

CONTRACT PROCEDURE RULES

These rules are currently under review.

Compliance with Contracts Procedure Rules and European (EC) Directives

1. Every contract made by or on behalf of the Council shall comply with the EC Treaty and with any relevant Directives of the EC for the time being in force in the United Kingdom and, except as hereinafter provided, these standing orders.
2. It shall be a condition of any contract between the Council and any person (not being an officer of the Council) who is required to supervise a contract on their behalf that, in relation to such contract, he/she shall comply with the requirements of these Rules as if he were a Chief Officer of the Council.
3. Exemption from any of the following provisions of these standing orders may be made by direction of the Council, the Cabinet or a Committee duly authorised in that behalf by the Monitoring Officer or Finance Director or their duly authorised representative where they are satisfied that the exemption is justified in special circumstances.
4. The Monitoring Officer and the Finance Director or their duly authorised representative shall also maintain a record of any exemptions made in accordance with Rule 3.
5. All procurements of computer hardware and software shall comply with the Council's approved Information Technology Strategy.
6. In connection with procurement in general, informal contact between the Council and suppliers or potential suppliers is permitted, but negotiations in conjunction with the Procurement Manager shall be subject to documentary evidence being retained of all such discussions and outcome.
7. The Environmental Purchasing Policy and the Ethical Purchasing Policy are to be applied in all cases.

Invitation of Tenders

8. There shall be included in every form of tender for the execution of works the following declaration, or a declaration to the same effect:-

"I/We declare that I/We are not parties to any scheme or arrangement:-

 - (a) under which I/We communicate the amount of my/our tender to any other person or body before the contract is let;
 - (b) under which any other tenderer for the works, the subject of my/our tender is reimbursed any part of his tendering costs;
 - (c) under which my/our tender prices are adjusted by reference directly or indirectly to the prices of any other tenderer for the works.

No provision is made in my/our tender price for any such reimbursement or adjustment; or any contribution thereto."

and the form of tender shall provide that it shall be a condition precedent to any tender being considered by the Council that such declaration is signed by the tenderer before the tender is delivered to the Council.

9. Where the estimated value or amount of a proposed contract exceeds £20,000, and in any other case where the Council, the Cabinet or the appropriate Committee determine, tenders shall be invited in accordance with either Contract Procedure Rule 10, 11 or 12.

In exceptional cases at the discretion of the Purchasing Manager this sum may be exceeded and quotations obtained where it is in the interests of the Council.

Selective Tendering

An attempt to use the Standing List (11) shall be made before resorting either to the Ad Hoc list (10) or the Open Tendering Method (12). Any person or body considered suitable after technical and financial appraisal for (10) or (12) shall be considered suitable for inclusion in the standing list (11).

AD HOC LIST

10. (i) This Rule shall apply where the Council, the Cabinet or a Committee duly authorised in that behalf, have decided that invitations to tender for a contract are to be made to some or all of those persons or bodies who have replied to a public notice.
- (ii) For the purpose of this standing order, public notice shall be given:-
- (a) in at least one local newspaper, and
 - (b) where the estimated amount or value of the contract exceeds £30,000, in at least one newspaper or journal circulating among such persons or bodies who undertake such contracts, and the Cabinet or
 - (c) at the discretion of the Council, appropriate Committee to all or a selected number of persons or bodies named in the list maintained under procedure rule 11.
- (iii) The public notice shall:-
- (a) specify details of the contract into which the Council wish to enter
 - (b) invite persons or bodies interested, to apply for permission to tender, and
 - (c) specify a time limit, being not less than 10 days, within which such applications are to be submitted to the Council.
- (iv) After the expiry of the period specified in the public notice invitations to tender for the contract shall be sent to not fewer than four of the persons or bodies who applied for permission to tender selected by the Council, the Cabinet or the appropriate Committee or an officer of the Council duly authorised in that behalf.
- (v) Where fewer than four persons or bodies make application then the proposed contract must be re-advertised in the same manner but in different publications,

after which (provided that at least four persons or bodies have applied and are considered suitable) an invitation to tender shall be sent to not fewer than four of the persons or bodies who applied on either occasion. In cases where time is short 3 may be accepted at the discretion of the Procurement Manager.

- (vi) Notwithstanding paragraph (v) above where fewer than four persons or bodies have applied or are considered suitable, the Cabinet or the appropriate Committee or the Procurement Manager may invite to tender three bodies who have applied or are considered suitable.

Each person or body so invited to tender must have satisfied the responsible officers on technical and financial grounds that they are competent and capable of completing the proposed contract.

- (vii) At the same time as invitations to tender are sent out, the responsible Client Head of Service will advise the Procurement Manager in writing setting out those persons or bodies who have been invited to tender, the deadline by which tenders are to be returned, the estimated tender value, together with the budget allocation.

STANDING LIST

- 11. (i) This procedure rule shall apply where the Council, or a Committee or Sub-Committee duly authorised in that behalf, have decided that invitations to tender for a contract are to be limited to those persons or bodies whose names shall be included in a list compiled and maintained for that purpose.
- (ii) The list shall:-
 - (a) be compiled and maintained by the Council, the Cabinet or appropriate Committee -
 - (b) contain the names of all persons or bodies who wish to be included and who are approved by the Council, the Cabinet or the appropriate Committee or an officer of the Council duly authorised in that behalf, and
 - (c) indicate in respect of a person or body whose name is so included, the categories of contract and the values or amounts in respect of those categories for which approval has been given.
- (iii) At least three weeks before a list is first compiled, notices inviting applications for inclusion in it shall be published:-
 - (a) in at least one local newspaper; and
 - (b) in at least one newspaper or journal circulating among such persons or bodies as undertake such contracts.
- (iv) The lists shall be reviewed at regular intervals of not less than one year or more than five years. Revisions to the list shall be the responsibility of the Cabinet or a Corporate Director.
- (v) Invitations to tender for a contract shall be sent to:-

- (a) not fewer than four of those persons or bodies selected by the Council, the Cabinet or the appropriate Committee or an officer of the Council duly authorised in that behalf, from among those approved for a contract of the relevant or higher value category, or
 - (b) where fewer than four persons or bodies are approved for a contract of the relevant category and amount or value, all those persons or bodies.
- (vi) Where fewer than two persons or bodies are approved, the Procurement Manager or the Audit Services Manager shall have the discretion to decide whether to proceed with those approved persons or bodies or use the Ad Hoc list or to apply Open Tendering.

OPEN TENDERING

12. (i) This procedure rule shall apply where the Council, the Cabinet or a Committee duly authorised in that behalf, have decided that tenders for a contract are to be obtained by open competition.
- (ii) At least 10 days' public notice shall be given in one or more local newspapers and also, wherever the value of the contract exceeds £30,000, in one or more newspapers or journals circulating among such persons or bodies as undertake such contracts. The notice shall indicate the nature of the contract, state where further details may be obtained, invite tenders for its execution and state the last date and time when tenders will be received.

Submission of Tenders

13. (i) Where in pursuance of these standing orders invitation to tender is made, every invitation shall state that no tender will be considered unless it is enclosed in a plain sealed envelope which shall bear the word "Tender" - followed by the subject to which it relates (but no other name or mark indicating the sender). All tenders shall be addressed to the Head of Corporate Services.
- (ii) The tenders shall be kept in the custody of the Democratic Services Manager until the time and date specified for their opening.
- (iii) No tender received after Tenders have been opened or not complying with (i) above, shall be accepted or considered under any circumstances.
- (iv) At the same time as invitations to tender are sent out, the responsible Client Head of Service will advise the Democratic Services Manager in writing setting out those who have been invited to tender, the deadline by which the tenders are to be returned, the estimated tender value, together with the budget allocation.

Opening and Acceptance of Tenders

14. (i) Tenders received under either Procedure Rule 10,11 or 12 shall be opened at one time and in the presence of any two of the following:-

The Monitoring Officer or his/her nominee, and

The Head of the relevant Client Service or his/her nominee.

- (ii) Tenders received after opening, will be opened and returned following the award of the contract.
15. All tenders received shall be recorded in bound register. Each officer present at the opening of the tenders shall sign the entries in such register, together with nil returns or where late or identifiable tenders were not accepted. All opened tender envelopes shall be retained with the contract documents until disposal of contract documents.
 16. A valid tender other than the lowest or joint lowest tender if payment is to be made by the Council or the highest or joint highest tender if payment is to be received by the Council shall not be accepted except as authorised by the Finance Director, the Monitoring Officer or their duly authorised representative.
 17. A register of all contracts placed by the Council shall be kept and maintained by such officer or officers as the Council may determine. Such register shall for each contract, specify the name of the contractor, the works to be executed or the goods to be supplied and the contract value. The register shall be open to inspection by any member of the Council.

Nominated Sub-Contractors and Suppliers

18. Where a sub-contractor or supplier is to be nominated to a main contractor, the following provisions shall have effect:-
 - (i) Where the estimated amount of the sub-contract or the estimated value of the goods to be supplied by the nominated supplier does not exceed £7,500, the following criteria shall be used:
 - Up to £500 – two comparable prices where possible
 - From £500 to £3,000 - three quotations to be obtained and the details recorded in a "Bound Quotations Register"
 - From £3,000 to £7,500 - three quotations to be obtained confirmed in writing or by facsimile transmission, with the details recorded in the "Bound Quotations Register"
 - From £7,500 to £20,000 – three written quotations to be opened at the same time in the presence of at least two officers with the details to be recorded in the Bound Quotations Register
 - (ii) Where the estimated amount of the sub-contract or the estimated value of the goods to be supplied by the nominated supplier exceeds £20,000 then, unless the Council, the Cabinet or a Committee, or an officer duly authorised in that behalf determine in respect of any particular nomination that it is not reasonably practicable to obtain competitive tenders, tenders shall be invited in accordance with either Procedure rule 10, 11 or 12 as the case may be.

Contract Conditions

19. (i) Every contract which exceeds £20,000 in value or amount except for transactions with Local Authority Consortia or, Government agencies where relevant requirements/regulations have been met for the supply of goods or materials shall:-
- (a) be in writing and signed by an officer of the Council duly authorised in that behalf and in the form required by the Head of Law and Governance
 - (b) specify the goods, materials or services to be supplied and the work to be executed; the price to be paid together with a statement as to the amount of any discount(s) or other deduction(s); the period(s) within which the contract is to be performed and such other conditions and terms as may be agreed between the parties, and
 - (c) in appropriate cases, where a contract exceeds £20,000 in amount or value, provide for the payment of liquidated damages by the contractor where he fails to complete the contract within the time specified.
- (ii) The Council may also require a contractor to give sufficient security for the due performance of any contract
- (a) in all cases, tender documents issued by the Council shall make it clear to the Tenderers that a performance bond may be required. If so the Tenderer will be advised in due course and in the meantime the tenderer is requested to specify the cost of the bond.
 - (b) any decision as to whether a bond shall or shall not be required in a particular case shall be taken before the decision to award the contract is made.
 - (c) in any case where due to the nature of a particular contract the officer responsible for its execution considers that the interests of the Council ought to be protected, then a bond or other security equivalent to 10% of the contract sum shall be required.
 - (d) in the case of contracts estimated to exceed £50,000, a bond or other security equivalent to 10% of the contract sum shall be required unless the Council, the Cabinet (or the Committee to which the power of making the contract has been delegated) or the Head of Law and Governance or the Finance Director or their duly authorised representative shall otherwise decide in a particular case.
- (iii) (a) Where the estimated contract sum is less than £20,000 the following criteria shall be used in obtaining prices:-
- Up to £500 – 2 comparable prices where possible.
 - From £500 to £3,000 - three quotations to be obtained and the details recorded in a "Bound Quotations Register".
 - From £3,000 to £7,500 - three quotations to be obtained, confirmed in writing or by facsimile transmission, with the details recorded in a "Bound Quotations Register".

From £7,500 to £20,000 - three written quotations to be opened at the same time in the presence of at least two officers, with the details to be recorded in a "Bound Quotations Register".

Over £20,000 - subject to competitive tendering as per the requirements of Standing Orders Part II, paragraph 9.

- (b) The above bands and requirements may be varied by prior agreement between the Finance Director and the Head of Law and Governance or their respective duly authorised representatives.
- (c) A genuine pre-estimate of the value of the works/goods must be entered in the Bound Quotations Register prior to quotations being received, where the resulting quotations are higher than this figure, or, where the officer feels that Post Quotation Negotiations would save the authority money, the details of the quotations may be forwarded to the Purchasing Manager or his/her representatives for them to undertake such negotiations.

From £500 to £20,000, where no choice of supplier is possible a single written quotation will be obtained by the Procurement Manager or his/her authorised representative. Such quotations are to be recorded in the Bound Quotations Register.

The above criteria shall apply to "Purchase Orders" which are contracts for the supply of goods or services, unless they are already included in negotiated contracts i.e. "call-off contracts".

- 20. Where an appropriate European Standards Specification or European Standard Code of Practice issued by the European Standards Institution is current at the date of tender, every contract shall require that all goods and materials used or supplied, and all the workmanship shall be at least of the standard required by the appropriate European Standards Specification or Code of Practice.
- 21. There shall be inserted in every written contract a clause empowering the Council to cancel the 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 contract 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 or 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 or acting on his/her behalf shall have committed any offence under the Prevention of Corruption Acts, 1989 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.

Appointment of Consultants

- 22. (i) This standing order shall apply where the Council, the Cabinet or committee, or officer duly authorised in that behalf have decided that invitations to tender for any type of consulting work or contract is to be limited to those persons or bodies

whose names shall be included in a list compiled and maintained for that purpose.

- (ii) The list shall:-
 - (a) be compiled and maintained by the Head of Policy
 - (b) contain the names of all persons or bodies who wish to be included and who are approved by the Council, the Cabinet or the appropriate committee or an officer of the Council duly authorised in that behalf, and
 - (c) indicate in respect of a person or body whose name is so included, the categories of contract and the values or amounts in respect of those categories for which approval has been given.
- (iii) The lists shall be reviewed at regular intervals of not less than one year or more than five years. Revisions to the list shall be the responsibility of the Cabinet.
- (iv) In updating/maintaining the select list of consultants, the Head of Policy shall seek advice from the Audit Services Manager in respect of financial vetting, and the relevant commissioning officer in respect of technical competence and the Health Safety and Emergency Advisor on matters related to Health and Safety.

Firms or individuals wishing to be placed on the select list will be required to complete a questionnaire setting out details of their technical competence, financial viability and their employment and safety policy.

- (v) Invitations to tender for a contract shall be sent to:-
 - (a) not fewer than four of those persons or bodies selected by the Council, the Cabinet or the appropriate committee or an officer of the Council duly authorised in that behalf, from among those approved for a contract of the relevant category and amount or value, or
 - (b) where fewer than four persons or bodies are approved for a contract of the relevant category and amount or value, all those persons or bodies.
- (vi) A standard letter of appointment will be sent to the appointed consultant, such letter to contain reporting procedures, details of valuations required, restrictions on the appointment of sub-contractors, amount of the fees and arrangements for payment.

Appointment of Consultants - No Selected List

- 23. Where it is intended to appoint consultants for a type of work where no selected list is maintained, and the value of the professional fees is likely to be greater than £5,000, quotations shall be invited from at least 3 appropriate persons or bodies.

TENDER EVALUATION GUIDELINES

- 1 For each contract/contract area, 4 tenders will normally be invited (including the in house bid). If the in house organisation has indicated that it does not wish to tender (by prior discussion with the client) 4 external tenders will be invited. All tenderers will be advised of these guidelines and the timetable laid down for the acceptance of the successful bid at the time of the invitation to submit a tender.

WHERE THE EC DIRECTIVES APPLY, THE MINIMUM NUMBER OF TENDERS TO BE INVITED IS 5

- 2 In general terms contractors shall be expected to operate quality systems in accordance with the principles and practices described in ISO 9000 and to demonstrate their ability to do so in their tender submission.
- 3 No variations will be allowed on submitted tender prices at the evaluation stage. In the case of apparent inconsistencies or errors, tenderers will be invited to stand by their price or withdraw.
- 4 Clarification may be sought from tenderers on non-financial matters in which case 5 working days will be allowed for reply.
- 5 Post Tender negotiations may only be conducted when deemed appropriate by the Procurement Manager with appropriate records being kept.
- 6 Corporate involvement in tender preparation and evaluation will be provided by the Head of Corporate Services and the Finance Director or their representatives. Applications for inclusion on select lists will be submitted to the Head of Corporate Services who will arrange for their evaluation.
- 7 Officers who are involved in the checking of tenders shall have regard to the following:-
- (a) Whether the tender document has been correctly completed in all respects.
 - (b) Qualification or proviso relating to a contract condition.
 - (c) Arithmetical accuracy.
 - (d) Significant deviation from anticipated unit rates etc.
 - (e) Any requirements for Insurance, Guarantees, Performance Bonds etc.
 - (f) Resources, structure or organisation of the tenderer and other matters affecting quality assurance.
 - (g) The total amounts of the tender.
 - (h) Structure of the tender and impact upon the contract.
 - (i) The guidance contained in DETR Circular No. 16/97.
 - (j) The requirements of any EC Procurement Directives which apply and the associated contract award procedures.

- (k) Extraneous costs to be borne by the Council as follows:-
- (i) Redundancy costs, payments during period of notice or dismissal and costs of terminating contracts where these are paid as part of the Council's standard policy for redundancy. Where relevant, the redundancy calculation will involve support staff who would also have to be made redundant in the event of the internal bid being unsuccessful.

(Redundancy costs will not apply to contracts of one year or less in duration, or less than £100,000 in value. The Secretary of State may require the Council to provide a detailed account of its assessment of prospective redundancy costs, including information on redundancy policy on which the calculations are based, as well as the basis for any support staff redundancies included in the assessment)
 - (ii) Additional costs incurred as a result of employing trainees and disabled persons
 - (iii) Any net costs incurred as a result of the cancellation of leases and other arrangements which the Council has entered into, but for which an incoming contractor would not wish to take responsibility
- (l) Where the Council requires contractors to provide a performance bond, an amount equal to the lowest of the costs quoted by external contractors in their tenders for providing a performance bond will be added to the internal bid.

(See also Paragraph 21 of the Tendering Strategy)
- (m) Other relevant factors.
- 8 The Council will only reject a lower bid where there are specific and well founded reasons for such a decision.
- 9 Communication with unsuccessful tenderers will be through the Procurement Manager.

TENDERING STRATEGY

This strategy applies specifically to Council contracts which are subject to Best Value under the Local Government Act 1999. However, it also has a general application to other Council contracts.

- 1 The Council's Tendering Strategy has been compiled taking into account the requirements of the 1999 Act. Officers involved in the tendering process are advised to read carefully the Act, the Regulations and guidelines, any EC Procurement Directives which apply, and the Council's standing orders relating to contracts and Procurement Strategy.
- 2 The Council requires that all of its services are provided within a culture of Best Value and to the highest quality standards, whilst also ensuring that we remain competitive, efficient and effective.
- 3 We believe that our employees, whether they are faced with having to compete by tender for service provision or not, should be given every facility and assistance to enable them to provide a competitive quality service.
- 4 We consider that there are no reasons why our own staff should not be able to compete and we shall take the opportunity, wherever the law allows, to seek work outside of this Authority in order to broaden our customer base.
- 5 We would normally expect our staff to submit tenders for all work that has to be competed for. We also expect to review our activities so that other functions can be operated internally on a trading basis, including contracted services to internal provider.
- 6 The Council will expect its members to ensure that their responsibilities as members of the Council as a whole override any specific responsibility they may hold for supervising, monitoring or overseeing the activities of a Direct Service Organisation. A member of a client side Committee who also has a responsibility for the preparation of a Direct Service Organisation bid or is involved in overseeing the activities of a Direct Service Organisation, should treat such involvement as if it were a private or personal matter for the purposes of the National Code of Local Government Conduct, declare an interest and, if he/she believes it to be appropriate, withdraw from committee discussion of tender matters.
- 7 Officers who are directly responsible for the management or operation of DSOs (other than chief officers or those acting on their behalf) or for completing DSO tenders (other than legal, financial or other professional staff) shall not undertake any of the following duties:-
 - selecting publications for tender adverts
 - selecting tenderers
 - dispatching tender documents
 - receiving tenders
 - opening tenders
 - evaluating tenders
- 8 In establishing the requirement for Best Value services we expect Services (clients) to develop clear standards in their tender documents together with positive measures for monitoring and controlling quality standards.

In particular, we will expect Services to develop their expertise in the overall management and control of contracts (within the framework of the Council's Tendering Strategy).

- 9 When entering into the tendering process the Council will have regard to its obligations under the EC Procurement Directives, and the Government Procurement Agreement and ensure that those obligations are met. A brief summary of the EC Directives which apply is included in Note 2 attached.
- 10 In planning the tendering exercise the Council will give consideration to, and adopt periods of time for, the various stages of tendering within the minimum and any maximum periods prescribed, which are appropriate for the tender and type of work in question (The Secretary of State will expect the Council to be able to give reasons for the timetable it has adopted for a tender, if required to do so). The minimum and maximum periods of time under the EC Procurement Directives are set out in Note 3 attached.
- 11 The Council will retain all capital assets, and will make these available to successful tenderers in accordance with the Council's standard terms and conditions.
- 12 The Council will seek to attract as wide a range of competitive bids as is practicable in the circumstances and the packaging of contracts will reflect this aim. We will avoid packaging which brings together unrelated areas of work into a single contract, or include specialist areas of work in a single contract, if such packaging is likely to restrict competition by deterring contractors working in only one of the fields or specialist areas concerned.
- 13 Contracts will be of a sufficient size, in terms of job content, area and financing, to ensure efficient monitoring and quality control of such contract.
- 14 When selecting contractors to be invited to submit tenders the Council where appropriate will require the contractors to complete a standard pre-tender questionnaire which will seek information relevant to the work in question.
- 15 In instances where the Council intends to use references from other authorities on their experience and knowledge of a contractor, contractors will be informed from whom such references are being sought. In taking up additional referees the Council will seek to ensure that it obtains a fair and balanced view of the work of the contractor. Depending on the nature of the contract, the Council will visit contractors at their premises in order to be satisfied that contractors have the appropriate resources and organisation with which to carry out the work.
- 16 The Council will make available to those invited to undertake work, the specification, the conditions of contract, tendering conditions including details of the tender evaluation procedure and, where appropriate, bills of quantities and/or schedules of rates.
- 17 Contract specifications will provide clear, adequate and precise details of the nature of the work to be done or service to be provided. The specifications will aim to provide all the information which contractors will require when preparing their bids and to enable the Council to be satisfied as to the ability of the contractors to provide a proper level of service. Where practicable, the document will also set down the standard of performance to be achieved by the successful tenderer. It will not normally prescribe the methods of work to be employed except in general terms.

- 18 The Council will ensure that the contract setting down the obligations of the parties, binds the contractor to provide the service or carry out works as specified, but without imposing unduly or unreasonably onerous conditions.
- 19 The Council will use, where possible, standard contract documents. Included within the documentation will be references to the Council's corporate culture and values, our commitment to providing a quality service and high standard of customer care, and Corporate Identity Guidelines.
- 20 The Council will include a reference in the contract documentation drawing attention to the Transfer of Undertakings (Protection of Employment) Regulations 1981 and advising tenderers to make themselves aware of the current legislative situation regarding the Regulations and of the implications should it be deemed (following legislative decisions) that the Regulations apply.
- 21 The Council may require the contractor to provide a performance bond equivalent to between 10% and 15% of the annual contract value. The value of the bond will be related to the extra costs which would be incurred by the Council in remedying defects and procuring the service from another contractor in the event of total failure. (The Council must have contingency plans for dealing with such situations, and must be able to demonstrate and justify how the value of a bond has been calculated).
- In cases where the Council requires and receives a guarantee from a parent company, it will not require a performance bond from the parent company's subsidiary.
- 22 Any default clauses or default points system included in the contract shall apply equally to contractors and the internal provider and shall be related to a genuine pre-estimate of the additional costs that will be incurred by the Council as a result of the defaults.
- 23 A provision in the contract for annual price reviews will be related to an appropriate index that reflects the circumstances of the contract and the nature of the work involved.
- 24 Where possible, we expect periods of contracts to be of a length which is consistent with the capital investment required. Where the legislation specifies minimum and maximum contract lengths the Council will choose a contract period within the legal framework laid down which is appropriate to the type of work in question. There will be no guaranteed continuation clause.
- 25 The selection of Tenderers will take account of the applicant's:-
- Financial position;
 - Technical competence;
 - Quality Assurance Standards;
 - Previous achievements;
 - Skill and staffing levels;
 - Provision for emergency work;
 - Equal opportunities and race relations policies;
 - Health and safety policies.
- 26 It is the Council's firm belief that ALL employees contribute to the success of the organisation. We will therefore ensure that every employee is advised of this strategy and continues to invite their positive suggestions as to any improvements in working practices, procedures, services and quality control.

NOTE NO. 1**The European Public Procurement Directives**

- 1 The European Public Procurement regime is based on three principles:
 - (a) European-wide publication of the availability of certain contracts (above a threshold) across the community;
 - (b) the use of non-discriminatory technical standards and specifications;
 - (c) the use of objective, and open, criteria for tender evaluation and selecting tenderers.

- 2 The principal EC directives which affect this Council are:
 - (i) the Works Directive
 - applies to Council contracts involving certain construction or civil engineering works. Contracts exceeding a threshold of 5 million SDR 5,150, 548 ECU (£4.017 million) are covered.
 - (ii) the Supplies Directive
 - applies to Council contracts for the purchase, lease and hire of goods. Contracts exceeding a threshold of 200,000 SDR, 206,022 ecu (£160,670) are covered.
 - (iii) the Services Directive
 - splits services into priority and residual services. Contracts exceeding a threshold of 200,000 SDR, 206,022 ecu (£160,670) are covered. Priority services are subject to the full EC regime. Residual services are subject to a reduced regime which relates to the need to avoid discriminatory specifications and to send a contract award notice to the Official Journal of the European Community.

NB The threshold figures relate to the anticipated total contract value, unlike those for compulsory competitive tendering which are defined by reference to the value of the services performed in the preceding financial year. Therefore a contract of 4 years length for the hire of goods with an annual value of £40,000 would trigger the Supplies Directive threshold.

- 3 The basic framework of the EC regime is as follows:-
 - (a) Appropriate contracts exceeding the relevant thresholds are covered by the directives.

- (b) There are specified contract award procedures:
 - (i) Open procedures - any supplier may tender;
 - (ii) Restricted procedures - any supplier may apply to be considered (NB this is the method recommended by H M Treasury);
 - (iii) Negotiated procedures - direct discussions take place between the purchaser and one or more suppliers of the purchaser's choice.
 - (iv) Design Contests.
- (c) Objective and pre-determined selection criteria are laid down for selecting the persons invited to tender.
- (d) Objective and pre-determined award criteria are laid down for awarding the contract ie.
 - lowest price; or
 - economically most advantageous tender (NB this is the method recommended by H M Treasury).
- (e) Specifications are required to be non-discriminatory.
- (f) Contracts are required to be advertised in the Official Journal
 - a prior indicative notice (PIN) gives advance notice that works will be advertised during the year;
 - a contract notice informs prospective tenderers of the availability of work, gives the value of the work and its essential characteristics;
 - a contract award notice gives details of the award.
- (g) Timetables for the tendering procedure are laid down and are required to be adhered to.
- (h) Certain records are required to be kept and statistical returns made.
- (i) There are provisions for enforcing the regime at both a national level and before the European Court of Justice.

NOTE NO. 2EC Procurement Directives

The timetable below is based on the 'restricted tendering procedure'. This procedure shares certain similarities with Compulsory Competitive Tendering and is the procedure recommended by H M Treasury for general application.

- 1 Prepare non-discriminatory specification.
- 2 Place contract advert in Official Journal of European Communities (OJEC). Contract notice may have been preceded by prior indicative notice (PIN), advert may indicate number who it is proposed to invite to tender; if so the minimum is five.
- 3 Give interested parties a minimum of 37 days to respond by showing an interest in being considered for the work.
- 4 Select candidates on basis of prescribed criteria:
 - exclusion (legal) factors
 - economic and financial
 - technical capacity
- 5 Send out contract documentation etc to selected candidates inviting them to bid, allowing a minimum of 40 days (26 if PIN) to respond.
- 6 If tenderers request additional information within 5 days of closing date supply it.
- 7 Evaluate tenders on pre-published criteria:
 - lowest price; or
 - economically most advantageous tender (this is the method recommended by H M Treasury)
- 8 Award contract.
- 9 Send a contract award notice to OJEC within 48 days.
- 10 Keep records and make appropriate statistical returns.