

Item No. 8.1	Classification: Open	Date: November 4 2009	Meeting: Council Assembly
Report title:		Contract Standing Orders – Review of Threshold	
Ward(s) or groups affected:		All	
From:		Finance Director and Monitoring Officer	

RECOMMENDATIONS

1. That the recommendations of the constitutional steering panel relating to the lower threshold at which officers are required to obtain three written quotes be considered:
 - a) That the lower threshold at which officers are required to seek to obtain three written quotes remain unchanged at £5,000;
 - b) That contract standing orders be amended to reflect a new requirement where three written quotes are sought to take all reasonable steps to include within the quotes obtained at least one quote from a local supplier, as set out in paragraph 26 below.

BACKGROUND INFORMATION

2. At its meeting on May 20 2009 council assembly considered and agreed changes to contract standing orders (CSOs) which had been recommended to it by the constitutional steering panel (CSP). It also considered an addendum report following the identification by CSP of a number of areas relating to the CSOs where it requested officers to do some further work.
3. One of these areas concerned CSO 5.2 and the lower threshold at which officers are required to obtain three written quotes in relation to proposed procurements. Officers were asked to consider an increase in this threshold, but in light of the measures being proposed at that time to support businesses operating in their area, they recommended that it would be appropriate to defer consideration of this threshold.
4. Council assembly agreed that officers should do further work on the £5,000 threshold, with a view to coming back to council assembly in the autumn and a report was duly considered by the constitutional steering panel at its meeting on October 6 2009.

KEY ISSUES FOR CONSIDERATION

Contract standing orders – current position relating to obtaining tenders or quotes

5. Contract standing order 5 sets out the requirements to obtain tenders or quotes, which vary according to the type of contract and estimated contract value.
6. The requirement for proposed contracts with an estimated value below £5,000 is to seek to achieve value for money and best value. This may, but does not have to, involve obtaining three written quotes.

7. For all contracts with an estimated value from £5,000 to £75,000, the requirement is to take all reasonable steps to obtain at least three written quotes for contracts. The upper threshold was increased from £49,999 to £75,000 in May 2007 but the lower threshold has been in place since at least May 2005.
8. Where the estimated value of a contract is greater than £75,000, the requirement is to obtain five tenders. In the case of contracts for supplies and services over £75,000, this must be done via a publicly advertised competitive tendering process. For works contracts, the requirement to follow a publicly advertised competitive tendering process applies only to those contracts with an estimated value which is greater than the EU threshold. For works contracts valued between £75,000 and c.£3.497 million, five tenders should be sought from the council's approved list.

Comparison with other authorities

9. A review of contract procedures in other London boroughs showed a wide range of thresholds in use and, although it should be borne in mind that it may be misleading to look at a single threshold in isolation, the information obtained showed that twelve other boroughs have also set a threshold of £5,000 at which three quotes should be obtained.
10. Some authorities have more than three categories so that it might be that for the lowest value contracts, there is a requirement to obtain best value, the next band might require one or two written quotes as a minimum, followed by a further band requiring three written quotes as a minimum and finally the requirement to seek tenders. In some cases, authorities had an intermediate band from say £5,000 up to a specified figure with a requirement to obtain one or two written quotes and then a higher threshold at which three quotes were to be sought. For example, Enfield and Harrow require one and two written quotes respectively for contracts with an estimated value of £1,000 to £5,000.
11. Notwithstanding the fact that the lower threshold appears to have been in place for some time, it is not particularly out of line with the position in other London boroughs. It was noted however that several local authorities, for example Islington and Waltham Forest, include a requirement to seek to obtain one quote from a local supplier where this is possible.

Measures to support businesses as agreed by executive in May 2009

12. At its meeting on May 19 2009, executive considered a number of options aimed at supporting businesses. Measures agreed included the promotion of opportunities for Southwark businesses to supply to the council by advertising locally. It was envisaged that this would be achieved in part through publishing contract tender information on the council's website and in part through amending procurement guidelines to remind officers to ensure that local suppliers are aware of all procurements over £5,000 and less than £75,000.

Options

13. If it is felt appropriate to raise the threshold at which three written quotes should be sought, a decision would be needed as to the level of increase. More than half of London boroughs have a threshold of either £5,000 or £10,000. Of authorities with a lower threshold of £5,000, the upper threshold ranged generally from £25,000 to £50,000, with two examples of £75,000 (including Southwark) and two of £100,000. Of those with a lower threshold of £10,000, the upper threshold ranged from £20,000

to £75,000 and of the four authorities with a lower threshold of £20,000, three had an upper threshold of £140,000. It can be seen that arrangements in place vary according to local circumstances.

14. In considering whether to increase the lower threshold, members may also wish to consider whether to introduce a new intermediate band. Thus if it were felt appropriate to increase the threshold from £5,000 to £10,000 (say), it would also be possible to have an intermediate band relating to contracts from £5,000 to £10,000 with an intermediate requirement which might be to obtain one or two written quotes.
15. A further option would be to introduce a requirement to try to obtain a quote from a local supplier as part of the process for obtaining three quotes.
16. Before deciding the amount by which the threshold should be raised, whether an intermediate category of procurements should be introduced and whether a further requirement relating to local suppliers should be introduced, it is helpful to consider a number of factors.

Other considerations

17. If the lower threshold at which three written quotes are to be sought is increased but no intermediate band is introduced with a corresponding requirement to obtain one or two written quotes, this will result in more contracts being awarded without obtaining three quotes, albeit still on the basis of value for money and best value.
18. An increased threshold might be administratively simpler for officers involved in procurements. It is not clear however that this would necessarily mean greater use of local and SME suppliers as there would be a risk of lower levels of actual market testing and a greater reliance on individual officers' assessments of the market. In some cases, this might mean a greater likelihood of using existing suppliers rather than actively seeking to ascertain interest from other local and SME suppliers. From a supplier's perspective, this might mean potentially fewer opportunities being advertised.
19. If a new requirement were introduced to take all reasonable steps to obtain at least one quote from a local supplier where possible, this might help to increase opportunities for local businesses.
20. An alternative way of increasing the use of local and SME suppliers for lower level contracts would be to identify a 'single' market place where council officers as buyers can meet local suppliers. To this end the assistant finance director has commissioned the economic development team and corporate procurement to provide a comparative study of Supply2gov and Compete For as preferred mechanisms for advertising small contracts which currently only require obtaining three written quotes. The findings of this report with recommendations will be brought to the corporate contracts review board in November 2009. The Compete For website which was originally developed to advertise Olympic opportunities has now received additional funding from the Mayor of London to meet the needs of London boroughs' procurement, including a facility to target local suppliers in advertising for small value contracts.
21. If the lower threshold were to be increased and an intermediate category of procurement introduced with a corresponding requirement to obtain one or two written quotes, this would complicate the process administratively. In addition, the points made in the paragraphs above would still apply.

22. From an administrative point of view, if a decision were taken to increase the lower threshold, with or without an additional intermediate category, it would be helpful to reconsider also the measure approved by the executive in May this year to ensure that local suppliers are aware of all procurements over £5,000 and less than £75,000. It is difficult to see the logic behind making local suppliers aware of procurements over £5,000 if the requirement to obtain a specified number of quotes does not apply until £10,000 (say). However, it is not clear that this would be of benefit to local businesses.
23. In taking forward local procurement measures approved by the executive in May this year, the economic development team and corporate procurement have developed a local procurement action plan in conjunction with the supply Southwark group to increase access to opportunities for small local businesses, including ethnic minority businesses and social enterprises. One of the key challenges is to support officers and small local suppliers to find each other when procuring work under £75,000. A transition to either Supply2gov or Compete For would provide an identified 'market place' for buyers and suppliers to meet. Work is also underway to promote local procurement to all officers, through identifying departmental champions, and using the staff intranet to educate officers on the link between local procurement, community benefits and best value.

Conclusions

24. A comparison with other London boroughs shows that the procurement framework at Southwark is not inconsistent with that found in other boroughs.
25. For the reasons set out in paragraphs 17 to 23 above, it is suggested that it would not be helpful to raise the lower threshold at which three quotes are sought and it is therefore recommended that this threshold remain unchanged.
26. In order to try to increase further the opportunities for local suppliers, it was proposed that the contract standing orders be amended to require officers to take all reasonable steps to include within the quotes obtained at least one quote from a local supplier. It is therefore recommended that section 5.2 of the contract standing orders be amended as follows:

"For all contracts where the estimated contract value is from £5,000 to £75,000, there is a requirement to take all reasonable steps to obtain at least three written quotes, including one from a local supplier where this is possible, unless the LCO decides that this will not secure value for money. In such cases, a Gateway 1 report must be completed to explain what alternative action is being taken and why. In addition, if the contract is for works or works-related services, those invited to submit quotes must be selected from the council's works approved list unless permission is obtained to do otherwise through a Gateway 1 report; such a report must include supplementary procurement advice from the finance director or his delegated officers, without which the approval cannot be granted."

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Financial Governance files	Financial Management Services Tooley Street, Second Floor	Jo Anson 020 7525 4308

AUDIT TRAIL

Lead Officer	Duncan Whitfield, Finance Director Deborah Collins, Monitoring Officer	
Report Author	Jo Anson, Head of Financial Governance	
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CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	N/A	N/A
Finance Director	N/A	N/A
Head of Economic Development and Strategic Partnerships	Yes	Yes
Executive Member		
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