

9. TENDERING AND CONTRACT PROCEDURE

9.1 Duty to comply with Standing Orders

The procedure for making all contracts by or on behalf of the Agency shall comply with these Standing Orders (except where Standing Order 3.32 is applied).

9.2 Directives Governing Public Procurement

Directives by the Council of the European Union promulgated by the Department of Health (DoH) prescribing procedures for awarding all forms of contracts shall have effect as if incorporated in these Standing Orders.

9.3 The Agency shall comply as far as is practicable with the requirements of the NHS Executive "Capital Investment Manual". In the case of management consultancy contracts the Agency shall comply as far as is practicable with NHS Executive guidance "The Procurement and Management of Consultants within the NHS".

9.4 Formal Competitive Tendering

The Agency shall ensure that competitive tenders are invited for the supply of goods, materials and manufactured articles and for the rendering of services including all forms of management consultancy services (other than specialised services sought from or provided by the DoH); for the design, construction and maintenance of building and engineering works (including construction and maintenance of grounds and gardens); and for disposals.

9.5 Formal tendering procedures may be waived by the Chief Executive on the recommendation of a member of the Agency's Senior Management Team and with the advice of the Director of Corporate Services where:

- (a) The estimated expenditure or income does not, or is not reasonably expected to, exceed £25,000, (this figure to be reviewed annually); or
- (b) Where the supply is proposed under special arrangements negotiated by the DoH in which event the said special arrangements must be complied with;
- (c) The time-scale genuinely precludes competitive tendering. Failure to plan the work properly is not a justification for single tender;
- (d) Specialist expertise required and is available from only one source;
- (e) The task is essential to complete the project, **and** arises as a consequence of a recently completed assignment and engaging different consultants for the new task would be inappropriate;
- (f) There is a clear benefit to be gained from maintaining continuity with an earlier project. However in such cases the benefits of such continuity must outweigh any potential financial advantage to be gained by competitive tendering.
- (g) Where provided for in the Capital Investment Manual.

The limited application of the single tender rules should not be used to avoid competition or for administrative convenience or to award further work to a consultant originally appointed through a competitive procedure.

Where it is decided that competitive tendering is not applicable and should be waived by virtue of (c) to (f) above the fact of the waiver and the reasons should

be documented and reported by the Chief Executive to the Board in a formal meeting.

- 9.6 Except where Standing Order 9.5, or a requirement under Standing Order 9.2, applies, the Agency shall ensure that invitations to tender are sent to a sufficient number of firms/individuals to provide fair and adequate competition as appropriate, and in no case less than three firms/individuals, having regard to their capacity to supply the goods or materials or to undertake the services or works required.
- 9.7 The Agency shall ensure that normally the firms/individuals invited to tender (and where appropriate, quote) are among those on approved lists compiled. Where in the opinion of the Director Corporate Services it is desirable to seek tenders from firms not on the approved lists, the reason shall be recorded in writing to the Chief Executive (see Annex).
- 9.8 Tendering procedures are set out in Annex 1.
- 9.9 **Quotations** - are required where formal tendering procedures are waived under Standing Order 9.5 (a) or (c) and where the intended expenditure or income exceeds, or is reasonably expected to exceed £10,000.
- 9.10 Where quotations are required under Standing Order 9.9 they should be obtained from at least three firms/individuals as per Annex 1 based on specifications or terms of reference prepared by, or on behalf of, the Agency.
- 9.11 Quotations should be in writing unless the Chief Executive or his nominated officer determines that it is impractical to do so in which case quotations may be obtained by telephone. Confirmation of telephone quotation should be obtained as soon as possible and the reasons why the telephone quotation was obtained should be set out in a permanent record.
- 9.12 All quotations should be treated as confidential and should be retained for inspection.
- 9.13 The Chief Executive or his nominated officer should evaluate the quotations and select the one which gives the best value for money. If this is not the lowest then this fact and the reasons why the lowest quotation was not chosen should be in a permanent record.
- 9.14 Non-competitive quotations in writing may be obtained for the following purposes:
- a) The supply of goods/services of a special character for which it is not, in the opinion of the Chief Executive or his nominated officer, possible or desirable to obtain competitive quotations;
 - b) The goods/services are required urgently.
- 9.15 **Where tendering or competitive quotation is not required**

EITHER: the Agency shall use the Purchasing and Supply Authority (PASA) for procurement of all goods and services unless the Chief Executive or nominated