Un Llais Cymru

One Voice Wales

Extract from "model" Financial Regulations

11. CONTRACTS

11.1 Procedures as to contracts are laid down as follows:

a. Every contract shall comply with these financial regulations, and no exceptions shall be made otherwise than in an emergency provided that this regulation need not apply to contracts which relate to items (i) to (vi) below:

i. for the supply of gas, electricity, water, sewerage and telephone services;

ii. for specialist services such as are provided by legal professionals acting in disputes;

iii. for work to be executed or goods or materials to be supplied which consist of repairs to or parts for existing machinery or equipment or plant;

iv. for work to be executed or goods or materials to be supplied which constitute an extension of an existing contract by the Council;

v. for goods or materials proposed to be purchased which are proprietary articles and / or are only sold at a fixed price.

b. The full requirements of The Public Contracts Regulations 2015 ("the Regulations"), as applicable, shall be followed in respect of the tendering and award of a public supply contract, public service contract or public works contract which exceed thresholds in The Regulations set by the Public Contracts Directive 2014/24/EU (which may change from time to time)[1].

c. When applications are made to waive financial regulations relating to contracts to enable a price to be negotiated without competition the reason shall be embodied in a recommendation to the Council.

d. Such invitation to tender shall state the general nature of the intended contract and the Clerk shall obtain the necessary technical assistance to prepare a specification in appropriate cases. The invitation shall in addition state that tenders must be addressed to the Clerk in the ordinary course of post. Each

[1] Thresholds currently applicable are:

a. For public supply and public service contracts 209,000 Euros (£181,302)
b. For public works contracts 5,225,000 Euros (£4,551,413)

tendering firm shall be supplied with a specifically marked envelope in which the tender is to be sealed and remain sealed until the prescribed date for opening tenders for that contract.

e. All sealed tenders shall be opened at the same time on the prescribed date by the Clerk in the presence of at least one member of Council.

f. Any invitation to tender issued under this regulation shall be subject to Standing Orders [ ], [2] [insert reference of the Council's relevant standing order] and shall refer to the terms of the Bribery Act 2010.

g. When it is to enter into a contract of less than [£25,000][3] in value for the supply of goods or materials or for the execution of works or specialist services other than such goods, materials, works or specialist services as are excepted as set out in paragraph (a) the Clerk or RFO shall obtain 3 quotations (priced descriptions of the proposed supply); where the value is below [£3,000] and above [£100] the Clerk or RFO shall strive to obtain 3 estimates. Otherwise, Regulation 10.3 above shall apply.

h. The Council shall not be obliged to accept the lowest or any tender, quote or estimate.

[2] Based on NALC's model standing order 18d (© NALC 2018)

[3] This suggested figure is based on the sum above which special rules are applicable (under the Regulations) to Councils in England and is therefore considered an appropriate threshold.

i. Should it occur that the Council, or duly delegated committee, does not accept any tender, quote or estimate, the work is not allocated and the Council requires further pricing, provided that the specification does not change, no person shall be permitted to submit a later tender, estimate or quote who was present when the original decision making process was being undertaken.

11.2 The Proper Officer shall maintain a register of personal interests, in respect of both members and senior staff.

a. Members and senior staff should not, so far as is practicable, be involved in the award of orders and/or contracts with organisations or individuals in respect of which a personal interest exists, whether declared or not.

b. Members and senior staff should not, so far as is practicable, be involved in the making or authorising payments in respect of orders and/or contracts with organisations or individuals in respect of which a personal interest exists, whether declared or not.

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BROUGHTON AND BRETTON COMMUNITY COUNCIL EXTRACT OF FINANCIAL REGULATIONS:

CONTRACTS

1. Procedures as to the letting of contracts are as laid down in the Council's Standing Orders relating thereto.
2. Where contracts provide for payment by instalments, the RFO shall maintain a record of all such payments. In any case when it is estimated that the total costs of work carried out under a contract, excluding fluctuation clauses, will exceed the contract sum by 5% or more, a report shall be submitted to the Council.
3. Any variation to a contract or addition to or omission from a contract shall be approved by the RFO in writing, the Council being informed where the final cost is likely to exceed the financial provision made therefore.

BROUGHTON AND BRETTON COMMUNITY COUNCIL EXTRACT OF STANDING ORDERS:

CONTRACTS

69. Where it is intended to enter into a contract exceeding £2,500 but not exceeding £25,000 in value or amount for the supply of goods or materials or for the execution of works, the Council's Responsible Financial Officer shall

give at least three weeks public notice of such intention in the same manner as public notice of meetings of the Council is given.

70. Subject to the requirements of Standing Order number 70 where the value of the intended contract exceeds £25,000 in value or amount, similar 13 notice shall be given in addition in such newspapers circulating in the district as the Council shall direct.

71. Where, in the opinion of the Council, the goods, material or work are of a specialist nature, as an alternative to the requirements of Standing Order 62 above, tenders may be invited from at least three contractors, selected by the Council, specialising in the type of work etc. comprising the contract in question.

72. The notice, or invitation to submit a tender, for a contract exceeding £25,000 in value or amount shall state the general nature of the intended contract and state the name and address of the person to whom tenders are to be addressed and the last date by which those tenders should reach that person in the ordinary course of post.

73. Tenders/quotations received shall be opened by the Responsible Financial Officer, or other person to whom tenders are required to be addressed, in the presence of the Council or Committee/Sub-Committee/Officer to which/whom the power to award the contract may have been delegated.

74. The Council is not bound to accept the lowest tender.

75. Should no tenders be received or should all the tenders be identical, the Council etc. may make such arrangements for procuring the goods or materials or executing the works as it thinks fit.

76. A notice/invitation to tender issued in accordance with the requirements of Standing Orders numbers 61, 62, 63 and 64 above shall contain a statement of the effect of Standing Order number 52 in relation to tenders and quotations.

77. No Member of the Council shall, in the name of the Council, issue orders, or transmit instructions or directions, unless such orders etc. are specifically authorised by the Council or in accordance with powers properly delegated to a Committee, Sub-Committee or Officer and the requirements of these Standing Orders and Council's Financial Regulations shall be strictly adhered to in respect thereof.