

ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS

1.	Meeting:	Cabinet
2.	Date:	19th December 2012
3.	Title:	Amendment to Standing Orders
4.	Directorate:	Resources

5. Summary

It has come to the attention of the Director of Legal and Democratic Services that the Council's Contract Standing Orders are currently drafted in such a way as to restrict potential opportunities for internal trading organisations.

Where a contract is valued at less than £50,000, Standing Orders permit an internal trading organisation of the Council to carry out the work without going to the market, provided certain conditions are met. However, where a contract is valued at £50,000 or more, the Council is obliged to invite tenders. An amendment to Standing Orders is therefore proposed, to enable the Council to place its work with internal trading organisations without seeking external quotations in respect of contracts valued at £50,000 or more.

Standing Order 56 provides that the Council's Standing Orders shall not be altered without the prior recommendation of Cabinet or the Council's Standards Committee.

6. Recommendation

That, pursuant to Standing Order 56, Cabinet recommends the amendment of Standing Order 47 (Contracts valued at less than £50,000) to Council so that the internal trading organisation be required to demonstrate value for money

That, pursuant to Standing Order 56, Cabinet recommends the amendment of Standing Order 48 (Contracts valued at £50,000 or more) to Council so that such contracts may be offered to internal trading organisations, subject to value for money being demonstrated

7. Proposals and Details

Standing Order 47 (Contracts valued at less than £50,000) permits an order for work to be placed with the appropriate director of services, on the presumption that the provision of works, services or supplies of goods or materials by the relevant internal trading organisation is more economically efficient than inviting tenders for every contract.

The internal trading organisation may be awarded the contract if it can demonstrate it is able to perform the work, carry out the service or supply the goods or materials for the most economically advantageous price. Standing Order 47.4 sets out the factors which may be taken into consideration:

- Cost effectiveness
- Quality, aesthetics and functional characteristics
- Technical assistance and technical merit
- The period for completion or delivery
- Running costs
- After sales service
- Profitability

Under Standing Order 48 (Contracts valued at £50,000 or more) the situation is slightly different. The appropriate internal trading organisation is able to tender for the work along with other suitable contractors on a select list of tenderers or contractors on an approved list. There is no provision for awarding contracts to an internal trading organisation without seeking external expressions of interest.

There is no general legal obligation upon the Council to expose its work to external competition. Indeed the procurement arrangements of neighbouring authorities allow work to be placed directly with the internal trading organisation, without the need for external competition.

It is also submitted that the requirement in Standing Order 47.4 to demonstrate the most economically advantageous price does not reflect current procurement objectives and should be amended to a requirement to achieve value for money.

The following is therefore proposed:

Standing Order 47 (Contracts valued at less than £50,000) should remain as drafted, except that the words “for the most economically advantageous price” in Standing Order 47.4 should be deleted and replaced with the words “and achieve value for money”.

Standing Order 48 (Contracts valued at £50,000 or more) should be amended to permit contracts to be offered to internal trading organisations subject to the following conditions:

1. That value for money can be demonstrated, taking into account the factors set out at Standing Order 47.4 (see above)

2. In order to provide additional safeguards in view of the higher value of such contracts, the relevant Strategic Director, the Director of Legal and Democratic Services and the Strategic Director of Resources must all be consulted and must state that they support the proposed arrangement.

It should be noted that no amendment will be made to Standing Order 48.3.1 so that tenders for a contract will still have to be invited following public advertisement where required by European or domestic law.

8. Finance

There are no adverse financial implications.

9. Risks and Uncertainties

Failure to amend Standing Orders in this way could lead to challenge if Council departments award contracts valued at £50,000 or more to internal trading organisations without seeking external quotations, when this is not currently permitted by Standing Orders.

10. Policy and Performance Agenda Implications

The proposal will enable internal trading organisations to work more effectively for the Council.

11. Background Papers and Consultation

Strategic Directors have been consulted and support this report.

Contact Name: Ian Gledhill, Principal Officer, Legal and Democratic Services

Tel: 254501

ian.gledhill@rotherham.gov.uk