

## Full Council, 9 March 2009

### AGENDA ITEM 7: REVISED PROCUREMENT POLICY

#### Report of the Clerk

1. At the Full Council meeting on 16 February 2009 I was asked to present a revised procurement policy for adoption. A draft is attached.
2. The draft incorporates the Council's existing Financial Regulations on contracts, adopted in 2008. No change to the Financial Regulations is required. However there is an added provision which permits the Clerk to award contracts under £1,000 after consultation with the Chairman of the appropriate committee.
3. I have not at this stage incorporated references to the Official Journal of the European Union as I think it unlikely that any of the Council's contracts would be subject to an OJEU requirement. The current minimum contract levels for OJEU are £139,893 for supplies or services and £3,497,313 for works.
4. The draft has been reviewed by an experienced procurement officer at North Somerset Council who considers it will provide the Council with a strong and transparent framework within which to operate.
4. The meeting on 16 February also asked for me to look at Standing Orders. The current Standing Orders were adopted in 2008. Although no change of substance is required to Standing Orders some of the cross-referencing between Standing Orders and Financial Regulations is incorrect, and Standing Orders refer to the 2001 Code of Conduct rather than the 2008 version. However the NALC is likely to publish a revised Model later this year, so **I recommend** that the revision of Standing Orders is deferred until the new NALC Model is available.
5. **I recommend** that the attached draft Procurement Policy be adopted, and reviewed after one year.

## **PROCUREMENT POLICY (adopted 9 March 2009)**

### **General**

1. All members and officers of the Council are responsible for obtaining value for money at all times.
2. The RFO may award a contract under £1,000, provided that there is budgetary provision, after consultation with the Chairman of the appropriate committee. Any such award shall be reported to the next meeting of the committee.
3. Contracts for £1,000 or more shall be awarded by the appropriate committee. The procedures to be followed are set out below.
4. The procedures set out below shall not apply to contracts of the following types:
  - for the supply of gas, electricity, water, sewerage and telephone services;
  - for specialist services such as are provided by solicitors, accountants, surveyors and planning consultants;
  - for work to be executed or goods or materials to be supplied which consist of repairs to or parts for existing machinery or equipment or plant;
  - for work to be executed or goods or materials to be supplied which constitute an extension of an existing contract by the Council;
  - for additional audit work of the external Auditor up to an estimated value of £250 (in excess of this sum the Clerk and RFO shall act after consultation with the Chairman and Vice Chairman of Council);
  - for goods or materials proposed to be purchased which are proprietary articles and/or are only sold at a fixed price
  - for purchases required as a matter of urgency resulting from an incident which could not have been foreseen, and occurred as a result of circumstances beyond the Council's control, and financial loss or damage to persons or property would otherwise arise (any such purchases shall be reported to the next meeting of Full Council)
5. In some cases 'framework' or collaborative purchasing arrangements are available (for example, from the Office of Government Commerce) to public sector bodies. The appropriate committee may authorise access to such arrangements, where the conditions of the arrangements permit such access, in place of the procedures set out below.
6. Full Council (but not any committee) may suspend the procurement policy where in an exceptional case the policy is inappropriate.

### **Contracts £1,000 - £4,999**

7. At least one written estimate must be obtained but as far as is reasonable and practicable the RFO should attempt to obtain three written estimates. The appropriate committee may agree to accept estimates by fax or email, or by reference to a catalogue, or may require a formal letter. Any estimates obtained shall be reported to the next meeting of the appropriate committee.

### **Contracts £5,000 - £49,999**

8. The RFO must obtain quotations from not less than three organisations that could undertake the contract.
9. The invitation to quote must include as a minimum:
  - (a) Specification
  - (b) Conditions of Contract
  - (c) Quotation Assessment Criteria
  - (d) Insurance requirements
  - (e) Time & place for return of quotations and a statement that the envelope must have no marks, details or other information to identify the tenderer.
10. Quotations must be opened at the appointed time in the presence of the RFO and one member of the Council. Those present shall sign the front page of the quotation, including the date of opening, and initial any priced pages.
11. If fewer than three quotations are received the appropriate committee may decide to award the contract to one of the organisations that has tendered, or to repeat the tender process.

### **Contracts over £50,000**

12. An Options Appraisal may be undertaken to ensure that the most effective route to deliver the requirements is being progressed.
13. A minimum of 3 organisations which could undertake the contract shall be invited to tender. The invitation to tender shall state the general nature of the intended contract. The RFO shall obtain any technical assistance necessary to prepare a specification.
14. The invitation to tender must include as a minimum:

- (a) Specification
- (b) Conditions of contract
- (c) Assessment criteria
- (d) Insurance requirements
- (e) Submission information

15. Every tender submitted must have a red label bearing the word TENDER followed by a description of the subject matter of the tender/quotation. All envelopes shall be dated, time-stamped and initialled by the RFO who shall secure the tenders.
16. Tenders must be opened at the appointed time in the presence of the RFO and a member of the Council Those present shall sign the front page of the tender, including the date of opening, and initial any priced pages.
17. At the time of opening the RFO shall maintain a register of all such tenders received including brief particulars of the tenders.
18. If fewer than three tenders are received the appropriate committee may decide to award the contract to one of the organisations that has tendered, or to repeat the tender process.
19. The contracts shall be assessed to identify if a performance bond or parent company guarantee is required.

**Statement to be included on invitations**

20. Any invitation to tender or quote must contain the following statement:

'If any person making a tender or quotation is to their knowledge related to any member or officer of the Council, they and the person to whom they are related shall disclose the relationship in writing to the Clerk. A tenderer who fails so to do shall be disqualified for the contract and, if they are awarded the contract it may be terminated without notice. The Clerk shall report to the Council or to the appropriate committee any such disclosure.

Canvassing of members of the Council or of any committee, directly or indirectly, for any contract to be awarded by the Council shall disqualify the tenderer for the award of the contract.

A member of the Council or of any committee shall not solicit for any person any contract to be awarded by the Council or recommend any person for the award of such contract; but, nevertheless, any such member may give a written testimonial of a

tenderer's ability, experience or character for submission to the Council with a tender or quotation.

The Council is not obliged to accept any tender/quotation, or the lowest tender/quotation.'

### **Discrepancies**

21. If checking of any tenders or quotations received identifies any errors or discrepancies affecting any tender sum, the tenderer is to be given details of the error. The tenderer is to be offered three choices:

- (a) confirming the tender offer, as written and submitted;
- (b) withdrawing; or;
- (c) correcting the error.

This choice shall be offered to the tenderer in writing and confirmation of the tenderer's option shall be made in writing.