

By: Director of Finance

To: Governance & Audit Committee – 30 June 2006

Subject: **CODE OF PRACTICE ON CONTRACTS AND TENDERS**

Classification: Unrestricted

Summary: To update tendering levels within the Code of Practice for Contracts and Tenders.

FOR DECISION

INTRODUCTION

1. The Code of Practice for Contracts and Tenders details the financial levels at which competitive procedures are required for the Council's procurements.
2. These levels have not been revised for a number of years and are now generally lower than other local authorities. Other levels were significantly increased in the 2003 revision of Financial Regulations pushing these further out of line. The Code of Practice for Contracts and Tenders is now requiring officers to undertake formal tender processes for relatively low value purchases creating unnecessary administration and delay and causing operational difficulties across the Council.

REVISED LEVELS

3. The amended sections are attached as Appendix 1 with the revisions in essence:
 - increasing the requirement to seek written quotations from £1,000 to £8,000; and
 - increasing the requirement to competitively tender procurements from £20,000 to £50,000.
4. The Code of Practice on Contracts and Tenders is currently being completely rewritten and will be put forward for formal review later this year. As a consequence this report seeks to amend the financial thresholds only.

RECOMMENDATION

5. Members are asked to approve the amendments Sections 4.6 & 5 to the Code of Practice for Contracts and Tenders and the parallel amendments to Appendix 5 of the Council's Constitution.

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Appendix 1

4.6 Purchasing procedures – financial limits

The following financial limits (exclusive of Value Added Tax) may be varied from time to time by the Council and apply to all purchases except goods and services purchased internally from Commercial Services or other in-house providers, the letting of school based contracts (see [Annex 3](#)) and the other exemptions set out in [section 5](#) below. There must be no attempt to avoid these limits by means of disaggregation.

- More than £8,000 but less than £50,000 – three written quotations must be obtained from appropriate sources
- More than £50,000 – no fewer than three competitive tenders shall be sought. The selection of tenderers is at the discretion of the Strategic Director, or his delegated nominee. This may be by public notice, by invitation to a number of firms on an approved list, or if there is no approved list, invited from firms that the Director considers suitable. If in the event there are circumstances that make it impractical or undesirable to do this (e.g. in the interest of Best Value) then the circumstances must be recorded and reported to the Clerk within 14 working days of the decision being taken for the purpose of notifying Members.
- For the hire of external consultants, where the estimated cost exceeds £20,000, the circumstances must be recorded and reported to the Clerk within 14 working days of the decision being taken for the purpose of notifying Members, prior to the engagement of the consultant.

These amounts relate to the estimated total value of expenditure (excluding VAT) over the period of the contract. Where this is not known, as in the case of a calloff contract, the procedures for 'More than £50,000' should be followed. The sale or purchase of land or property should be referred to KCC Property Group. When the estimated value exceeds the limits set out in [section 4.7](#) of the Code the Strategic Director must ensure that the appropriate notice is placed in the OJEC and that evidence of proof of dispatch of such notice is retained.

5. Tendering policy

Competitive tenders or quotations should normally be sought/obtained as set out in [section 4.6](#) of the Code but there are some exceptions where this is not necessary, as follows:

- where services are currently purchased internally, i.e. from within the County Council. For internal provision, the requirement to obtain at least two other tenders or quotations does not apply. However, directorates may choose to seek alternative tenders/quotations for the purpose of market testing etc;

- urgent works, supplies or services necessary for the immediate protection of life or property, or to maintain the immediate functioning of a public service for which the Council is responsible;
- works, supplies or services which must be undertaken by a public utility, another local authority other than KCC or a similar body in pursuance of its statutory powers;
- works, supplies or services estimated to cost less than £8,000 unless the Strategic Director believes it is in the Council's interest to do so;
- works, supplies or services which fall within an existing term or annual contract (including call-off contracts);
- when the Chief Executive or Strategic Director has decided that special circumstances make it appropriate and beneficial to negotiate with a single firm or that a single tender be invited. This will include occasions when there is only a single source available or where the Chief Executive or Strategic Director can demonstrate that Best Value can otherwise be better achieved. At all times, if the total estimated cost of the contract is more than £50,000 the circumstances must be recorded and reported to the Clerk within 14 working days of the decision being taken for the purpose of notifying Members (the purchasing of adult and children's services required by law under the National Assistance Act 1948 and the Children Act 1989 by Social Services shall be exempt from this requirement. Alternative procedures to be followed shall be set out in the Social Services' OP);
- when a Chief Executive or Strategic Director in consultation with the relevant Cabinet Member decides that it is in the Council's interest to extend the scope of an existing contract to include further works, supplies or services or to extend the duration of a term contract;
- letting of school-based contracts, see [Annex 3](#) for financial limits. The justification for not obtaining competitive tenders or quotations must be recorded in each case.