

***Contract Standing Orders***

***Adopted by Cwmbran Community Council***

***at a meeting held on 14 May 2014***



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**Clerk to the Council**



## **Cwmbran Community Council**

### **Contract Standing Orders**

#### **1. Introduction**

1.1. Every contract made by the Community Council shall comply with:-

- (a) Contract Standing Orders
- (b) Financial Regulations

Subject to:-

- i) The exceptions indicated therein
- ii) All relevant statutory provisions
- iii) Any relevant European Community Directives in particular those relating to public procurement.

1.2. Every contract made by or on behalf of the Community Council shall comply with these Standing Orders and no exception from any of the provisions shall be made otherwise than by direction of the Council.

#### **2. Engagement of Consultants**

2.1. The terms of the engagement of the services of any architect, engineer, surveyor or other consultant shall be set out in writing.

2.2. Where such person is responsible to the Community Council for the supervision of a contract in response of the supply of goods or materials for the carrying out of works on its behalf, then in relation to that contract he/she shall:

- (a) Comply with these Standing Orders
- (b) At any time during the carrying out of contract, produce to the Clerk of the Council/Responsible Financial Officer (RFO), or his representative, on request all records maintained in relation to the contract
- (c) On completion of a contract, transmit all such records to the Clerk of the Council/RFO
- (d) At all times during the period of the contract be fully covered by professional indemnity insurance.

### **3. Tendering Procedure**

3.1. Subject to the provisions of Standing Order 5, no contract which **exceeds £50,000** in value for the supply of goods or materials or for the execution of work shall be made unless one of the procedures detailed in Standing Orders 3.2 to 3.4 has been followed.

#### **3.2. Selective Tendering**

Where it is intended to enter into a contract exceeding £50,000 in value for the supply of goods or materials or for the execution of works the Clerk/RFO shall invite tenders from at least six firms to be taken from the County Borough Council's approved list of contractors.

#### **3.3. Open Tenders**

At least ten days public notice has been given in one or more of the local newspapers circulating in the local area and in such journals as the Clerk/RFO considers desirable, stating the value and purpose of the contract, inviting tenders for its execution and stating the last date when tenders will be received.

#### **3.4. Single Tenders**

Where exceptionally and following a written report from the Clerk/RFO of the Community Council considers it desirable in its best interest that a tender be invited for the execution of work or the supply of the goods or materials from a contractor selected by it or negotiated with a contractor already engaged by the Council and the Council approve the terms of any such tender.

### **4. Nominated Sub-Contractors & Suppliers**

4.1. These Standing Orders shall have effect where a sub-contractor or supplier is to be nominated to a main contractor.

### **5. Exceptions to Tendering Procedure**

5.1. The foregoing tendering procedures need not be followed and contracts may be let by whatever method the Council may consider most appropriate provided that the Clerk/RFO seeks to secure that the best value for money is obtained if:-

(a) In the case of contracts for the supply of goods or materials:-

- (i) the goods or materials are proprietary articles or are sold at a fixed price and no reasonably satisfactory alternative is available; or

- (ii) the prices of the goods or materials are wholly controlled by government order and no reasonably satisfactory alternative is available; or
  - (iii) the purchases are by auction or at public fairs or markets; or
  - (iv) the purchase is of a work of art or museum specimen; or
  - (v) for other reason, where in the opinion of the Clerk/RFO there would be no genuine competition.
- (b) The work to be executed or the goods or materials to be supplied constitute an extension of an existing contract (such an extension to be approved by the Council); or
- (c) Tenders are required sooner than could reasonable be achieved by use of the foregoing tendering procedures. Where tenders are so invited, the Clerk/RFO may use whatever method of securing a contract he considers most appropriate, provided that he seeks to secure that the best value for money is obtained and where practicable, that not less than three persons are invited to tender, or
- (d) The contract is for the execution of work, or the supply of goods for materials and the Council considers that urgent action is required which necessitates the entering into a contract by the Council other than in accordance with these Standing Orders
- (e) The value of the work to be executed, goods or materials to be supplied is less than £50,000 in which case the procedures in Financial Regulations, paragraph 12 must be followed.

## **6. Submission & Custody of Tenders**

- 6.1. Such invitation to tender shall state the general nature of the intended contract and the Clerk/RFO shall obtain the necessary technical assistance to prepare a specification in appropriate cases. No tender will be considered unless submitted in the envelope provided 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 and prospective tenderers shall be notified accordingly. Such envelopes shall in all cases be addressed impersonally to the Clerk to the Community Council.
- 6.2. All sealed tenders shall be opened at the same time on the prescribed date by the Clerk/RFO in the presence of at least one member of Council.
- 6.3. Tenders shall be recorded on receipt in a register kept for that purpose and until the time appointed for their opening shall remain

in the custody of the Clerk to the Council until passed for opening as described in Standing Orders.

- 6.4. If less than three tenders are received for contracts above **£50,000** or if all the tenders are identical the Council may make such arrangements as it thinks fit for procuring the goods or materials or executing the works.

## **7. Opening**

- 7.1. Tenders estimated to be over **£50,000** shall be opened at one time and only in the presence of:-

- (a) such members of the Council as may have been designated for the purpose by the Council and
- (b) the Clerk/RFO to the Council or any Officer of the Council designated by him/her.

They shall each initial the tenders and the time of opening.

- 7.2. Tenders estimated not to exceed **£50,000** shall be opened at one time by the Chair of the Policy and Finance Committee and the Clerk/RFO. They shall each initial the tender at the time of opening.

## **8. Late Tenders**

- 8.1. Any tender submitted in competition received after the specified time shall be returned promptly to the tenderer but no details of the tender shall be disclosed. Save that such tender may be considered when the Clerk/RFO is satisfied that there is evidence of posting in time for delivery by the specified date and time in the normal course of post delivery and provided the other tenders submitted by the specified date and time have not been opened.

## **9. Alterations**

- 9.1. Where examination of tenders reveals arithmetical or copying errors present in the documents submitted at the time of tender, these shall be corrected. If the correction has the effect that the tender is no longer the most competitive tender, then the next tender in competitive order is to be examined and dealt with in the same way.
- 9.2. Where examination of tenders reveal errors or discrepancies (other than arithmetical errors as in 10.1 above) which would affect the tender figure(s) in an otherwise successful tender, the tenderer is to be given details of such errors and discrepancies, but no other information and afforded an opportunity of confirming or withdrawing his offer. If the tenderer withdraws, the next tenderer in competitive order is to be examined and dealt with in the same way.

- 9.3. Any alterations proposed by tenderers after the specified time for submission shall not be in any way considered than by the total withdrawal of the tender.
- 9.4. Any exception to this procedure may be authorised only by Council after consideration of a report by the Clerk/RFO.

## **10. Approvals**

- 10.1. A tender may be approved only by one of the following means:-
- a) By Council where the tender exceeds **£50,000**
  - b) By the relevant Committee where the tender is below **£50,000** and is within the amount of the approved budget
  - c) Where there is no approved budget or the lowest tender exceeds the approved estimate then the Clerk/RFO must submit a report to Council
  - d) A tender other than the lowest tender, if payment is made by the Council, or the highest tender, if payment is to be received by the Council, shall not be accepted until the Council has considered a report from the Clerk/RFO.

## **11. Contracts in Writing**

- 11.1. Every contract shall be in writing and if it exceeds £10,000 in value shall be in a form approved by the Clerk to the Council/RFO.
- 11.2. Every written contract shall specify:
- a) the work materials, matters or things or things to be executed, provided, supplied or done;
  - b) the price to be paid with a statement of discounts or other deductions;
  - c) where applicable, the time or times within which the contract is to be performed.
- 11.3. Contract in writing and other documents shall be signed by the Clerk to the Council/RFO and retained for safekeeping.

## **12. Assignment**

- 12.1. In every written contract for the execution of work or the supply of goods or materials, the following clause or clauses to the like effect shall be inserted:-
- “The Contractor shall be prohibited from transferring or assigning, directly or indirectly, to any person or persons whatever, any portion of his contract without the written permission of the Council. Sub-

letting of any part(s) of the work, except to the extent permitted in writing by the Corporate Director concerned shall be prohibited.”

### **13. Liquidated Damages & Performance Bonds**

- 13.1. Every contract which is estimated to exceed £100,000 in value or amount, and is for the execution of works or for the supply of goods, or materials by a particular date or series of dates shall provide for liquidated damages.
- 13.2. Every contract which is estimated to exceed £100,000 in value or amount, and is for the execution of works or the supply of goods or materials by a particular date or series of dates shall, where considered necessary, either:-
  - a) provide for the provision of a performance bond or other sufficient security for the due performance of the contract;
  - b) include a clause to enable the Council to hold a sum of money, appropriate to the estimated value of the contract, by way of retention until such time as the contractor has fulfilled his contractual obligations.

### **14. Specifications & Standards**

- 14.1. All tenders for the execution of works or the supply of goods or materials shall, except to the extent that the Council in a particular case or specified categories of contract decides otherwise, be based on a definite standard or specification.
- 14.2. All written contracts where a specification issued by the relevant Standards Institution within the European Union or the Commonwealth is current at the date of the tender and is applicable, shall require, as a minimum, that the goods and materials used in their execution shall be in accordance with that specification.

### **15. Cancellation**

- 15.1. In every written contract a clause shall be inserted to secure that the Council shall be entitled to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation:
  - a) 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 obtaining or the execution of the contract or any contract with the Council; or
  - b) 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 or acting on his behalf whether with or without the knowledge of the contractor; or

- c) if in relation to any contract with the Council, the contractor or any person employed by him or acting on his behalf shall have committed any offence under the Prevention of Corruption Acts, 1889 to 1916, or any amendment of them, 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.