

1. INTRODUCTION

1.1. The need for these Regulations

The purpose of Contract Regulations is to set clear rules for the procurement of goods, works and services for the Authority. This will ensure a system of openness, integrity and accountability where the probity and transparency of the process will be beyond reproach. In turn this will lead to better value for money and give confidence to all concerned that the Authority is fulfilling its fiduciary responsibilities.

1.2. Interpretation

In these Contract Regulations the words and phrases listed below shall be interpreted as stated, unless the context requires otherwise.

- 1.2.1. "Authority" means Lincolnshire Police Authority.
- 1.2.2. "Chief Constable" means the Chief Constable of Lincolnshire Police, or the Deputy Chief Constable of Lincolnshire Police acting on the Chief Constable's behalf. "Clerk" means the Clerk of Lincolnshire Police Authority.
- 1.2.3. "Contract" means an agreement entered into by two or more willing parties for the provision of goods and/or services in return for some form of consideration, normally money, which is intended to be legally enforceable. In principle an oral agreement is as valid and effective as a written agreement, consequently great care should be taken when discussing requirements with contractors/suppliers.
- 1.2.4. "Estimated Value" means the value of the Contract estimated under these Contract Regulations.
- 1.2.5. "EU" means European Union.
- 1.2.6. "Framework Arrangement" means a centrally negotiated enabling arrangement. A Framework Arrangement in itself is not a binding Contract on the Authority but each and every order placed by the Authority against the Framework Arrangement contractor(s)/suppliers(s) are deemed to form a binding Contract(s) between the two parties.
- 1.2.7. "HQPU" means Headquarters Procurement Unit.
- 1.2.8. "Officer" includes both police officers and police staff whether directly employed or employed through an agency or other form of contract.
- 1.2.9. "Quotation" means a quotation of price and any other relevant matter without the formal issue of a Tender.
- 1.2.10. "Tender" means a suite of formal documents sent to contractors/suppliers from among either:
 - a) those responding to advertisement of the Contract inviting proposals;
or
 - b) those included on a select or approved list in respect of the type of purchase which is the subject of the Tender.

- 1.2.11. "Treasurer" means the Treasurer of Lincolnshire Police Authority.
- 1.3. All limits within these Contract Regulations exclude any Value Added Tax (VAT) which may be payable.

2. APPLICATION

- 2.1. Every Contract made relating to the execution of works, goods or services shall comply with these Contract Regulations and the Authority's Financial Regulations.
- 2.2. The Chief Constable shall prepare a Code of Practice for Contract Procedures that will supplement these Contract Regulations and shall apply to all Departments, units and establishments of the Authority and Force. The Code of Practice shall be approved by the Clerk.
- 2.3. All Officers and firms engaged to act in any capacity to manage or supervise a Contract, must comply with these Contract Regulations and the Authority's Financial Regulations, and the Chief Constable must ensure such compliance.
- 2.4. All Officers, and firms engaged on the Authority's behalf, must ensure that any conflicts of interest are avoided. The Clerk should be notified in writing of any potential conflicts of interest immediately.
- 2.5. In entering into any Contract on behalf of the Authority, an Officer must obtain the best value for money for the Authority by ensuring that the market has been explored and where possible, tested competitively either by the Authority or by a consortium on its behalf. A key component in assessing value for money will be the perceived quality of the goods or services offered by the tenderer.
- 2.6. The Authority should ensure that it secures best value for money. This will not necessarily be the Quotation/Tender with the lowest price but is a balance between quality, performance, risk and cost. Evaluation considerations may differ and the balance between the criteria used may be unique to the particular requirement, but will invariably involve the above four elements.
- 2.7. Subject to Section 3, no exception to these Contract Regulations can be made unless authorised by the Finance and Strategy Committee or approved by the Clerk or Treasurer and subsequently reported to the Finance and Strategy Committee. The Chief Constable shall maintain a register for any such exceptions.

- 2.8. Any Officer, member or agent of the Authority, whilst acting on the Authority's behalf in relation to any contractual matter directly or indirectly concerning the Authority, shall conduct themselves in such a manner that the independence and integrity of the Authority's procedures are at all times maintained and are seen to be maintained. Failure to observe such standards of conduct will be regarded by the Authority with the utmost gravity.
- 2.9. The engagement of consultants and other professional advisors must be in accordance with these Contract Regulations.
- 2.10. These Contract Regulations apply to Framework Arrangements so far as is practicable and the Chief Constable must organise Framework Arrangements accordingly to reflect best value.
- 2.11. These Contract Regulations do not apply to internal Authority business where one part of the police Authority's staff provides a service to another. These arrangements should achieve best value and should be covered where appropriate by service level agreements.
- 2.12. Every Contract made by the Authority shall comply with European Law and National Law. Whenever European or National Law conflicts with Authority Contract Regulations and Financial Regulations, then that law shall take precedence.
- 2.13. These Contract Regulations apply when the Authority engages the services of an external organisation or individual who are permitted by the Authority to act as its agent in letting Contracts on behalf of the Authority and when acting on behalf of or in partnership with other Authorities or private sector partners. No agent shall make any decision on whether to award a Contract or to whom a Contract should be awarded.
- 2.14. Award of Contracts for the purchase of goods and services must be in writing. The written format will be appropriate to the Contract and will be on the Authority's official purchase order forms current at the time or other arrangements/documents agreed by the Clerk or Treasurer.
- 2.15. The Authority is the contracting party for all Contracts.
- 2.16. Any transaction that exceeds £100,000 and which does not fall under the strategy outlined for the year in the policing plan and/or the capital or revenue budget for the year, shall be subject to the prior approval of the Finance and Strategy Committee.

3. EXCEPTIONS

- 3.1. If the Contract is one of the following types of Contract it is not covered by these Contract Regulations:

- 3.1.1. For the employment of an individual employee. [Section 4.4 of the Financial Regulations].
- 3.1.2. For goods or materials to be purchased at an auction or any other consortium or association of which the Authority is a member. [Paragraph 4.3.6 of the Financial Regulations].
- 3.1.3. Where compliance with Contract Regulations would have security implications. Any security implications should be agreed between the Chief Constable and the Clerk and recorded.
- 3.1.4. Relating solely to the disposal or acquisition of an interest in land [Paragraphs 3.6.6 – 3.6.8 of the Financial Regulations].
- 3.1.5. For the lending or borrowing of money [Paragraphs 3.7.1 to 3.7.5 of the Financial Regulations].

4. DELEGATED PURCHASING

- 4.1. Any procurement carried out on behalf of the Authority may only be undertaken by Officers with the appropriate delegated authority to carry out such tasks as set out in the Chief Constables scheme of delegation. Officers with delegated authority may only delegate to other Officers who have the appropriate skills and knowledge appropriate to the task.

5. THE PROCESS TO BE FOLLOWED

PRE PROCUREMENT PROCEDURE

- 5.1. Before commencing procurement it is essential that the need for procurement is identified and fully assessed together with any options for meeting these needs. Before undertaking a procurement the following shall be considered:
 - 5.1.1. all other means of satisfying the need (including recycling and re-issue where appropriate);
 - 5.1.2. whether there is an appropriate Framework Arrangement that should be used whether it be a force Contract or police, government, local authority or other approved agency agreement / Contract; and
 - 5.1.3. a business case shall be established for the procurement where the estimated value exceeds £50,000.
- 5.2. Where an approved Framework Arrangement or Contract has been entered into by the Authority, their use, will, if so advised by HQPU or another HQ Department be utilised. Failure to use such Framework Arrangements / Contracts may place the Authority and/or the individual in contravention of European Procurement Law and/or Health and Safety legislation and possible risk of prosecution.

ESTIMATING THE CONTRACT VALUE

- 5.3. Contract values should be calculated in order to determine the overall estimated value of the Contract, for the period of the Contract prior to the procurement process. "Whole life costs" relating to the Contract must be taken into account for the period of the Contract; this will include quantity costs, labour costs, carriage/package costs, all installation costs, training costs and maintenance/support costs.
- 5.4. The subdivision of Contracts to minimise the total value of the Contract is not permissible.

LOW VALUE PROCUREMENT (PURCHASES LESS THAN £1,000)

- 5.5. Competitive Quotations are not required for Contracts with an estimated value of below £1,000. A written or oral Quotation shall be obtained from at least one supplier. Quotations received by post, facsimile or electronically are acceptable.

INTERMEDIATE VALUE PROCUREMENT (PURCHASES BETWEEN £1,000 AND £10,000)

- 5.6. For Contracts with an estimated value over £1,000 and less than £10,000, a minimum of three written Quotations for each purchase will be sought. Quotations are to be assessed and evaluated and details of the evaluation and reasons for selection recorded in writing. Quotations by post, facsimile or electronically are acceptable provided that they are to a specified address and a deadline for receipt of Quotations is laid down.
- 5.7. Contracts up to £10,000 will be awarded by means of the current purchase order form, specifying the services, supplies or works required as well as the price and terms of payment. Orders can be communicated by facsimile, post and electronically if such facilities exist.
- 5.8. Under no circumstances should documentation containing contractors/suppliers' contractual terms be signed by Officers. Any such requests should be forwarded to HQPU for action as appropriate.
- 5.9. If the lowest Quotation obtained exceeds £10,000, HQPU should be contacted to agree further action.

HIGH VALUE PROCUREMENT (PURCHASES GREATER THAN £10,000)

- 5.10. HQPU will decide the appropriate procurement process for any procurement in excess of £10,000. HQPU will maintain the Forces Contracts register.

- 5.11. Where the Contract estimated value exceeds the current EU threshold then the Contract must be tendered in accordance with the EU regulations and subsequent UK regulations.
- 5.12. For all procurements valued at above £10,000:
 - 5.12.1. A request to invite competition in a format agreed by the Chief Constable and Clerk shall be completed.
 - 5.12.2. Prior to the commencement of the Contract procedure HQPU shall develop the procurement approach, including the evaluation criteria to be applied.
- 5.13. Formal Tenders will be obtained for all purchases above £10,000.
- 5.14. A minimum of three Tenders for each requirement will be sought by direct invitation and / or if appropriate or required, public advertisements. The number of Tenders sought for purchases will be subject to EU Regulations and subsequent UK Regulations and will be in accordance therewith.

6. FORMAL TENDER PROCESS (PURCHASES OVER £10,000)

PRE-TENDER

- 6.1. HQPU shall determine the correct Tender process to follow i.e. open/advertisement, select list or EU regulations and subsequent UK regulations and shall undertake the Tender process.
- 6.2. HQPU shall ensure compliance with all of the procedures set out in the relevant EU Regulations and subsequent UK regulations including:
 - 6.2.1. Inserting at each stage the requisite Notices in the Official Journal of the European Union.
 - 6.2.2. Applying all relevant time limits correctly.
 - 6.2.3. Issuing the correct number of invitations to Tender.
 - 6.2.4. Not rejecting abnormally low prices without first giving the tenderer(s) the opportunity to explain their Tender(s).
 - 6.2.5. Complying with all appropriate technical requirements.

TENDER PROCESS

- 6.3. Where appropriate advertisements will be placed in the necessary publications/journals.
- 6.4. A formal Contract file will be established and maintained.
- 6.5. Details of the Tender documentation will be sent to the interested / selected tenderers, by post, or dependant on the circumstances by facsimile or electronic means. Confirmation of receipt of Tender documents will be requested.

- 6.6. The invitation to Tender will contain a time and closing date for receipt of Tenders. Dependant on circumstances facsimile or electronic Tenders may be considered in accordance with procedures agreed between the Chief Constable and Clerk.
- 6.7. A Tender schedule will be prepared, this will include the names of the tenderers, the subject, closing date, and estimated value, a copy of this schedule will be sent to the Committee/General Services Manager for information.
- 6.8. Any queries in connection with Tenders from tenderers must be submitted in writing. Unless the query is of a minor administrative nature, any response will be transmitted to all the tenderers invited to Tender.

VALIDITY OF TENDERS

- 6.9. A Tender shall not be valid unless it has been submitted in accordance with the instructions given in the invitation to tender.
- 6.10. An invalid Tender shall not be accepted.

RECEIPT OF TENDERS

- 6.11. Tenders received in the mail room or reception must be dated and time stamped and initialled by the recipient. Receipts must be issued to any person delivering a Tender. Tenders must not be opened, but must be sent to the Committee/General Services Manager for safe custody until the Tenders are due to be opened.

OPENING OF TENDERS

- 6.12. Tenders will only be opened after the date and time deadline for receipt of Tenders has passed.
- 6.13. Tenders must be opened in the presence of two witnesses including;
- a) a representative from HQPU; and/or
 - b) an independent representative(s) from a Department not requesting the procurement.

Representatives of the Division/Department instigating the requirement will not be permitted to open the Tenders.

- 6.14. Tenders must be checked on opening to ensure that all the required documentation is included and details entered onto the Tender schedule, the original Tender submission prices must be initialled by the two witnesses and the Tender schedule must be signed and dated by the two witnesses. Where no Tender is received or a tenderer has declined to Tender this must also be recorded and initialled on the Tender schedule. Tenders will then be forwarded to HQPU, along with the Tender schedule.

- 6.15. Late Tenders may be considered if the Tender panel are satisfied that there is evidence of posting or proof of delivery prior to the time and closing date for receipt of Tenders. If necessary guidance should be sought from the Head of Corporate Administrative Services. Any Tender subsequently rejected shall be returned promptly to the tenderer by HQPU endorsed with the date, time and place of receipt and reasons why the Tender was rejected.
- 6.16. Tender envelopes do not have to be retained unless they are required as evidence to support acceptance or rejection of a late Tender.

TENDER EVALUATION

- 6.17. Following the opening of Tenders, HQPU will evaluate them against the specification and any pre agreed criteria (Section 8).
- 6.18. For all Tenders with estimated value in excess of £100,000 reports and analysis of the financial status will be carried out by the Finance Department. For Tenders with an estimated value of less than £100,000 an analysis of the financial status may be requested from the Finance Department.

ARITHMETICAL ERRORS RELATING TO TENDERS

- 6.19. If arithmetical errors are found they should be identified and the tenderer(s) notified in writing. The tenderer(s) concerned should be asked to provide written confirmation that the corrected figures will stand as part of the overall bid.

POST TENDER CLARIFICATION

- 6.20. Clarification of Tender submissions will be undertaken by HQPU, any subsequent discussions with a tenderer(s) regarding their Tender submission(s) must only be undertaken in the presence of HQPU.

AWARD OF CONTRACT

- 6.21. A recommendation will be prepared and approval to accept a Tender(s) and enter into a Contract will be obtained from the appropriate level of authority (Appendix B), subject to paragraph 2.16.
- 6.22. Decline letters will be issued to all the unsuccessful tenderers.
- 6.23. Debrief of unsuccessful tenderers will be undertaken on request.
- 6.24. All documentation relating to the formal Tender process will be retained for reference/audit purposes in accordance with Force Document Retention Policies.

- 6.25. In the case of an EU procurement Tender exercise HQPU will place an award notice in the Official Journal of the European Union (OJEU) within 48 days from award of Contract.

FORM OF CONTRACT

- 6.26. HQPU will inform the successful tenderer(s) and prepare a Contract, seeking advice from the Force Solicitor and/or Clerk, if necessary.
- 6.27. The Contract will be signed by the appropriate level of authority as shown at Appendix B, subject to paragraph 2.16.

7. EXEMPTIONS FROM OBTAINING COMPETITIVE QUOTATIONS / TENDERS

- 7.1. Exemptions from obtaining competitive Quotations / Tenders are only permitted in the following circumstances:
- 7.1.1. Where goods/services are proprietary and cannot be obtained from any other source.
- 7.1.2. Extreme urgency prevents the obtaining of Quotations/Tenders.
- 7.1.3. Where an existing Contract has an option to extend the Contract for a further pre-determined period.
- 7.1.4. Where a change of contractor/supplier would cause:
- a) disproportionate technical difficulties;
 - b) diseconomies; or
 - c) significant disruption to operational requirements.
- 7.1.5. Market knowledge and/or research suggest that only one contractor/supplier would be able to react in time.
- 7.1.6. The goods/services are being obtained from an approved police, government or local authority or other approved agency Framework Arrangement or Contract.
- 7.2. For any Contracts valued between £1,000 and £10,000 reasons for not obtaining competitive Quotations will be recorded in writing and retained with the Purchase Order after authority has been obtained from the Divisional Commander/Departmental Head or their delegated representative.
- 7.3. For any Contracts above £10,000 reasons for not obtaining competitive Tenders will be recorded on the "Authority to take Exceptional Purchase Action and Purchase from a Single Source" form. Approval for such action will be taken by the Chief Constable, Deputy Chief Constable or Assistant Chief Constable.

7.4. Any Contracts above £10,000 where a competitive Tender is not sought will be reported to the Finance and Strategy Committee.

8. DECIDING THE EVALUATION CRITERIA

- 8.1. Before any Tender is sought the evaluation criteria to be used when Tenders are received should be decided and recorded.
- 8.2. The evaluation criteria, dependant upon the complexity of the product/service being purchased, should consider in addition to price, service, quality of the goods, running costs, technical merit, previous experience of the contractors/suppliers under evaluation, delivery dates, cost effectiveness, relevant environmental considerations, aesthetic and personal characteristics, safety, after sales service, technical assistance and any other relevant matters.
- 8.3. A report shall be made to the Authority of any Contract not awarded to the lowest bidder. In addition the approval of the Authority shall be required in the circumstances set out in Appendix A.

9. CONTRACT VARIATIONS

- 9.1. Every variation to a Contract shall be specifically authorised in writing by the Officer having charge of the work and in accordance with delegated authorities, as set out in the Financial Regulations, and shall be notified in writing to the contractor.

10. CONTRACT EXTENSIONS

- 10.1. Approval to proceed with the extension of existing Contracts for goods and/or services with a value in excess of £100,000 must be sought from the Finance and Strategy Committee prior to commencement of any extension period.

11. PAYMENTS, AUTHORISATION, MONITORING

- 11.1. The Chief Constable shall keep a register of Contracts and payments made thereunder in a form agreed with the Treasurer.
- 11.2. The Chief Constable shall ensure that, in line with current accepted practice, insurance and bonds are entered into by the contractor/supplier.

- 11.3. The Chief Constable may at his discretion withhold payment of any sums purporting to be due on a Contract until the terms of the Contract have been complied with and may set off any sums due from a contractor/supplier to the Authority against any sum due from the Authority to the contractor/supplier.
- 11.4. Payments on account to a contractor/supplier shall be authorised only on a certificate signed by an Officer authorised for such purpose by the Chief Constable and shall be in a format agreed by the Treasurer. Except with the prior written approval of the Treasurer no certificate shall be issued certifying a total value of work to date in excess of the Contract figure.
- 11.5. The final certificate for payment in respect of any Contract shall not be issued until the Treasurer or his nominated representative has been issued with a detailed statement of account and all relevant documents for his examination.
- 11.6. Claims from a contractor/supplier in respect of matters not clearly within the terms of any existing Contract which exceed £10,000, shall be referred to the Clerk for consideration of the Authority's legal liability and to the Treasurer for financial consideration before a settlement is reached.

12. CONTRACT TERMINATION

- 12.1. Where completion of a Contract is delayed, it shall be the duty of the supervising Officers concerned to initiate appropriate action in respect of any claim by the Authority for liquidated damages and report the matter to the Clerk and the Treasurer.
- 12.2. For any Contract exceeding £100,000 in value, early termination shall be approved by the Finance and Strategy Committee. Contracts of a lesser value may be terminated early by prior agreement or in accordance with the termination provisions set out in the Contract. Legal advice should be sought as appropriate.

13. PECUNIARY INTERESTS

- 13.1. If it comes to the knowledge of any member/Officer that a Contract in which he has any pecuniary interest, whether directly or indirectly (not being a Contract to which he himself is a party) has been or is proposing to be entered into by the Authority, he/she shall as soon as is practicable, inform the Chief Constable and Clerk in writing. The Clerk shall record the particulars in a book to be kept by him/her for that purpose which shall be open during office hours for the inspection of any member of the Authority.

14. REPORTS TO THE POLICE AUTHORITY

- 14.1. Contracts awarded with a value in excess of £100,000 must be reported to the Finance and Strategy Committee.
- 14.2. At the conclusion of each Contract for building, constructional or engineering work a report shall, after agreement of the final account, be submitted to the Authority, where the final account exceeds the approved Contract sum by more than 5%; this report shall detail the reasons for any variance from the Contract price.

15. REVIEW AND AMENDMENT OF CONTRACT REGULATIONS

- 15.1. These Contract Regulations shall be reviewed and updated on a regular basis by the Clerk, not less than annually.
- 15.2. Amended Contract Regulations shall be agreed and adopted by the Authority.

APPENDIX A –APPROVAL TO AWARD CONTRACTS TO OTHER THAN THE LOWEST OFFER

SCENARIO A

Total Contract sum is in excess of £10,000; **and**

The value of the preferred offer is in excess of £10,000 of the cheapest offer.

Written approval from the Finance and Strategy Committee and reported in the annual procurement report.

SCENARIO B

Total Contract sum is in excess of £10,000; **and**

The difference between the preferred and cheapest offer is over £1,000 but less than £10,000.

Written approval from the Treasurer and reported in the annual procurement report.

SCENARIO C

Total Contract sum is in excess of £10,000; **and**

The difference between the preferred and cheapest offer is less than £1,000.

Written approval from HQPU and reported in the annual procurement report to the Finance and Strategy Committee.

SCENARIO D

Total Contract sum is less than £10,000; **and**

The preferred offer is not the cheapest.

Written approval from the divisional / departmental manager, reasons for selection recorded and reported in the annual procurement report to the Finance and Strategy Committee.

APPENDIX B – CONTRACT APPROVAL AND AWARD LEVELS OF AUTHORITY

Contract value	Approval to award contract	Contract signature
Up to £10,000	Administration Manager/Head of Department or Delegated Representative	Administration Manager/Head of Department or Delegated Representative
Up to £25,000	Head of Division/Department initiating requirement	Procurement Officer
Up to £50,000	Head of Division/Department initiating requirement	Procurement Manager
Up to £100,000	Head of Division/Department initiating requirement	Head of Corporate Administrative Services
Above £100,000	Chief Constable / Deputy Chief Constable / Assistant Chief Constable / Treasurer	Force Solicitor