applies to contracts with an estimated value above the following thresholds (net of VAT):

- £139,893 for supplies and service contracts
- £3,497,313 for works contracts

N.B. These values are subject to annual review.

Where there are a series of contracts, for similar requirements, to be awarded to the same market segment within each 12 month period, the value of all those requirements must be aggregated together to determine whether the value threshold is reached. If it is, then all those contracts will be subject to the Directives. As this will be difficult to do in practice, anything regularly purchased should have the Directives applied to it.

Should employees be unsure if the Directives are applicable then they should contact the Finance Director who will advise accordingly.

Failure to comply with the requirements of EC procurement legislation may result in Leicestershire Police Authority being taken to court for a breach of the law and subsequently required to pay damages and compensation to disadvantaged parties. Such action may disrupt or delay the process of awarding contracts, or cause the cancellation or suspension of contracts already in place.

It is anticipated the current treaty principles relating to open, competitive, non-discriminatory Procurements will extend to all purchases below the threshold within the near future.