



How to Do Business with Wigan Council

A Guide for Prospective Suppliers and Contractors

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Introduction

- 1.1 The purpose of this guide is to help suppliers and contractors interested in supplying goods, services or works to Wigan Council understand how we do business. It does this by explaining what procurement means to us as a council and by outlining our procurement process and a typical supplier application procedure.
- 1.2 The procurement of high quality goods and services is key to Wigan Council's delivery of public services. Our suppliers have a key role to play in this delivery and we therefore encourage competition, welcoming bids from both new and existing suppliers. A key criterion that we use to select a supplier is value for money, and, whilst we cannot discriminate in favour of locality, we are committed to supporting local firms to compete for contracts.
- 1.3 Some of the benefits of becoming an appointed supplier of Wigan Council are that we are:
- Fair
 - Non-discriminatory
 - Professional
 - Long established and secure
 - Committed to paying suppliers promptly

How Much Does Wigan Council Spend?

- 1.4 Approximately 304,000 people live within the boundaries of the Metropolitan Borough of Wigan, making it the twelfth largest 'Metropolitan' district in England. In terms of size, the borough covers an area of 77 square miles, thus making it the ninth largest metropolitan district in the country geographically and the largest in Greater Manchester.
- 1.5 Wigan Council is big business:
- Revenue budget for 2011 / 2012 is £274,867,000.
 - Estimated capital expenditure for 2011 / 2012 is £59,890,800.

- In fiscal year 2010 we paid 186,412 invoices to 5,803 suppliers totalling £243,129,326 in value.
- 1.6 This guide is a summary of how we conduct our business arrangements with suppliers. For suppliers who want a more detailed knowledge of how we do business we have added relevant web links and information in appendices at the back of this publication.
- 1.7 Wigan Council has a devolved approach to purchasing with the majority of contracts and purchases managed by our directorates. At the back of this document we have provided contact names, telephone numbers and e-mail addresses of relevant council employees. There is also a small central procurement team on hand to advise suppliers and to provide additional support to directorates and employees across the Council.
- 1.8 Wigan Council is a founder member of the Yorkshire Purchasing Organisation (YPO) and as a member has access to the large number of contracts originating from YPO that have been tendered and which meet national and European guidelines. Details of the goods the YPO supplies with the names of appropriate contact employees are available from the council's website at <http://kinnear.wigan.gov.uk/Tenders/>.

Procurement Rules and Regulations

- 1.9 As a local authority we are bound by three main regulatory strands that govern how we procure goods and services. These are European law, national guidance and our own local rules that are contained in the council's constitution.

National Rules

- 1.10 Local government authorities are not required by law to tender out services, although we do have a general duty under Best Value legislation (laid down by the Local Government Act 1999) to ensure that our services continuously improve.

Local Rules

- 1.11 Wigan Council has set it's own policies, guidelines and regulations and these are known as our 'Contract Procedure Rules' and 'Financial Procedure Rules' and are contained in our constitution at:
www.wigan.gov.uk/Services/CouncilDemocracy/Constitution/Part4-Contractrules.htm.

Please refer to this site to look at our local rules in more detail.

EU Regulations

- 1.12 A treaty signed by member states of the European Union covers all public sector procurement contracts, regardless of their value. This treaty incorporates the free movement of goods and services and prevents discrimination against firms on the grounds of nationality.
- 1.13 The EU directives and regulations require us to follow detailed procedures, particularly with regard to the procurement of goods and services above certain financial thresholds. The thresholds are reviewed every two years and currently stand at £173,934 (€200,000) for supplies and services and £4,348,350 (€5,000,000) for works (excluding VAT) from 1 January 2012.
- 1.14 More detailed guidance on EU procedures and rules are outlined in Appendix 2 of this document.

General Introduction

- 2.1 Wigan Council has adopted a devolved approach to the procurement of its goods and services. A contact list of employees with responsibilities for specific areas of procurement is provided at Appendix 1.
- 2.2 If you would like to find out more about the structure of Wigan Council please visit our website at www.wigan.gov.uk/Services/CouncilDemocracy/CouncilStructure/.
- 2.3 To assure the public that we are using resources wisely, the council has a thorough and long-established procurement process. This process varies according to the value, volume and risk associated with the goods and services we procure from suppliers and also with the length of time that we agree to enter into with the supplier.
- 2.4 The different processes are as follows:
- ➡ For most *routine transactions* we buy from the Yorkshire Purchasing Consortium as well as local suppliers. At the current time we are looking to formalise and standardise how we purchase these goods.
 - ➡ For *one off products, goods or services between £5,000 and £150,000* in value we will obtain three quotes. However on some occasions we may use a formal tender process.
 - ➡ For *goods and services over £150,000* we must use a formal tender process and adhere to relevant European legislation. The European legislation identifies a number of different tender processes:
 - Open – all prospective tenderers are invited to submit tenders;
 - Restricted – prospective tenderers are short-listed via a pre-qualification stage and then invited to tender;
 - Negotiated – the authority consults companies of its choice and negotiates the terms of the contract with them;
 - Competitive Dialogue – used in the case of complex contracts where the authority is not able to define by itself the technical solutions to satisfy its needs or is not able to specify the legal and / or financial make-up of a project.

This information is attached in more detail at the back of the document in Appendix 3.

Standing / Select Lists

- 2.5 In addition to the above processes some directorates maintain standing lists of contractors or suppliers of services. The process for admission to these standing lists varies based on the type of list and by the service or product being offered. Details of this information can be found on our procurement web pages at:
<http://www.wigan.gov.uk/Services/BusinessRegeneration/CouncilProcurement/>.

Our Quotation System

- 2.6 For goods above £5,000 but under £150,000, though this may vary, all directorates must obtain at least three written quotations for the goods or services they wish to purchase. This is done by writing or telephoning a number of suppliers and asking them to provide a written quotation for the goods or service.

Example of a Typical Tender Process in Wigan

- 2.7 This section gives an example of a typical tender process that a directorate in Wigan Council may follow:

Advertising New Tenders

North West Public Sector E-Procurement Portal: The Chest

- 2.8 Since April 2011 Wigan Council began to utilise an e-procurement portal called 'The Chest' which can be accessed at www.thechest.nwce.gov.uk. This move fits in with the government's initiative to implement e-procurement and enables suppliers to source and tender for public sector contracts via a dedicated portal. This has therefore replaced our own website as the principal place for the advertisement of new tenders. The portal is now used by all authorities based in Greater Manchester plus a number of other public sector

organisations based in the north west of England. All opportunities can be browsed on The Chest by clicking on 'Current Opportunities'. We would encourage all interested suppliers who have not already done so to register online via the 'Suppliers' Area' to enable e-mail updates to be received on opportunities that match your areas of supply. Registration is free of charge. You will find full details of how to register, login and manage your account including user guides on The Chest. It is our intention to run our tender processes electronically as far as possible using this system to increase efficiency and transparency.

Local Press

- 2.9 We must also currently advertise tenders in the local press. In particular we may use newspapers circulated in the Greater Manchester area e.g. the Wigan and Leigh reporters, the Wigan Observer, Wigan Evening Post and the Manchester Evening News. We sometimes also publish details in relevant trade journals.

European Tenders

- 2.10 For tenders that must adhere to European regulations we have to advertise in the 'Official Journal of the European Union'. This can be found on the Tenders Electronic Daily internet site at <http://ted.europa.eu/>. The journal will show any advertisements to tender issued by Wigan Council within Europe. This will be the case where the value of the tender exceeds the financial thresholds stated on page 5 of this document.

Other Websites

- 2.11 We may also publish details of new tenders on Contracts Finder at <http://www.contractsfinder.businesslink.gov.uk/>, the official central government website for tender advertisements (which has superseded supply2gov).

The Tender Process

- 2.12 The council commonly uses two tender processes:
- Open – prospective tenderers are invited to tender and a full tender documentation pack will be provided to those wishing to tender for council work, goods or services;

- Restricted – suppliers must first pass through a short listing pre-qualification process before being invited to tender.

2.13 The council often uses the restricted process to shortlist prospective tenderers in situations where there is expected to be a large number of suppliers interested in a tender. This is to make the process more efficient and reduce the time it takes to let contracts. Where the council expects a relatively small number of prospective bidders, e.g. for specialist work, then it will use the open tender process.

As part of this process you will be provided with a covering letter, a pre-qualification questionnaire (for restricted tenders only), a brief background to the contract and information about Wigan Council. Where the procurement is conducted electronically you may be asked to access these documents via The Chest.

2.14 If you are asked to complete a pre-qualification questionnaire you will need to provide details of your:

- Company information and history
- Financial and insurance information
- Technical resources and references
- Previous experience you may have in providing the goods, services or works being tendered for
- Equal opportunities
- Health and safety
- Quality assurance, by stating accreditation to any recognised quality standards.

2.15 The main objective of the pre-qualification process is to ensure that all companies short listed and invited to tender are technically competent and financially able to fulfil any contractual commitments it might enter into with the council. At this stage we also check other policies of the company before entering into the next stage of the tender process. The council is required to invite a minimum number of companies to tender depending on the value of the contract.

Invitation to Tender Stage

2.16 At this stage, the following documents will be issued to all tenderers:

- Instructions to tender (this document will detail important administrative procedures relating to the tender such as dates and

times, method of tender return, evaluation criteria to be used in selection of the tender and details of where queries should be directed)

- A company questionnaire similar to the pre-qualification questionnaire if the open procedure is to be used
- The tender specification (this will detail the council's requirements and must be read carefully and complied with)
- Contract terms and conditions (this document gives details of the terms under which the council wishes to do business).

Completing the Pre-Qualification / Company Questionnaire

2.17 To ensure your bid is considered, you should:

- Provide all the information requested
- Answer all questions accurately
- Enclose all relevant documents
- Sign authorisation of the questionnaire
- Return the questionnaire by the closing date specified and to the address stated (in an unmarked enveloped). You may also be asked to submit electronic versions of the documents over The Chest e-procurement portal where the process is conducted electronically.
- Note that late tenders will not be accepted.

Completing the Tender Documents

2.18 The tender documents will be issued electronically or by post and will contain details of tender requirements. All documents, particularly the specification, should be read carefully and all information completed fully and accurately. If you do not understand any part of the specification you should contact the council officer named in the tender and request further information. This must be done before the tender period closes.

Electronic Trading

2.19 We are committed to increase levels of business conducted electronically, including tendering, ordering and invoicing. The aim of this initiative is to improve efficiency and reduce costs associated with the procurement process

for both the council and the supplier. It is recognised that e-commerce can help you as a supplier by opening up your products and services to a wider market.

- 2.20 As part of our procurement strategy we are looking at ways of making it easier for companies to do business with us.

Financial Information

- 2.21 In this section you are asked to provide financial information relating to your company for each of the last two years. Please note that you must supply accounts for the actual company applying to the council and not for the group or holding company of which your company may be a part. Private limited companies and public limited companies must submit their audited accounts as registered with Companies House. Applicants that are not required to have their accounts audited must still forward copies of their financial statements from their accountant.

This information is used to assess the financial position of your company in relation to the size of the contract. We would also require information to check you are registered, where appropriate, for tax and that you will comply with the council's insurance requirements.

Experience and Technical Ability

- 2.22 This section is designed to enable us to assess whether you have the relevant experience and technical ability to undertake the type of work for which you are applying. It is important to note that this is one of the most important aspects of the tender process and is the area of the application where prospective tenderers have the opportunity to sell the benefits of their service or products to the council.

Equal Opportunities and Diversity

- 2.23 Wigan Council is an equal opportunities employer and is committed to promoting equality of opportunity for all people irrespective of sex, disability, marital status, creed, social class, colour, race, ethnic origin, age or sexual orientation. It is important that people involved in supplying the council have an equal chance to work, contribute and develop free from discrimination,

prejudice or the fear of harassment. We are keen to ensure that our suppliers abide to equal opportunities law and are working to best practice in this area.

- 2.24 All suppliers, as part of the tender process, will be required to provide evidence that they have equal opportunities policies in place and are committed to them.

Health and Safety

- 2.25 Successful contractors and suppliers are expected to demonstrate compliance with current health and safety legislation by having:
- A commitment to the health and safety of their employees, clients and others
 - Up to date health and safety policies and procedures
 - Adequate risk assessment procedures
 - An adequate system of monitoring and reporting incidents and ill health
 - Access to competent health and safety advice
 - Monitored contracts to ensure compliance with contract standards and health and safety requirements.

Insurance Details

- 2.26 Depending on the nature of the contract or service being offered we will ask to see a company's insurance cover for certain types of insurance:
- Employer's liability
 - Public liability
 - Indemnity cover.
- 2.27 Levels of cover will vary and each individual contract is judged on its own merits. Examples of where insurance is particularly required is building and plumbing contractors working on council schemes, home to school transport and the provision of social care to the elderly.

Information concerning the required level of cover will usually be stipulated in the tender documentation.

Sustainability

- 2.28 The government's definition of value for money in the context of procurement is 'the optimum combination of whole-life cost and quality (or fitness for purpose) to meet the user's requirement'.
- 2.29 Procurement therefore has a far broader meaning than that of purchasing, buying or commissioning. It is about securing services and products that best meets the needs of users and the local community in the widest sense. Wigan Council therefore takes sustainability as well as cost and quality into account when choosing its suppliers.
- 2.30 Local government expenditure on goods, works and services has a significant economic, social and environmental impact. Minimising any negative impacts in these areas, and where possible having a positive influence, helps to improve the local quality of life and promote sustainable development. The cornerstone of sustainability is achieving development and progress that meets the needs of the present without compromising the ability of future generations to meet their own needs.
- 2.31 The Local Government Act gives all councils the power and duty to promote the well being of the local area and to contribute to achieving sustainable development in the UK.

Tender Evaluation and Contract Award

- 2.32 Returned tenders will be evaluated against the relevant criteria. This criteria will be made clear in the tender information pack or in the relevant European advert, where appropriate. The evaluation process will focus on examining how the tender will deliver the required service quality at the right cost. The balance between quality and price will vary depending on the particular service area and the contract being considered. Successful tenderers will usually be notified formally in writing; opportunities for unsuccessful companies to be debriefed are also provided.

Debriefing

- 2.33 We will endeavour, within the limits of commercial confidentiality, to offer feedback to unsuccessful tenderers to explain why their bid has failed. This information can be used to help with any future bids a company may wish to

make, as being unsuccessful in one contract does not mean that a company will be unsuccessful in future, and we would welcome unsuccessful tenderers to compete in future competitions.

Contract Performance – Monitoring

- 2.34 All accepted suppliers are monitored throughout the contract period against pre defined performance criteria outlined in the tender documents. Contracts have to be performed in accordance with the requirements set out in the documentation.

Wigan Council is continuously striving to improve its performance and it expects its suppliers to do the same.

Freedom of Information Act

- 2.35 The Council has obligations and responsibilities under the Freedom of Information Act 2000 to provide, on request, access to recorded information it holds. The act provides the public with a general right of access to information from all public authorities, including local authorities.
- 2.36 Tenderers who consider that any information submitted / to be submitted in the tender or contract documents should not be disclosed to a third party because of sensitivity should provide the council with a schedule of information. The schedule should contain full reasons as to why it may prejudice the commercial interest of the tenderer or involve the disclosure of a trade secret and state reasonable timescales during which that information should not be disclosed.

Complaints Procedure

- 2.37 The council has a comprehensive system for registering complaints.

Our complaints form is available from all libraries and council offices. If you have an unresolved complaint against Wigan Council formal complaints can be made to the ombudsman.

How to Contact Us

- 2.38 Should you wish to contact us about a specific tender please contact the employee designated as dealing with the tender as stated in the tender documentation or advertisement. If you have a more general query about our procurement process please contact us by e-mail at procurement@wigan.gov.uk.

Appendix 1**Wigan Council Contacts List**

Category of Goods/Services/Works	Contact Officer	Telephone	E-mail Address
Banking Services	David Unwin	01942 828005	d.unwin@wigan.gov.uk
Bridgeworks	Joe Harb	01942 489271	j.harb@wigan.gov.uk
Building Maintenance Services (Electrical / Heating / Painting)	Roy Grundy	01942 827398	r.grundy@wigan.gov.uk
Building Maintenance and Construction Services	Colin Walls	01942 827376	colin.walls@wigan.gov.uk
Catering Food and Supplies	Ken Baxter	01942 705074	k.baxter@wigan.gov.uk
Children's Care	Andrew Spencer	01942 486265	a.spencer@wigan.gov.uk
Drug Treatment Services	David Gray	01942 489600	d.gray@wigan.gov.uk
Economic Regeneration Consultancy	Christine Bainbridge	01942 828960	c.bainbridge@wigan.gov.uk
Electrical Engineering Services	Colin Walls	01942 827376	colin.walls@wigan.gov.uk
Engineering and Environmental Consultancy	Mark Crossfield	01942 489259	m.crossfield@wigan.gov.uk
Foster Care	Andrew Spencer	01942 486265	a.spencer@wigan.gov.uk
Furniture and Fittings for Housing	David Spilsbury	01942 486600	d.spilsbury@wigan.gov.uk
Gas Servicing and Maintenance for Housing and Other Reactive Works	Steve Burns	01942 705630	s.burns@walh.co.uk
Highway Maintenance	Mark Crossfield	01942 489259	m.crossfield@wigan.gov.uk
Highways Supplies	Jim McCartney	01942 828346	j.mccartney@wigan.gov.uk
Housing – Programmed Works	Trevor Smith	01942 705706	t.smith@walh.co.uk
Housing Repairs and Minor Maintenance	Steve Burns	01942 705630	s.burns@walh.co.uk
IT Software and Hardware	Sandra Poole	01942 827517	s.poole@wigan.gov.uk
IT Systems	Paul Fairhurst	01942 827213	p.fairhurst@wigan.gov.uk
Insurance	Christopher Page	01942 827242	c.page@wigan.gov.uk
Legal Services	David Meehan	01942 827014	d.meehan@wigan.gov.uk
Leisure Consultancy and Projects	Stephen Burns	01942 828986	stephen.burns@wigan.gov.uk
Marketing, Campaigns and Brand Management	Andy Donnelly	01942 827046	a.donnelly@wigan.gov.uk
Mechanical Services	Colin Walls	01942 827376	colin.walls@wigan.gov.uk
Media and Communications Services	Karen Dunn	01942 827173	k.dunn@wigan.gov.uk
Office Furniture and Removals	Karen Hewitt	01942 827516	k.hewitt@wigan.gov.uk
Parking, Enforcement and Security Services	Alan Carver	01942 489290	a.carver@wigan.gov.uk
Print Services	John Price	01942 244991	j.price@wigan.gov.uk
Property Design and Maintenance	Colin Walls	01942 827376	colin.walls@wigan.gov.uk
Public Relations Services	Kealey Mulligan	01942 828145	k.mulligan@wigan.gov.uk
Recruitment Services	Lisa Selby	01942 827569	l.selby@wigan.gov.uk
School Buildings and Construction	Andrew Dunne	01942 486019	andrew.dunne@wigan.gov.uk
Security Systems	Michell Walling	01942 827450	m.walling@wigan.gov.uk

Social Care Services (Adults)	Susan Foster	01942 827395	s.foster@wigan.gov.uk
Street Lighting	Keith Benson	01942 488025	k.benson@wigan.gov.uk
Supporting People Services	Michelle Greenwood	01942 489436	m.greenwood@wigan.gov.uk
Telecommunication Systems and Networks	Martin Bottomer	01942 705201	m.bottomer@wigan.gov.uk
Training and Development	Sharon Adams	01942 827309	sharon.adams@wigan.gov.uk
Transport Supplies	Jim McCartney	01942 828346	j.mccartney@wigan.gov.uk
Transport to Schools and for Vulnerable Adults	Ian Lythgoe	01942 244991	i.lythgoe@wigan.gov.uk
Vehicles and Plant	Keith Simpson	01942 705103	keith.simpson@wigan.gov.uk
Waste Disposal and Consultancy	Gail Robinson	01942 705131	gail.robinson@wigan.gov.uk

Introduction

Public procurement accounts for over 16% of the EU's GDP.

The EU action seeks to create a European area for public procurement in the context of the internal market. It is based on the fundamental principles enshrined in the treaty establishing the European Community: equal treatment, a transparent and non-discriminatory call for competition, mutual recognition and the fight against fraud and corruption.

Revised Thresholds

The 'traditional' directive applies to public works contracts, public supply contracts and public service contracts which have a value excluding VAT estimated to be no less than the following thresholds:

- EUR 200,000 (£173,934) for public supply and service contracts: awarded by contracting authorities which are not central government authorities
- EUR 5,000,000 (£4,348,350) in the case of works contracts.

The commission verifies the thresholds every two years. The calculation of their value is based on the average daily value of the Euro, expressed in Special Drawing Rights (SDR), over the 24 months ending 31 August for the revision with effect from 1 January.

For those Member States which have not adopted the single currency, the European Commission publishes the values in national currencies of the applicable thresholds in the Official Journal. In principle, these values are revised every two years from 1 January 2004.

Certain Contracts are Excluded or Reserved

The following public contracts are excluded from the scope of the directive:

- Contracts covered by the 'special sectors' directive and contracts awarded with the purpose of providing or exploiting public telecommunications networks
- Contracts which are declared to be secret or affect the essential interests of a member state
- Contracts concluded pursuant to international agreements
- Contracts concerning the following services: the acquisition or rental of existing buildings; the acquisition, development, (co)production of broadcasting programmes; arbitration and conciliation services; the purchase, sale or transfer of financial instruments; central bank services; employment contracts; RTD services which do not belong exclusively to the contracting authority or which are not wholly financed by it
- Service contracts awarded on the basis of an exclusive right
- Service concessions.

Member states may reserve certain public contracts to sheltered workshops or provide for such contracts to be performed in the context of sheltered employment programmes where most of the employees concerned are handicapped persons.

Public Procurement Procedures

There are different public procurement procedures: the open procedure, the restricted procedure, the negotiated procedure, and the competitive dialogue.

The Open Procedure

In an open procedure, any interested economic operator may submit a tender.

The minimum time limit for the receipt of tenders is 52 days from the date on which the contract notice was published. If a prior information notice has been published, this time limit can be cut to 36 days. In no case may the time limit for the receipt of tenders be less than 22 days.

The Restricted Procedure

In the case of restricted procedures, any economic operator may request to participate and only candidates invited to do so may submit a tender.

The time limit for the receipt of requests to participate is 37 days from the date of the contract notice. The contracting authority then, simultaneously and in writing, invites the selected candidates to submit their tenders. There should be a minimum of five candidates. The minimum time limit for the receipt of tenders shall be 40 days from the date on which the invitation is sent. If a prior information notice has been published, this may be shortened to 36 days. The minimum time limit for the receipt of tenders may not be less than 22 days. Exceptionally and when urgency requires, the contracting authority may set a minimum time limit of 15 days (10 days if the notice is sent electronically) for requests to participate and of 10 days for the receipt of tenders.

The Negotiated Procedure

In a negotiated procedure, the contracting authority consults the economic operators of its choice and negotiates the terms of the contract with them.

The following cases justify the use of the negotiated procedure **with prior publication** of a contract notice:

- Following another procedure which revealed the presence of irregular tenders, insofar as this new procedure does not substantially alter the original terms of the contract
- In exceptional cases, when the nature of the contracts or the risks attaching thereto prevent prior pricing
- In the field of services, for intellectual services which do not permit the use of an open or restricted procedure
- For works which are performed solely for purposes of research or testing.

The following cases justify the use of the negotiated procedure **without prior publication** of a contract notice:

- For all types of contract: when no tenders have been submitted in response to an open procedure or a restricted procedure; when, for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the contract may be executed only by a particular economic operator; in cases of extreme urgency brought about by unforeseeable events
- For supply contracts: when the products involved are manufactured purely for the purposes of RTD; for additional deliveries over a maximum period of three years where a change of supplier would oblige the contracting authority to acquire material having different technical characteristics; for supplies quoted and purchased on a commodity market; for purchases of supplies under particularly advantageous conditions from an economic operator definitively winding up his business activities or in receivership
- For public service contracts, when the contract is awarded to the successful candidate in a design contest
- For works and service contracts: up to 50 % of the amount of the original contract, for additional works or services which are not included in the initial project and have become necessary through unforeseen circumstances; for new works or services consisting in the repetition of similar works or services entrusted to the initial economic operator for a maximum of three years.

In negotiated procedures **with prior publication** of a contract notice, the minimum time limit for receipt of requests to participate is 37 days from the date of the contract notice. In cases of extreme urgency, the contracting authority may set a minimum time limit of 15 days (10 days if the notice is sent electronically). The contracting authority, simultaneously and in writing, invites the selected candidates (a minimum of three) to negotiate. The invitation comprises all the contract documents, the deadline for the receipt of the tenders, the address to which the tenders must be sent and the language or languages in which the tenders must be drawn up. The relative weighting of criteria for the award of the contract is also included.

A New Procedure: The Competitive Dialogue

A contracting authority may make use of the competitive dialogue for complex contracts if it is not able to define by itself the technical solutions to satisfy its needs or is not able to specify the legal and / or financial make-up of a project. Large infrastructure projects would seem to lend themselves to this type of dialogue.

The contracting authority publishes a contract notice that includes the award criteria. The minimum time limit for receipt of requests to participate is 37 days. The contracting authority then, simultaneously and in writing, invites the selected candidates (a minimum of three) to conduct a dialogue. The discussion commences, may take place in stages and continues until the (technical and / or economic and legal) solutions have been defined. The contracting authority ensures equal treatment of all tenderers and protects the confidentiality of the information. At the end of the dialogue, the candidates submit their final tenders. These tenders may be specified, but without changing the basic features of the contract. The contracting authority awards the contract in accordance with the award criteria set and on the basis of the most economically advantageous tender.

Contracts**1 General**

- (1) Every contract shall comply with these Standing Orders, and no exception from any of the following provisions of these Standing Orders shall be made otherwise than by direction of the Executive or the Head of Paid Service. Every proposal for making any such exception shall be the subject of a report to the Executive or to the Head of Paid Service.
- (2) Every exception shall be reported to the Executive and the report shall specify the emergency by which the exception shall have been justified.
- (3) Express note of any exception from any of the provisions of these Standing Orders and of the special circumstances, if any, by which the exception is justified shall, be recorded in the minutes of the Executive.

2 Legislative Requirements

The following Standing Orders are subject to any relevant national or European legislative requirement and in the event of a conflict the legislative requirement shall prevail.

3 Selective Tendering after public notice

- (1) This Standing Order shall have effect, where invitation to tender for a contract is to be limited to persons who reply to a public notice.
- (2) Public notice shall be given in accordance with legislative requirements and in one or more local newspapers or journals circulating among such persons as undertake such contracts. The notice shall set out particulars of the contract into which the Council wish to enter and such other information required by statute or code of practice and invite persons interested to apply for permission to tender, within such period, as may be specified in any legislative requirements and in any event not being less than 10 days. A copy of the notice shall also be sent to all persons whose names appear in a list maintained under Standing Order 4 as being approved for the contract in question.
- (3) After the expiration of the period specified in the public notice invitations to tender for the contract shall be sent to the persons who applied for permission to tender in accordance with the following formula:
 - a. for contracts estimated not to exceed £100,000 4 persons or all those who expressed an interest, if less than 4, including any relevant DLO or DSO.
 - b. for contracts estimated to be in excess of £100,000 but below £250,000, 5 persons or all those who expressed an interest, if less than 5, including any relevant DLO or DSO.

- c. for contracts estimated to be in excess of £250,000 6 persons or all those who expressed an interest, if less than 6, including any relevant DLO or DSO.
- (4) Selection under (3) above shall be in accordance with such proper principles as the Council may from time to time determine.

4 Selective Tendering - Standing List

- (1) This Standing Order shall have effect where the decision taker has determined that a list shall be kept of persons to be invited to tender for contracts for the supply of goods or materials of specified categories, values or amounts or for the execution of specified categories of works, or the provision of specified categories of services.
- (2) The said list shall:
- a. be compiled and maintained by the Executive;
 - b. contain the names of all persons who wish to be included in it and are approved by the Executive, and
 - c. indicate whether a person whose name is included in the list is approved for contracts for all, or only some, of the specified values or amounts or categories.
- (3) At least 4 weeks or such longer period as legislative requirements may require, before the list is first compiled, notices inviting applications for inclusion in it shall be published in accordance with legislative requirements and in one or more local newspapers circulating in the district and in one or more newspapers or journals circulating among such persons as undertake contracts for the specified values or amounts or categories.
- (4) Additions and deletions from the list shall be made as required from time to time. At least once every five years, the list shall be renewed. At least 4 weeks before each such renewal each person whose name appears in the list shall be asked whether they wish their name to remain therein and notices inviting applications for inclusion in the list shall be published in the manner provided by paragraph (3) of this Standing Order. All persons who wish to be included on the list and who meet such proper criteria as the Executive may from time to time determine, shall be added to the list.
- (5) Where invitation to tender for a contract is limited to persons whose names appears on the list maintained under this Standing Order, selection for invitation to tender for that contract shall be in accordance with the rules set out in Standing Order 3 (3) and (4).

5 Open Tender

- (1) Except as provided in Standing Order 1, 2 or 3 no contract which exceeds £150,000 in value or amount for the supply of goods, materials or services or the execution of any work shall be made unless at least 10 days public notice has been given in one or more local newspapers circulating in the district and in one or more newspapers or journals circulating among such persons as undertake such contracts and the contract has been advertised in accordance with legislative requirements. The notice shall set out the nature and purpose of the contract, invite tenders for its execution, state the last date when tenders will be received, and provide such other information as may be required by statute or code of practice.

- (2) Selection for invitation to tender shall be in accordance with the rules set out in Standing Order 3 (3) and (4).
- (3) Provided that these requirements do not apply to:
- a. the purchase of patented or proprietary brands of articles or materials only obtainable from a single supplier, where the use of such brands can be justified in terms of value for money.
 - b. purchases by auction or at public fairs or markets;
 - c. repairs to buildings damaged by fire or vandalism;
 - d. the provision of a service urgently required due to the failure of a contractor provided that arrangements are being made for the re-letting of the contract in compliance with Standing Orders;
 - e. subject to the approval of the Executive the appointment of a contractor where the unsatisfactory performance of a contractor or the appointment of a receiver or liquidator to administer his/her affairs have made alternative arrangements for the completion of a contract necessary or desirable;
 - f. purchases from or under contracts which have been negotiated by the Yorkshire Purchasing Organisation, Local Authority Purchasing Partnership or such other Local Authority or public body as the Executive may from time to time approve.

6 Receipt of Tenders

Where in pursuance of these Standing Orders invitation to tender is required, every notice of such invitation shall state that no tender will be received except in a plain sealed envelope which shall bear the word "Tender" followed by the subject to which it relates, but shall not bear any name or mark indicating the sender. All such envelopes shall remain in the custody of the Chief Executive until the time appointed for their opening, unless the tenders are estimated not to exceed £50,000 in which case the envelopes shall remain in the custody of the appropriate Chief Officer until the time appointed for their opening.

7 Opening of Tenders

- (1) Tenders estimated to exceed £150,000 shall be opened at one time and only in the presence of:
- a. such member or members of the Executive as may have been designated for that purpose by the Leader, or by the Chief Executive and;
 - b. the Chief Executive or another official of the Council designated by him.
- (2) Tenders estimated to exceed £50,000 but not to exceed £150,000 shall be opened at one time and only in the presence of:
- a. the Chief Officer inviting the tenders or an official of the Council designated by him and;
 - b. the Chief Executive or an official of the Council designated by him.
- (3) Tenders estimated not to exceed £50,000 shall be opened at one time only and in the presence of two officers designated by the appropriate Chief Officer one of which shall be a member of the Departmental Management Team and the other shall be graded P.O. or above. The Director of Community Protection may designate one member of the Departmental Management Team and one other officer graded S.O. or above.

8 Evaluation of Tenders

The evaluation of tenders shall be conducted in such manner as the Executive may from time to time determine and shall take into account such matters as the Executive may from time to time determine.

9 Acceptance of Tenders

- (1) A tender other than the lowest, if payment is to be made by the Council, or the highest if payment is to be received by the Council, shall not be accepted until the Executive or Chief Officer concerned shall have considered a written or verbal report from the appropriate officer or other person provided that, where a tender other than the lowest (or highest as the case may be) is accepted by a Chief Officer acting under delegated powers, a written report shall be presented to the Executive.
- (2) Tenders shall be accepted in accordance with the Rules set out in the Scheme of Delegations in the Constitution.

10 Quotations

- (1) Except as provided in Standing Orders 1, 3, 4, or 5, no contract or series of contracts for the supply of goods or materials, the execution of any work, or the provision of any service, which exceeds £5,000 but does not exceed £150,000 shall be made unless the appropriate officer has obtained written quotations from not less than three persons believed to be suitably experienced.
- (2) Every such quotation shall only be considered if given in response to an invitation in writing given by the appropriate officer, stating the nature and purpose of the contract and the last date for receipt of quotations.
- (3) The requirements for the receipt, opening and acceptance of quotations shall be the same as the requirements for the receipt, opening and acceptance of tenders as set out in Standing Orders 6, 7, 8 and 9.
- (4) The requirements of this Standing Order shall not apply to any contract if tenders are obtained under any of the procedures provided for in Standing Orders 3, 4 and 5 nor shall they apply to contracts which meet exemptions (a), (b), (c), (d), (e) or (f) of Standing Order 5.

11 Nominated Sub-Contractor

No sub-contractor or supplier shall be nominated in any contract unless the consent of the Executive has been obtained and the procedure for such nomination shall be as the Sub-Committee shall direct.

12 Budget Provision / Budget Release

No contract shall be entered into unless the appropriate Chief Officer is satisfied that there is adequate budget provision and all necessary consents to the expenditure have been obtained.

13 Form and Signature of Contracts

- (1) Every contract that exceeds £10,000 in value or amount shall be in writing.
- (2) Save as set out in (3) hereof every contract in writing shall, unless sealed with the Common Seal of the Council, be signed by the Chief Executive and the Director of Legal and Property Services or two officers nominated in writing by either of them.
- (3) Chief Officers and Direct Service Managers may sign contracts relating to the exercise of their functions provided that the value of the contract does not exceed £150,000 and the contract is in a form which has been approved by the Director of Legal and Property Services as appropriate for the type of contract concerned. Two officers must sign each contract.

14 Provisions of Contract

- (1) Every contract in writing shall specify:
 - a. the work, services, materials, matters, or things, to be furnished, had or done;
 - b. the price to be paid, with a statement of discounts or other deductions; and
 - c. the time or times within which the contract is to be performed.
 - d. security for the due performance of the contract unless the appropriate Chief Officer considers this to be unnecessary
 - e. the Council's rights to termination and damages in the event of the contractor's default.

15 Standards / Benchmarking

Where appropriate Standards or Benchmarks are current at the date of tender every contract shall require compliance at least with such Standards or Benchmarks unless the appropriate Chief Officer considers this to be unnecessary.

16 Cancellation of Contract

The following clause shall be inserted in every written contract:

The Council is entitled to cancel this contract and to recover from the contractor the amount of any loss resulting from such cancellation if the contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the or any other contract with the Council, or for showing or forbearing to show favour or disfavour to any person in relation to the contract or any other contract with the Council, or if the like acts shall have been done by any person employed by him/her acting on his/her behalf (whether with or without the knowledge of the

contractor), or if in relation to any contract with the Council the contractor or any person employed by him/her acting on his/her behalf shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916, or shall have given any fee or reward the receipt of which is an offence under section 117(2) of the Local Government Act 1972.

17 Industrial Relations, Safety, Training, etc.

(1) Every written contract shall contain such provisions as the Executive may from time to time determine in respect of Industrial Relations, Safety, Training and related matters.

(2) Such matters shall be taken into account in such manner as the Executive may from time to time determine in the selection of tenderers and the evaluation of tenders.