



Report to Resources Committee

8 September 2015

Title: Contract Procedure Rules

Report of: Head of Corporate Services

Purpose of Report

1. To provide the Committee with updated Contract Procedure Rules for approval to Board.

Background

2. The Contract Procedure Rules have been amended to ensure that they meet the new public sector procurement directive that became law early this year.
3. The amended Contract Procedure Rules have been attached in the Appendix.

Summary

4. The Contract Procedure Rules cover the way the company contracts with suppliers for goods, supplies and services.
5. All applicable EU and UK legislation applies to the contract procedure rules and all contractors/ suppliers are expected to comply with the relevant legislation also.
6. All employees are responsible for ensuring that the Contract Procedure Rules are complied with.
7. Internal audits are regularly carried out to ensure that these rules are met.
8. The Head of Corporate Services is responsible for keeping the Contract and Procedure Rules under review and making recommendations for changes to the Board.

Main Changes

9. The main changes from the previous Contract Procedure Rules include:
 - A contract should be awarded based on the “most economically advantageous tender”

- Where an external advertisement is made for contracts over £25,000, advertisements must also be placed on the governments “contracts finder” website, in line with new EU small procurement regulations
 - Emphasis on the European Union rules on procurement
 - Submission and opening requirements for electronic tenders
10. The revised Contract Procedure Rules have been reviewed by Gateshead Council’s legal team.

Link to values

11. This report is in line with the following values of the company :-
- Fair
 - Customer Focused
 - Open and Honest
 - Accountable

Impact on tenants

12. Whilst this report does not impact on tenants directly, appropriate procurement and monitoring of contracts will ensure efficiencies are maximised and redirected to services that directly impact on tenants.

Risk Management Implications

13. The Contract Procedure Rules ensure that the risk of contractor failure is effectively controlled.
14. The Contract Procedure Rules ensure that procurement is completed in line with EU and UK legislation.

Financial Implications

15. The Contract Procedure Rules ensure that the company appropriately manages its finances and awards contracts based on the “most economically advantageous tender”.

Health Implications

16. There are no direct health implications arising from this report.

Equality and Diversity Implications

17. There are no equality or diversity implications arising from this report.

Value for Money implications

18. The Contract Procedure Rules will ensure that contracts are awarded based on the “most economically advantageous tender”.

Environmental Implications

19. There are no environmental implications arising from this report.

Consultation carried out

20. No consultation has been carried out in relation to this report.

Recommendation

21. The Committee is recommended to request the Board approve the amended Contract Procedure Rules.

The Gateshead Housing Company Governance Handbook Contract Procedure Rules

1. Introduction and Interpretation

- 1.1 The following words within these Contract Procedure Rules shall be interpreted as follows:
- 1.1.1 “Board” shall mean the board of The Gateshead Housing Company.
 - 1.1.2 “Contract” shall mean a contract with a third party for works, goods or services.
 - 1.1.3 “EU Procurement Regulations” shall mean the Public Contract Regulations 2015, Directive 2014/24/EU, and any other amendment, re-enactment or subordinate legislation.
 - 1.1.4 “EU Threshold” shall mean the financial thresholds as prescribed by the EU Procurement Regulations.
 - 1.1.5 “Rules” shall mean these Contract Procedure Rules.
- 1.2 Every contract entered into by The Gateshead Housing Company shall be awarded in compliance with these Rules, unless any of the exceptions or exemptions set out at Rule 3 applies.
- 1.3 Every exception to these Rules, and the reasons for it, will be recorded in the minutes of the relevant Board meeting.

2. Tendering Procedure

- 2.1 Tenders and/or quotations shall be invited or negotiated for all contracts with an estimated value in excess of £2,500, in accordance with the following provisions.
- 2.2 The relevant Head of Service, or another employee with delegated power, will adopt one of the following tendering procedures:
- 2.2.1 If the contract value is between £2,500 and £20,000, quotations may be requested from at least three contractors, or if this is not possible, from all capable contractors.

- 2.2.2 If the contract value is above £20,000, but below £50,000, written tenders may be invited (either with or without advertisement) from a reasonable number of capable contractors.
- 2.2.3 If the contract value is above £50,000, tenders may be invited by advertisement, giving at least seven days' notice for potential bidders to respond. If the contract value in question is less than £50,000, an advertisement shall be published in at least one local newspaper, and an additional advertisement may also be published in a specialist, trade or professional journal. If the contract value in question is over £50,000, a trade or professional journal may be used instead of a local newspaper.
- 2.2.4 A tender may be invited from a contractor already engaged by the company, if that is in the company's interests, provided that the combined value of contracts awarded to the Company in accordance with this Rule does not exceed the relevant EU Threshold.
- 2.2.5 A tender or quotation may be obtained through a framework or consortium arrangement which is compliant with EU Procurement Regulations, provided that the Managing Director and the Head of Corporate Services are satisfied both with the procedures for the procurement, and with the terms of any appointment made through the framework in question.
- 2.3 Any invitation to tender will specify that all tenders must be submitted either:
- 2.3.1 Electronically through an approved electronic tendering system; or
- 2.3.2 In a plain sealed envelope addressed to a nominated officer and marked 'Tender', stating the closing date for return of the tenders and description of the contract, without any mark revealing the tenderer's identity.

2.4 The table below summarises the requirements of the tendering procedure:

Threshold	Requirement
£0 - £2,500	No formal tendering procedure
£2,501 - £20,000	Written quotations invited (minimum of 3)
£20,001 - £50,000	Written tenders invited (reasonable number) Discretion to advertise – and potential requirement to advertise on Contracts Finder
£50,001 - EU Threshold	Advertise & obtain written tenders, or use framework/consortium. Requirement to advertise on Contracts Finder
Above EU Threshold	European Union (EU) tender process, or EU compliant framework/consortium

3. Exemptions and Exclusions

- 3.1 These Rules do not apply to any Contracts:
- 3.1.1 For goods, works or services which are obtainable only from one contractor;
 - 3.1.2 For the procurement of information technology supplies and services, in which case the Head of Corporate Services may invite quotations and tenders in accordance with procedures agreed with the Managing Director;
 - 3.1.3 Where the Board authorises an exception to the Rules;
 - 3.1.4 The matter is so urgent that it is not feasible to comply with these Rules; in which case the Managing Director shall have delegated authority to act on behalf of the Board and authorise an exception to these Rules, and will report the reasons (and the details of the contract award) to the next meeting of the Board.

4. Opening Tenders

- 4.1 All electronic tenders and all envelopes containing paper-based tenders will be held by the relevant Head of Service, or by their nominated representative, until they are opened.
- 4.2 All electronic tenders and all envelopes containing tenders for the same contract will be opened at the same time by a representative of the officer who invited the tenders, and a representative of the Head of Corporate Services.
- 4.3 Any tender received after the deadline for the receipt of tenders will not be considered, unless the other tenders have not yet been opened and the employees referred to in paragraph 4.2 are satisfied that:
- 4.3.1 In the case of an electronic tender, the tender could not have been submitted by the deadline for reasons outside of the tenderer's control; or
 - 4.3.2 In the case of a paper-based tender, the tender was posted in sufficient time for it to have been received in the ordinary course of post.

5. Evaluation of Tenders and Award of Contracts

- 5.1 Award criteria must be clearly set out in the invitation to tender or equivalent documentation, together with the weighted scoring methodology.
- 5.2 A contract should be awarded based on the "most economically advantageous tender", which may not necessarily be the lowest priced tender. A record of the tender award

decision and the reason for it being made should be included in the minutes of the next meeting of the Board.

- 5.3 A tender for works, supplies or services £50,000 or above in value may not be accepted without the approval of the Board. In urgent situations, a tender above £50,000 may be accepted by the Managing Director, in consultation with the Chair of the Board, with the reasons being reported at the next meeting of the Board.

6. Alterations

- 6.1 Where an examination of competitive tenders reveals an error or discrepancy which would affect the sum payable by or to the company, in a tender which might otherwise be accepted, the tenderer may be given the opportunity of confirming or withdrawing his/her tender.
- 6.2 Where the appropriate employee is satisfied that the error or discrepancy is an arithmetical error, the tenderer may be given the opportunity to correct it.
- 6.3 Where an error or discrepancy is not an arithmetical error, or further information is required, in consultation with the Head of Corporate Services, an employee may ask the tenderer to clarify his/her tender or to provide additional information.

7. Form and Content of Contracts

- 7.1 Every contract above £20,000 in value and any other contract where the Managing Director so decides, must be in writing and must be signed by him/her on behalf of the company.
- 7.2 Every contract shall be reviewed and approved by Gateshead Council's legal team prior to being signed.
- 7.3 Every such contract will:
- 7.3.1 Specify the work to be carried out, or the supplies or services to be provided, the price to be paid (including any discounts), and the timetable for performing the contract; and
 - 7.3.2 Where relevant, require that the goods and materials must comply, at a minimum, with any relevant specification issued by the British Standards Institution or equivalent European or International standard.

8. Common Seal of the Company

- 8.1 The Common Seal of the Company will be kept in a safe place in the custody of the Managing Director.
- 8.2 The Common Seal will be affixed to those documents which in the opinion of the Managing Director should be sealed. The affixing of the Common Seal will be attested by the Managing Director and another Director.

9. Communication

- 9.1 These Rules will be published on The Gateshead Housing Company's intranet.
- 9.2 If the contract value is over £25,000 and an external advertisement is made, an equivalent advertisement must also be made on the government's "Contracts Finder" website, in accordance with EU Procurement Rules.

10. Revision

- 10.1 The Head of Corporate Services shall keep these Rules under review, and may make recommendations to the Board to amend the Rules from time to time where considered necessary.