

**Review of Financial Regulations and Standing Orders
Relating to Contracts**
Report by Director of Corporate Services

Summary: This report recommends and explains proposed changes to the Authority's Financial Regulations and Standing Orders Relating to Contracts.

Recommendations:

- (i) That the proposed amendments to Financial Regulations, as appended, be approved with immediate effect.
- (ii) That the proposed amendments to Standing Orders Relating to Contracts, as appended, be approved with effect from 1 April 2008.
- (iii) That these arrangements be further reviewed after three years.

1 Introduction

- 1.1 The Authority's Financial Regulations and Standing Orders Relating to Contracts have been in place since 1989. A review was last carried out by the Strategy and Resources Committee at its meeting on 28 June 2004, with a recommendation that the arrangements be further reviewed after three years.
- 1.2 Appended to this report are the current Financial Regulations (Appendix 1) and Standing Orders Relating to Contracts (Appendix 2). Suggested changes are shown in bold type and italics.

2 Financial Regulations

- 2.1 Section 17 of the Broads Act states that the Authority 'shall make arrangements for the proper administration of its financial affairs and shall secure that one of its officers has responsibility for the administration of those affairs'.
- 2.2 The Financial Regulations set the framework for the administration of the Authority's financial affairs, including all systems and transactions.
- 2.3 The Treasurer and Financial Adviser has been designated as the Authority's Section 17 Officer. It is important therefore that the Treasurer, whilst not necessarily involved in routine day to day financial matters, has the authority and is provided with the necessary information in order to carry out this role

effectively. An important purpose of the Financial Regulations is to put in place arrangements which facilitate this.

- 2.4 The changes which are being proposed are not considered to be significant or material. Mostly they reflect changes in practice which have evolved over time, some of them to do with new legislation, such as the introduction of the Prudential Code and new arrangements for capital financing, and some relating to the increased use of new technology.

3 Standing Orders Relating to Contracts

- 3.1 These set out the procedures which must be adhered to in letting contracts on behalf of the Authority.

- 3.2 Standing Orders currently require employees to obtain at least three written quotations where the estimated value of a contract is in excess of £5,000, and to enter into a formal tendering procedure where the value is in excess of £25,000. These core principles have not been changed.

- 3.3 However some significant amendments have been made, drawn from the County Council's Contract Standing Orders, largely with the purpose of giving the Authority more flexibility in the management of its contracts, but without in any way negating the key principles of good financial management.

- 3.4 The most significant are as follows:

- (i) The introduction of 'award criterion' for contracts where the estimated value is in excess of £5,000. This means that the Authority is not bound on all occasions to accept the cheapest quotation where criteria other than cost are the most important. However it is important in such instances that clear evaluation criteria are determined in advance of the tendering process and are notified to potential tenderers.
- (ii) A paragraph has been inserted in respect of Post-Tender Negotiations, to give the Authority the ability to negotiate costs down in certain, controlled circumstances. It is important however that this is done in accordance with an agreed procedure and that where appropriate legal advice is sought.
- (iii) A paragraph has been inserted giving the Authority the ability to enter into Framework Agreements.
- (iv) The requirement relating to public liability insurance has been relaxed. At the moment all contractors are required to provide evidence of public liability cover up to a maximum of £5,000,000. However whilst this should still be the norm in most instances, this has on occasion proved to be inappropriate – having regard to the nature of the liability – and has proved difficult for some small contractors.

- (v) Increasingly it is more important that a contractor is able to provide professional indemnity insurance, either in addition to or instead of public liability insurance, especially where professional advice is being provided. There is therefore a requirement that this be provided in appropriate circumstances.

3.5 The proposed amendments to Standing Orders will involve a number of changes to the way the Authority manages its contracts, and will necessitate a rewrite of the guidelines issued to budget holders, and possibly some additional internal training. It is therefore proposed that introduction of these changes is deferred to April 2008, to enable the necessary preparatory work to be carried out.

Background papers: Norfolk County Council Contract Standing Orders: Issue 3

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Appendices: APPENDIX 1 – Financial Arrangements
APPENDIX 2 – Standing Orders Relating to Contracts

Enclosures: Nil

BROADS AUTHORITY

Financial Regulations

(~~Strategy and Resources Committee: 28 June 2004~~)

1 General

- 1.1 The Chief Executive shall consult the Treasurer **and Financial Adviser (hereinafter referred to as the Treasurer)** with respect to any matter within his purview which is liable to affect materially the finances of the Broads Authority before any provisional or other commitment is incurred or before reporting thereon to a Committee.

2 Budget

- 2.1 The detailed form of capital and revenue estimates shall be determined by the Treasurer consistent with the general directions of the **Broads Authority**~~Strategy and Resources Committee~~ and after consultation with the Chief Executive.
- 2.2 Estimates of income and expenditure on *the* revenue account and of receipts and payments on *the* capital account shall be prepared by the Chief Executive, in consultation with the Treasurer, who shall collate the estimates approved by ~~G~~committees and report to the **Broads Authority**~~Strategy and Resources Committee~~ thereon.
- 2.3 **All capital expenditure must be in accordance with the Authority's Annual Investment and Capital Financing (borrowing) Strategy, and driven by its Asset Management Strategy.** Upon the approval by the Authority of a programme of capital expenditure the Chief Executive, in consultation with the Treasurer, shall be authorised to prepare a **capital expenditure and financing plan** ~~summary and estimate~~ in accordance with the framework determined by the Local Government Act 2003 and the Prudential Code. Thus any proposal to **the Broads Authority**~~a Committee~~ which would involve incurring expenditure during a period in respect of which the Authority has approved a revenue budget or ~~€~~capital ~~£~~programme shall be accompanied by a report from the Chief Executive indicating the sufficiency or otherwise of the financial provision contained in the **capital expenditure and financing plan**~~budget and/or Capital Programme~~.
- 2.4 The Chief Executive, in consultation with the Treasurer, shall provide the **Broads Authority**~~Strategy and Resources Committee~~, and such other committees as may request this information, with a **regular**~~quarterly~~ report of income received and expenditure incurred, and shall draw to the attention of that committee any budget heads which are likely to be **significantly over or under budget**~~spent or where there is likely to be a shortfall in budgeted income~~. **Attention will be drawn to any budget heads that are**~~This information will be reported to the Strategy and Resources Committee where~~

it is likely to materially affect **the level of reserves** net expenditure at the end of the financial year.

- 2.5 The **Head of Finance** Treasurer shall furnish the Chief Executive **and other budget holders** with periodical statements of receipts and payments under each head of approved estimate and such other relevant information as **is considered to be appropriate** he has.

3 **Accounting and Financial Management**

- 3.1 All accounting procedures and records of the Authority and its officers shall be determined by the Treasurer in accordance with the Accounts and Audit Regulations 2003 or any such rules or regulations which may supersede these Regulations.

- 3.2 All accounts and accounting records of the Authority shall be compiled by the Treasurer or under ~~the~~ his direction **of the Treasurer**.

- 3.3 The Chief Executive shall ensure that all accounting procedures and records under his control are maintained accurately and kept up to date.

- ~~3.4 All accounting records must be completed in a permanent form and must not be amended by the use of correcting fluid. All amendments or corrections to accounting records must be clearly shown as such.~~

- 3.54 The following principles shall be observed in the allocation of accounting duties:

- (a) the duties of providing information regarding sums due to or from the Authority and of calculating, checking and recording these sums, shall be separated as completely as possible from the duty of collecting or disbursing them;
- (b) officers charged with the duty of examining and checking the accounts of cash transactions shall not themselves be engaged in any of these transactions.

4 **Advance Accounts**

- 4.1 The Treasurer shall provide such advance accounts ~~as are~~ considered appropriate for the purpose of **administering** defraying petty cash and other expenses. Such accounts shall be maintained using an imprest system.

- 4.2 No income received on behalf of the Authority may be paid into an advance account but must be banked or paid to the Authority as provided elsewhere in these regulations.

- 4.3 Payments shall be limited to minor items of expenditure and to such other items as the Treasurer may approve and shall be supported by a receipted voucher to the extent that the Treasurer may require.

4.4 An officer responsible for an advance account shall, if so requested, give to the Treasurer a certificate as to the state of ~~this~~ imprest advance.

4.5 On leaving the employment of the Authority or otherwise ceasing to be entitled to hold an imprest advance, an officer shall account to the **Head of Finance**~~Treasurer~~ for the amount advanced ~~to him~~.

5 Audit

5.1 An internal audit, under the independent control and direction of the Treasurer **and as advised by the Internal Audit Manager**, shall be arranged to carry out an examination of accounting, financial and other operations of the Authority in accordance with the Accounts and Audit Regulations 2003 or any such rules or regulations which may supersede these Regulations.

5.2 For audit purposes the Treasurer or his authorised representative shall have authority to:

- (a) enter at all reasonable times on any Authority premises or land under the control of the Authority;
- (b) have access to all records, documents and correspondence relating to any financial and other transactions of the Authority;
- (c) require and receive such explanations as are necessary concerning any matter under examination; and
- (d) require any employee of the Authority to produce cash, stores or any of the Authority's property under his control.

5.3 Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores or other property of the Authority or any suspected irregularity in the exercise of the functions of the Authority, the Chief Executive shall forthwith notify the Treasurer who shall take such steps as ~~are~~ ~~he~~ ~~considered~~ necessary by way of investigation and report.

6 Banking Arrangements and Cheques

6.1 All arrangements with the Authority's bankers shall be made by or under arrangement approved by the Treasurer, who shall be authorised to operate such banking accounts, ~~including National Giro Accounts~~, as ~~are~~ ~~he~~ ~~may~~ considered necessary.

6.2 All cheques, ~~including National Giro payment forms~~, shall be ordered only on the authority of the Treasurer, who shall make proper arrangements for their safe custody.

6.3 Cheques on the Authority's main banking accounts, ~~including the National Giro accounts,~~ shall bear the **electronic** ~~facsimile~~ signature of the Treasurer or be signed by the Treasurer or other officer authorised to do so.

7 **Contracts for Building Constructional or Engineering Work**

7.1 Where contracts provide for payment to be made by instalments the Treasurer shall arrange for the state of account to be recorded in the accounting computer system maintained in the Finance Section.

7.2 Payments to contractors on account of contracts shall be made only on a certificate issued by the supervising architect, engineer or consultant or other duly authorised officer as appropriate.

7.3 Subject to the provisions of the contract in each case, every extra or variation shall, unless otherwise evidenced to ~~their~~ **their** satisfaction, be authorised in writing by the supervising architect, engineer or consultant, or other duly authorised officer.

7.4 Any such extra variation, the estimated additional cost of which exceeds by ~~105%~~ the approved contract sum, shall be reported to the *Broads Authority* or appropriate Committee as soon as practicable.

7.5 The final certificate of completion of any contract shall not be issued until the appropriate officer, ~~private architect, engineer or consultant~~ has produced to the Treasurer a detailed statement of account, and all relevant documents if required.

7.6 The Treasurer shall, to the extent ~~he considered~~ necessary, examine final accounts of contracts and ~~he~~ shall be entitled to make all such enquiries and receive such information and explanations as ~~he may be required in order to satisfy himself~~ as to the accuracy of the accounts.

7.7 Claims from contractors in respect of matters not clearly within the term of any existing contract shall be referred to the Treasurer for consideration of the Authority's legal liability and, where necessary, for financial consideration before a settlement is reached.

~~7.8 Where completion of a contract is delayed by more than one-sixth of the contract period, it shall be the duty of the Chief Executive to report to the appropriate Committee or the Treasurer.~~

7.98 In any case, where the total cost of any work carried out under a contract exceeds by more than ~~105%~~ the approved contract sum, a report of such cost shall, after agreement of the final account, be submitted to the ***Broads Authority*** or appropriate Committee.

8 Estates

- 8.1 The Chief Executive will maintain a record of all properties owned by the Authority recording the holding Committee, purpose for which held, location, extent and plan reference, purchase details, particulars of nature of interest and rents payable and particulars of tenancies granted.
- 8.2 The Chief Executive shall make arrangements for the safe custody of all title deeds.

9 Income

- 9.1 The collection of all money due to the Authority shall be under the direction of the Treasurer.
- 9.2 Budget holders shall furnish the **Head of Finance**~~Treasurer~~ with such particulars in connection with work done, goods supplied or services rendered and of all other amounts due as may be required ~~by him~~ to record correctly all sums due to the Authority and to ensure the prompt rendering of accounts for the recovery of income due.- Invoice requisition forms are provided for this purpose.
- 9.3 The Chief Executive shall furnish the Treasurer with such particulars in connection with money due to the Authority and of contracts, leases or other agreements and arrangements entered into which involve the receipt of money by the Authority as may be required ~~by him~~ and the Treasurer shall have the right to inspect any documents or other evidence in this connection as he may decide.
- 9.4 All receipt forms, books, tickets and other such items shall be ordered and supplied by the **Head of Finance, in accordance with arrangements approved by the Treasurer**~~the Treasurer who shall satisfy himself as to the arrangements for their control.~~
- 9.5 All money received by an officer on behalf of the Authority shall without delay be paid to the **Head of Finance**~~Treasurer~~ or, ~~as he may direct,~~ to the Authority's banking ~~or National Giro~~ account or be transmitted directly to any other body or person entitled thereto. No deduction may be made from such money save to the extent that the Treasurer **or Head of Finance** may specifically authorise. Each officer who so banks money shall enter on the paying-in slip a reference to the related debt (such as the receipt number or the name of the debtor) or otherwise indicate the origin of the cheque. Receipts taken by credit card must be in accordance with the instructions issued by the Treasurer.
- 9.6 Personal cheques shall not be cashed out of the money held on behalf of the Authority.

9.7 Every transfer of official money from one member of staff to another will be evidenced in the records of the Authority by the signature of the receiving officer.

10 Insurances

10.1 The Chief Executive shall, in consultation with the Treasurer, effect all insurance cover and negotiate all claims in consultation with other officers where necessary.

10.2 The Chief Executive shall ensure that existing insurances are amended to take into account all new risks, properties, vehicles, plant and equipment which require to be insured and of any other alternations affecting existing insurances.

10.3 The Chief Executive shall notify the police when it is deemed necessary of any loss, liability or damage or any event likely to lead to an insurance claim.

10.4 All appropriate employees of the Authority shall be included in a suitable fidelity guarantee insurance.

10.5 The Treasurer shall annually, or at such other period as he may consider necessary, review all insurances in consultation with the Chief Executive, as appropriate.

10.6 The Chief Executive shall consult the Treasurer in respect of the terms of any indemnity which the Authority is requested to give.

11 Inventories

11.1 An inventory shall be maintained by the Chief Executive and therein shall be recorded an adequate description of all furniture, fittings and equipment, plant and machinery belonging to the Authority, save that the extent to which the property of the Authority shall be so recorded and the form in which the inventory shall be kept is to be determined by the Treasurer.

11.2 The Chief Executive shall be responsible for maintaining a regular check of all items shown on the inventory and for taking action in relation to surplus or deficiencies and noting the inventory accordingly. Items with a value of £1,000 or more and those items which it is considered could be easily resold, shall be checked annually, with other items checked not less frequently than every other year.

11.3 The Authority's property shall not be removed otherwise than in accordance with the ordinary course of the Authority's business or used otherwise than for the Authority's purpose except in accordance with specific directions issued by the Chief Executive.

12 Investments and Borrowing

- 12.1 All investments of money **shall be made in accordance with the Authority's Annual Investment and Capital Financing Strategy, which is prepared in accordance with the Prudential Code and approved by the Broads Authority before the start of each financial year** ~~under its control shall be made in the name of the Authority.~~
- 12.2 All securities the property of or in the name of the Authority and the title deeds of all property in its ownership shall be kept in safe custody as directed by the Chief Executive.
- ~~12.3 All borrowings shall be effected in the name of the Authority.~~
- 12.43 The Treasurer shall be the Authority's registrar of stocks, bonds and mortgages and shall maintain records of all borrowing of money by the Authority.

13 Orders for Work, Goods and Services

- 13.1 Official orders shall be in a form approved by the Treasurer and are to be signed only by officers authorised by the Chief Executive who shall be responsible for official orders issued.
- 13.2 Official orders shall be issued for all work, goods or services to be supplied to the Authority except for supplies of public utility services, for periodical payments such as rent or rates, for petty cash purchases or such other exceptions as the Treasurer may approve.
- 13.3 Each order shall conform with the procurement policy of the Authority.
- 13.4 A copy of each order shall be **scanned and retained as part of the electronic policy of the Authority** ~~kept~~ and, if so required, *shall* be produced for examination by the Treasurer.

14 Payment of **Supplier Invoices** ~~Accounts~~

- 14.1 Apart from petty cash, the normal methods of payment of money due from the Authority shall be by cheque, credit card or other instrument drawn on the Authority's bank account ~~or National Giro account~~ by the Treasurer.
- ~~14.2 The Chief Executive, when issuing an order, is responsible for examining, verifying and certifying the related invoice(s) and similarly for any other payment vouchers or accounts. Such certification shall be in manuscript by or on behalf of him.~~
- 14.32 Before certifying an account, the **budget holder** ~~authorised officer (see 14.2)~~ shall, ~~save to the extent that the Treasurer may otherwise determine,~~ have satisfied him **or herself** that:

- (a) the work, goods or services to which the account relates have been received, carried out, examined and approved;
- (b) the prices, extensions, calculations, trade discounts, other allowances, credits and tax are correct;
- (c) the relevant expenditure has been properly incurred, and is within the relevant estimate provision;
- (d) appropriate entries have been made in inventories, stores records or stock books as required; and
- (e) the *invoice* account has not been previously passed for payment and is a proper liability of the Authority.

14.43 Electronically authorised invoices ~~Duly certified accounts shall be passed~~ **shall invoices shall be sent** -without delay to the **Head of Finance** ~~Treasurer for payment~~ who shall examine them to the extent that he considers necessary for which purpose he shall be entitled to make such enquiries and to receive such information and explanations as he may require. **All invoices must contain two electronic signatures in accordance with the authorised signatory list which is approved by the Treasurer.**

14.54 Any invoice that requires amendment to an account shall **not be authorised but shall be returned to the Head of Finance with an explanation in order that a revised invoice and/or credit note can be requested as appropriate** ~~be made in ink and initialled by the officer making it, stating briefly the reasons where they are not self-evident.~~

14.65 Credit cards payments shall be made only by staff nominated by the Chief Executive. Credit cards are to be used primarily for the purchase of rail tickets and for hotel bookings, **and on occasion goods ordered over the Internet.** - Credit cards will be used for other purchases where it is deemed appropriate. These credit transactions will be approved by the Chief Executive or by **an authorised signatory** ~~Director~~ signing an official **credit card order form** ~~stating that payment will be made by this method.~~ All credit card transactions will be subject to a limit of £1,000.

14.76 Each credit card issued on behalf of the Authority is the responsibility of the cardholder. They must be kept as securely as possible and not be left unattended. Lost credit cards must be notified to the credit card provider immediately to stop the misappropriation of funds and the **Head of Finance** ~~Treasurer~~ must be informed of the loss as soon as possible.

14.87 The Chief Executive or authorised signatory will authorise credit card payments on a regular basis (normally monthly) in accordance with the conditions set out in paragraph 14.32(b) - (e) above. ~~An Authority credit card holder shall approve transactions for payment but they will be further~~

~~authorised by a second Chief Officer being either the Chief Executive, Treasurer, Solicitor or a Director.~~

15 Salaries, Wages and Pensions

- 15.1 The payment of all salaries, wages, pensions, compensation and other emoluments to all employees or former employees of the Authority shall be made by the Treasurer or under arrangements approved and controlled by ~~him~~ **the Treasurer**.
- 15.2 The Chief Executive shall notify the Treasurer as soon as possible and in the form prescribed by him, of ~~any~~ **the following** matters affecting the payment of such emoluments, **including** ~~appointments, resignations and dismissals.~~
- 15.3 Appointments of all employees shall be made in accordance with current legislation and good practice, and the approved establishment, grades and rates of pay. In all cases the Authority will comply with the ~~policies~~ **guidelines** which have been drawn up for the recruitment and appointment of staff.
- 15.4 All time records or other pay documents shall be in a form prescribed or approved by the Treasurer and shall be certified by an authorised officer.

16 Security

- 16.1 The Chief Executive is responsible for maintaining proper security at all times for all buildings, stocks, stores, vehicles, furniture, equipment, ~~and cash~~ **and any other assets**, ~~etc., for which the Authority is responsible~~ under his ~~control~~. He shall consult the Treasurer in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.
- 16.2 Maximum limits for cash holdings shall be agreed with the Treasurer and shall not be exceeded without ~~his~~ **the Treasurer's** express permission.
- 16.3 Keys to safes and similar receptacles are to be carried on the person of those responsible **or kept in a secure place** at all times. The loss of such keys must be reported to the **Head of Finance without delay** ~~Treasurer forthwith~~.
- 16.4 The Treasurer shall be responsible for maintaining proper security and privacy in respect of information held in the computer installation or for its use.

17 Stocks and Stores

- 17.1 The Chief Executive shall be responsible for the care and custody of the stocks and stores of the Authority.
- 17.2 Stocks shall not be in excess of normal requirements except in special circumstances ~~with the approval of the appropriate Committee~~.

17.3 The Chief Executive shall arrange for independent periodical test examinations of stocks and shall ensure that stocks are checked at least once in every year.

17.4 The Treasurer shall be entitled to receive such information as ~~is~~ required in relation to stores for accounting, costing and financial records. Surplus materials, stores or equipment shall be disposed of by competitive tender or public auction unless the appropriate officer, ***in consultation with the Head of Finance***, ~~concerned~~ decides otherwise in a particular case.

18 Travelling, Subsistence and Members' Allowances

18.1 Payments to members, including co-opted members of the Authority or its Committees who are entitled to claim travelling or other allowances, will be made by the Treasurer upon receipt of the prescribed form duly completed.

18.2 All claims for payment of car allowances, subsistence allowances, travelling and incidental expenses shall be submitted to the Treasurer, duly certified in a form approved by ***the Treasurer***, made up to a specified day of each month.

18.3 The certification by or on behalf of the Chief Executive shall be taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred and the allowances are properly payable by the Authority.

18.4 Officers' claims submitted more than six months after expenses were incurred will be paid only with the express approval of the Chief Executive.

19 Specimen Signatures

19.1 The names of officers authorised to sign cheques, and certify invoices, orders, time sheets and expense claims shall be sent to the Treasurer by the Chief Executive, together with specimen signatures, and shall be amended on the occasion of any change.

20 Year End Procedures

20.1 Cheques must not be raised and held back at the year end for work to be completed. It is important that all cheques raised up to the financial year end have left the premises by that date.

20.2 Budget holders will provide to the ***Head of Finance*** ~~Treasurer~~ such information as is required to enable the Statement of Accounts to be produced in accordance with the Accounts and Audit Regulations 2003 or any such rules or regulations that may supersede these Regulations. Such information will include reliable estimates of outstanding invoices for accrual at the year end. (Note that payments made in a new financial year can only be charged in the old financial year provided the goods have been delivered or the service consumed prior to the year end).

NOTE: All references to the Chief Executive and the Treasurer and Financial Adviser in this document apply to that person or to his/her nominated representative, as appropriate. These may include the following:

Director of Corporate Services;
Director of **Conservation and Countryside Management** Field Services;
Director of Planning and **Strategy** Development;
Director of **Waterways** Research and Strategy;
Head of Finance Officer.

Broads Authority**Standing Orders Relating to Contracts****Application and Exceptions****1. Purpose of Standing Orders**

The overall purpose of these Standing Orders is as follows:

- (a) to ensure transparency and fairness in the procurement of works, supplies and services;*
- (b) to ensure that the Authority gets best value from its procurements; and*
- (c) to protect those involved in the procurement process.*

2. Duty to Achieve Best Value

Every contract or official order for works, supplies and services made by the Authority must be for the purchase of achieving the Authority's statutory and approved objectives and must be in accordance with the Authority's duty of Best Value, to secure continuous improvement in the exercise of all its functions, having regard to a combination of economy, efficiency and effectiveness.

43. Application

- (a) These Standing Orders apply to every contract made by or on behalf of the Authority except contracts for:
 - (i) the acquisition or disposal of any interest in land; or
 - (ii) insurance or the lending or borrowing of money; or
 - (iii) the employment of any employee.
- (b) The engagement of consultants and other professional advisers must be in accordance with these Standing Orders unless the Authority or appropriate committee, or the Chief Executive in consultation with the Chairman or in the Chairman's absence Vice-Chairman of the appropriate committee, directs otherwise.

24. Compliance with European Commission (EC) Directives

Every contract must comply with the EC Treaty and with any relevant directives of the EC for the time being in force in the United Kingdom. These Standing Orders have effect subject thereto.

35. Specific Exemptions

- (a) The Authority or the appropriate committee may authorise exemption from any of the following provisions of these Standing Orders where they are satisfied that the exemption is justified in special circumstances.
- (b) The Chief Executive may authorise exemption from any of the following Standing Orders by certifying that there is an extreme emergency. ~~Before doing so the Chairman or in the Chairman's absence Vice-Chairman of the appropriate Committee must be consulted.~~
- (c) Every exemption authorised under ~~this~~ **these** Standing Orders must be reported to the Authority and the report must specify the emergency or other special reason justifying it.
- (d) A record of any exemption made in accordance with ~~this~~ **these** Standing Orders must be made either in the minutes of the Authority or in the minutes of the appropriate committee.
- (e) ~~The Chief Executive, Director of Field Services and Assistant Director of Field Services have delegated powers to individually place contracts for dredging work without the need to put each individual job out to tender. However, as best practice, tenders will be sought where it is considered appropriate and practical to do so.~~

4.6 Limited Specific Exemptions for Proprietary Articles, Urgent Contracts etc.

Quotations or tenders need not be invited in the case of a contract:

- (i) for the supply of goods or services where there is only one supplier and no acceptable alternative;
- (ii) for goods or materials to be purchased at an auction, or through any consortium, association or similar body of which the Authority is a member, **or under any framework arrangement negotiated for the benefit of public bodies**;
- (iii) for works of art, museum specimens or historical documents;
- (iv) which constitutes an extension of an existing contract (such an extension to be approved by the Chief Executive in cases where the variation is up to 10 per cent of the original price; above that figure extensions can only be approved by the appropriate committee);
- (v) for the execution of work or for the supply of goods or materials certified by the Chief Executive as being required so urgently as to preclude the invitation of quotations or tenders ~~(where the contract exceeds £5,000 the certificate must be reported to the next meeting of~~

~~the appropriate Committee and until then the certificate must be retained on the appropriate file);~~

- (vi) (except where it is readily practicable to invite quotations or tenders) for repairs to, or the supply of, parts of existing ~~proprietary or patented articles~~ *proprietary or patented articles*, including machinery or plant;
- (vii) for which it is not considered reasonably practicable in the Authority's interest so to do, subject to a report to the next meeting of the appropriate committee;
- (viii) on behalf of another body for which the Authority is acting as agent, provided any rules or standing orders of that body are complied with.

Pre-Estimate

7. Before any procurement is begun the Chief Executive must estimate the value of the contract.

8. Hire of Goods or Services for Indeterminate Period

(a) In the case of contracts for:

- (i) the hire of goods for an indeterminate period; or**
- (ii) the provision of services for a period in excess of four years or for an indeterminate period;**

the estimated value of the contract for these Standing Orders must be the estimated monthly costs multiplied by 48 or, where monthly costs are inapplicable, the estimated annual cost multiplied by four.

(b) In the case of contracts for the supply of goods (except for a hire in accordance with paragraph 8 (a) (i)) over a period of time where the Authority enters into a series of contracts or a renewable contract the estimated value of the contract is either:

- (i) the aggregate value of similar contracts over the previous 12 months (adjusted for any known changes in demand);**
- (ii) the estimated value of similar contracts over the next 12 months; or**
- (iii) if the contract is for a definite term of more than 12 months, the estimated value for the period of the contract.**

(c) For all supplies, services and works not covered by paragraphs 8 (a) or 8 (b), the estimated value for the purpose of these Standing

Orders must be the total estimated value of the supplies, services or works to be supplied over the period covered by the contract.

Contracts below £5,000

59. Where the estimated value of a contract is below £5,000, it is good practice but not mandatory to obtain more than one quotation.

Contracts of £5,000 and Above

10. Award Criterion

- (a) **Before any quotations or tenders are sought where the estimated value of the contract is £5,000 or above, the Chief Executive must decide and record the award criterion to be used when the quotations or tenders are received. This must be either:**
- (i) **the lowest price (where the Authority is to pay the supplier); or**
 - (ii) **the highest price (where the supplier is to pay the Authority); or**
 - (iii) **the most economically advantageous quotation or tender.**
- (b) **If the chosen award criterion is the 'most economically advantageous' the Chief Executive must then decide and record in a list the evaluation criteria (in descending order of significance) upon which the quotations or tenders will be so evaluated.**
- (c) **The Chief Executive must notify all those invited to submit quotations or tenders which award criterion is being used in the case of the contract in question and, where applicable, the evaluation criteria.**
- (d) **For contacts below £25,000 the quotation which best meets the award criterion must be accepted except where otherwise agreed in writing by the Chief Executive or a Director, stating why the quotation which best meets the award criterion has not been accepted.**
- (e) **In such cases this will be reported to the Broads Authority or appropriate committee as an exception to Standing Orders.**

Contracts Between £5,000 and £25,000

611. Quotations

- (a) Where the estimated value of the contract is between £5,000 and £25,000 inclusive the Chief Executive must, unless impracticable, invite at least three written quotations.
- ~~(b) Officers must accept the most financially advantageous quotation, unless approved in writing by the Chief Executive or a Director, stating why the most financially advantageous quotation has not been accepted.~~

Contracts Above £25,000

712. Tenders

- (a) Where the estimated value of a contract exceeds £25,000, and in any other cases where the Authority or the appropriate Committee determines, tenders must be invited in accordance with either one of Standing Order ~~8, 9, 10 or 11~~ **13, 14 or 15**.
- (b) In cases where the Authority does not intend to comply with one of Standing Order ~~8, 9, 10 or 11~~ **13, 14 or 15** prior approval must be sought from the **Authority or** appropriate committee, or the Chief Executive in conjunction with the Chairman or in the Chairman's absence Vice-Chairman of the **Authority or** appropriate committee, setting out the reasons why it is not considered necessary or appropriate to comply with one of these Standing Orders on this occasion.

813. Open Tendering

- (a) This Standing Order applies where the tenders for a contract are to be obtained by open competition.
- (b) At least 14 days public notice must be given in:
 - (i) one or more local newspapers; and
 - (ii) wherever the estimated value of the contract exceeds £100,000 in one or more newspapers or journals circulating among persons or bodies who undertake such contracts.
- (c) The notice must state what the contract is for and where further details may be obtained, invite tenders for its execution and state the last date and time when tenders will be received.

914. Selective Tendering - Ad Hoc List

- (a) This Standing Order applies where the Authority or appropriate ~~C~~committee ~~have~~**has** decided that invitations to tender for a contract are to be made to some or all of those persons or bodies who have replied to a public notice.
- (b) Public notice must be given:
 - (i) in at least one local newspaper; and
 - (ii) where the estimated amount or value of the contract exceeds £100,000, in at least one newspaper or journal circulating among such persons or bodies who undertake such contracts; and
 - (iii) at the discretion of the Authority or appropriate ~~C~~committee to all or a selected number of persons or bodies named in the list maintained under Standing Order ~~4015~~.
- (c) The public notice must:
 - (i) specify what the contract is for;
 - (ii) invite interested persons or bodies to apply for permission to tender; and
 - (iii) specify a time limit, of at least 14 days, within which such applications must be submitted to the Authority.
- (d) After the expiry of the period specified in the public notice invitations to tender for the contract must be sent to:
 - (i) at least three of the persons or bodies who applied for permission to tender, selected by the Chief Executive;
 - (ii) where fewer than three persons or bodies have applied or are considered suitable, those persons or bodies which the Chief Executive considers suitable.

~~4015~~. Selective Tendering - Standing List

- (a) This Standing Order applies where the Authority or appropriate ~~C~~committee ~~have~~**has** decided that invitations to tender for a contract are to be limited to those persons or bodies whose names are included in a list compiled and maintained for that purpose.
- (b) This list must:

- (i) be compiled and maintained by the ~~Authority or appropriate Committee~~ **Chief Executive**;
 - (ii) contain the names of all persons or bodies who wish to be included and who are approved by the Authority or appropriate Committee; and
 - (iii) indicate in respect of a person or body whose name is so included, the categories of contract and the maximum values or amounts in respect of those categories for which approval has been given.
- (c) At least four weeks before a list is first compiled, notices inviting applications for inclusion in it must be published:
- (i) in at least one local newspaper; and
 - (ii) in at least one newspaper or journal circulating among persons or bodies who undertake such contracts;
- and must state the purpose of the list.
- (d) (i) ~~£~~The list must be amended as required from time to time and must be reviewed at intervals not exceeding three years. At least four weeks before each review, everyone on the list must be asked whether they wish to remain there and notices inviting new applications for inclusion in the list must be published in the manner provided by ~~£~~paragraph (c) of this Standing Order.
- (ii) At each review the list must be reported to the appropriate committee with particulars showing those invited to tender, those responding and those successful, since the last review.
- (e) Invitations to tender for a contract must be sent to:
- (i) at least three of those persons or bodies selected by the Chief Executive from among those approved for a contract of the relevant category and amount or value; or
 - (ii) where fewer than three persons or bodies are approved for a contract of the relevant category and amount or value, all those persons or bodies.

16. Post-Tender Negotiations

- (a) ***The Chief Executive may (following the closing date for receipt of tenders but before acceptance of any tender) carry out post-tender negotiations to attempt to secure an improvement in the contract price or other conditions only in one or more of the following circumstances:***

- (i) **where the lowest submitted tender or the most economically advantageous tender (where this is the award criterion) exceeds the estimated value of the contract;**
 - (ii) **where the Chief Executive considers that the price of the lowest tender submitted does not represent the best value for money that can reasonably be obtained;**
 - (iii) **where tenders have been invited only on the basis of unit prices or a schedule of rates and the lowest in aggregate is not the lowest on all items; or**
 - (iv) **where the lowest submitted tender or the most economically advantageous tender (where this is the award criterion) contains conditions, trading terms, specification, performance, guarantees, or service delivery less favourable than in other tenders, or than stipulated for and this defect appears capable or being remedied by post-tender negotiations.**
- (b) **In carrying out Post Tender Negotiations the Authority should follow the procedures set out in the Appendix to these Standing Orders.**

~~11. Negotiated Tender~~

- ~~(a) This Standing Order applies where the tenders for a contract are to be obtained by negotiated tender.~~
- ~~(b) At least 14 days public notice must be given in:

 - ~~(i) one or more local newspapers; and~~
 - ~~(ii) wherever the estimated value of the contract exceeds £100,000 in one or more newspapers or journals circulating among persons or bodies who undertake such contracts.~~~~
- ~~(c) The notice must state what the contract is for and where further details may be obtained, invite tenders for its execution and state the last date and time when tenders will be received.~~

Tenders

~~12~~**17. Invitations to Tenders**

- (a) Every invitation to tender must specify the latest day and hour and the place appointed by the Chief Executive for the receipt of tenders and must state the effect of Standing Order ~~13~~**18**.

- (b) On receipt, envelopes containing tenders must be date and time stamped and kept by the Chief Executive until they are opened.
- ~~(c) Persons to whom tender documents are sent must be asked to acknowledge receipt.~~

4318. Invalid Tenders

- (a) An invalid tender must not be accepted, unless otherwise agreed by the **Authority or** appropriate committee, or by the Chief Executive in conjunction with the Chairman or in the Chairman's absence Vice-Chairman of the **Authority or** appropriate committee.
- (b) A tender will only be valid if it has been delivered to the place appointed by the Chief Executive not later than the appointed day and hour sealed in the pre-printed envelope provided by the Authority for this purpose.
- (c) A tender will not be valid if the envelope bears any name or mark indicating the sender.

4419. Opening of Tenders

- (a) Tenders received under one of Standing Order ~~8, 9, 10 or 11~~ **13, 14 or 15** must be opened at the same time and only in the presence of at least two officers of the Authority designated for the purpose by the Chief Executive, **one of whom must be the Director of Corporate Services, Head of Finance or Senior Finance Assistant**. The officers present at the opening must sign and date a summary of tenders received.
- (b) Any tender received at the appointed place later than the day and hour specified under Standing Order ~~4217~~ may be opened and recorded on the summary of tenders stating the circumstances. The tender must be rejected unless it is subsequently approved by the appropriate committee, or the Chief Executive in consultation with the Chairman or in the Chairman's absence Vice-Chairman of the **Authority or** appropriate committee.
- (c) The Chief Executive must retain all tenders received, including any invalid tenders, and their envelopes for a period of two years from the return date. The accepted tender must be retained for six years after the final contract payment.

4520. Acceptance of Tenders

- (a) The Chief Executive may only accept the ~~most financially advantageous tender~~ **tender which best meets the award criteria** except where otherwise agreed by the **Authority or** appropriate committee, or the Chief Executive in consultation with the Chairman or

in the Chairman's absence Vice-Chairman of the **Authority or** appropriate committee.

- (b) Acceptance of tenders must be in writing and signed by the Chief Executive or an officer designated by the Chief Executive for that purpose.
- (c) The Chief Executive ~~must~~ **will on request** inform the unsuccessful tenders of the name of the successful tenderer and (where practical) the amount of the tender accepted. Late tenderers will not be informed.

4621. Errors or Discrepancies in Tenders

- (a) Where examination of tenders reveals errors or discrepancies which would affect the tender figure in an otherwise successful tender, the tenderer must be provided with written details of each error and discrepancy. The tenderer will be afforded the opportunity either:
 - to confirm in writing and accept the error if it is in the Authority's favour;
 - to correct the error(s) and to revise the tender downwards. Any revisions must be confirmed in writing;
 - to withdraw the tender. This must be confirmed in writing.
- (b) Tenders must not be revised upwards.
- (c) Errors and discrepancies in unsuccessful tenders must not be revised even if after correction they would make the tender successful.
- (d) If the tenderer withdraws, the next tender in competitive order is to be examined and then dealt with in the same way.
- (e) Any exception to this procedure may be authorised only by the **Authority or** appropriate committee, or the Chief Executive in consultation with the Chairman or in the Chairman's absence Vice-Chairman of the **Authority or** appropriate committee.

Contracts Exceeding the EU Threshold

22. If the estimated value of any contract is likely to exceed the relevant EU limit, then legal advice must be sought regarding the procedures which need to be followed in the letting of the contract.

NOTE: As at August 2007 the relevant thresholds are as follows:

- **£3,611,474 for works contracts; and**
- **£144,459 for services and supplies contracts.**

Framework Arrangements

23. A Framework Arrangement is a formal tendered arrangement which sets out terms and conditions under which specific purchases can be made throughout the term of the agreement, and supplies, services or works are procured from the successful tenderer in unpredicted quantities at various times during the period that the agreement is in force.

If at any time the Authority proposes to enter into a Framework Arrangement for the provision of goods or services, then legal advice must be sought in respect of the procedures which need to be followed in the awarding and letting of the contract.

Miscellaneous Matters

4724. A register of all contracts over £5,000 placed by the Authority must be kept and maintained by the Chief Executive. For each contract the register must specify the name of the contractor, the works to be executed or the goods to be supplied and the contract value. It must be open to inspection by any member of the Authority.

4825. Pecuniary *Financial* Interests of Officers

The Chief Executive must record in the Register of Officers' Interests details of any notice given to the authority by an officer under Section 117 of the Local Government Act 1972 of a ~~pecuniary~~ ***financial*** interest in a contract. The Register must be open during office hours for inspection by any member of the Authority.

4926. Supervision of Contracts by Third Parties

- (a) It must be a condition of any contract between the Authority and any person (not being an officer of the Authority) who is required to supervise a contract on behalf of the Authority that in relation to that contract the requirements of these Standing Orders must be complied with as if that person were the Chief Executive.
- (b) Such person must:
 - (i) at any time during the carrying out of the contract produce to the Chief Executive on request all records maintained in relation to that contract;
 - (ii) on completion of the contract transmit all records to the Chief Executive.

207. Nominated Sub-Contractors and Suppliers

Where a sub-contractor or supplier is to be nominated to a main contractor, the following rules apply:

- (a) Where the estimated amount of the sub-contract or the estimated value of the goods to be supplied by the nominated supplier does not exceed £25,000 quotations must be invited for the nomination in accordance with Standing Order ~~5 or 6~~ **9 or 11** unless the Chief Executive considers in respect of any particular nomination that it is not reasonably practical to obtain competitive quotations.
- (b) Where the estimated amount of the sub-contract or the estimated value of the goods to be supplied by the nominated supplier exceeds £25,000 – tenders must be invited in accordance with one of Standing Order ~~8, 9, 10 or 11~~ **13, 14 or 15** unless the Authority or appropriate Committee decides in respect of any particular nomination that it is not reasonably practicable to obtain competitive tenders.
- (c) Standing Orders ~~12 to 16~~ **17 to 21** apply to tenders received under this Standing Order.
- (d) Sub-Contractors or suppliers must send with their tender an undertaking that if they are selected they will (i) be willing to enter into a contract with the main contractor and (ii) indemnify the main contractor in respect of the sub-contracted works or materials.
- (e) The Chief Executive must nominate to the main contractor the person whose quotation or tender ~~is the most financially advantageous~~ **best meets the award criterion**. Where ~~the~~ **it is proposed to award the** quotation or tender of the person to be nominated is not the most financially advantageous, **to a person whose quotation or tender does not best meet the award criterion**, the circumstances must, before any nomination is made, be reported:
 - (i) in the case of quotations under paragraph (a) above, ~~to the Chairman or in the Chairman's absence Vice-Chairman of the appropriate Committee who may require the matter to be reported to the next meeting of that~~ **the Authority or appropriate Committee; or**
 - (ii) in the case of tenders under paragraph (b) above, ~~to the appropriate Committee.~~ **be agreed, before any nomination is made, by the Authority or appropriate committee or, in cases of emergency, by the Chief Executive in consultation with the Chairman or in the Chairman's absence Vice-Chairman of the Authority or appropriate committee.**

24.8. Contract Conditions

- (a) Every contract which exceeds £5,000 in value or amount must:
 - (i) be in writing and signed by the Chief Executive or an officer designated by the Chief Executive for the purpose;

- (ii) specify the goods, materials or services to be supplied and the work to be executed, the price to be paid together with a statement as to the amount of any discounts or other deductions, the periods within which the contract is to be performed and such other conditions and terms as may be agreed between the parties; and
- (iii) in appropriate cases, where a contract exceeds £100,000 in amount or value, provide for the payment of liquidated damages by the contractor for failure to complete the contract within the time specified;
- (iv) include a clause prohibiting the contractor from transferring or assigning or sub-letting to any person any portion of the contract without the written permission of the Authority signed by the Chief Executive;
- (v) where applicable, require the contractor to indemnify the Authority against claims in respect of employers' liability and/or public liability. The ~~minimum~~ **amount normally** required for public liability insurance cover is £5,000,000;
- (vi) **where applicable, for example where professional advice is being given, require the contractor to indemnify the Authority against claims in respect of matters relating to the advice or service provided. The amount normally required for professional indemnity insurance is £5,000,000;**
- (vii) **where appropriate include a clause giving tenderers the opportunity to state how much the required insurance would cost if they do not have it already in place. This must then be added to the cost of the tender;**
- (viii) state that all goods, materials and work must comply with any relevant British Standards Specification or Code of Practice in force at the date of the quotation or tender;
- (ix) state that the Authority can cancel the contract and recover any resulting losses if the contractor or the contractor's employees or agents, with or without the contractor's knowledge:
 - (a) does any thing improper to influence the Authority to give the contractor the contract; or
 - (b) commits an offence under the Prevention of Corruptions Acts 1889 to 1916 or Section 117(2) of the Local Government Act 1972.

- (b) *Where it is considered that the total amounts of insurance, as set out in paragraphs 28 (v) and 28 (vi), are not considered to be appropriate or necessary the Chief Executive may approve deviations to this figure.*
- (c) *It is good practice to ask tenderers for a certified copy of the public liability and/or professional indemnity insurance, especially from new or unknown contractors.*
- (bd) Every contract over £100,000 must be under seal.
- (ee) The Authority may also require a contractor to give sufficient security for completing the contract.

229. VAT

All the financial limits contained within these Standing Orders exclude VAT where it is payable.

2330. Review

The Authority will review these Standing Orders at intervals not exceeding three years.

2431. Interpretation

In these Standing Orders, unless the context otherwise requires:

- (a) “appropriate ~~C~~committee” means the ~~C~~committee or ~~S~~sub-~~C~~committee to which the power to make the contract has been delegated;
- (b) “most ~~financially~~ **economically** advantageous” normally means the lowest if payment is to be made by the Authority and the highest if payment is to be made to the Authority, but should also take into account quality and other measures, **which will be set out in the evaluation criteria and** which should ~~where appropriate~~ be specified in advance of the contract evaluation. In such cases the method of scoring such measures and the weighting of evaluation will be clearly set out in the contract specification.
- (c) “Person” includes a partnership, body corporate or unincorporated association.

RGH/DJW/RG/8 June 2004

NOTE: All references to the Chief Executive in this document apply to that person and his/her nominated representative, who are the Treasurer and Financial Adviser, Director of Corporate Services and Head of Finance, and any other officers who are authorised to act in particular circumstances in accordance with the Powers Delegated to the Chief Executive – Arrangements for the Exercise of Powers by Other Officers.

Post Tender Negotiations

Procedural Rules

1. In Post Tender Negotiations carried out under Standing Order 16:
 - (a) Where price is the award criterion the tenderers submitting the lowest tender and all those the value of which is within 5% of the lowest tender or, if there is no such tender, the tenderer submitting the second lowest, may be invited to participate in Post Tender Negotiations.
 - (b) Where the most economically advantageous tender is the award criterion the tenderers submitting the most economically advantageous tender and the second most economically advantageous tender may be invited to participate in Post Tender Negotiations.
2. Post Tender Negotiations may only be authorised by the Chief Executive. In the case of contracts with an estimated value exceeding £25,000 the Chief Executive must also consult the Solicitor who must thereafter be notified of the time and venue of all negotiations carried out and who will be entitled to be represented at any such negotiations.
3. In the case of all Post Tender Negotiations the senior officer carrying out the negotiations must record in writing the objective to be secured by such negotiations and forward a copy of this record to the Head of Finance and, for contracts with an estimated value exceeding £25,000, the Solicitor.
4. Unless other arrangements are specifically agreed by the Chief Executive, all negotiations must take place at the Authority's premises with both the tenderer and the relevant officers of the Authority present.
5. During negotiations with the tenderer there must always be present at least two officers of the Authority.
6. A note of the negotiations will be made by one of the officers present recording those present, the time and location of the negotiations, details of the discussion and any agreement reached. The note shall be signed by all officers present and will be kept on file with a copy sent to the Head of Finance and for all contracts with an estimated value exceeding £25,000, the Solicitor.
7. At no time must a tenderer be informed of the detail of any other tender submitted or as to whether or not the tender submitted was the lowest or the most economically advantageous tender (where this is the award criterion).
8. Acceptance of tenders following Post Tender Negotiations must be in accordance with Standing Orders except that the Chief Executive must also

inform the Solicitor of the name of the successful tenderer and of the tender price regardless of the estimated value of the contract.

9. The Solicitor will maintain a record of all post tender negotiations relating to contracts with an estimated value in excess of £25,000. This record must show the date of the tender, the date of any Post Tender Negotiations, the names of tenderers involved in negotiations, the original price, the revised price, the revised specification, the names of the officers involved and details of the contract awarded. The Solicitor will report annually to the Authority, giving a summary of all the Post Tender Negotiations which have been approved.
10. Legal advice should be sought where the officer dealing with this matter is under any uncertainty regarding the procedure to be followed.