

AGENDA ITEM 5

CORPORATE AFFAIRS COMMITTEE

WEDNESDAY 28th JUNE 2006

REVISED PROCUREMENT FINANCIAL THRESHOLDS

HEAD OF SERVICE: PAUL SLOCOMBE, EXECUTIVE MEMBER: NICKY WALKER

PURPOSE OF THE REPORT

1. To seek approval to the proposals relating to the revision of procurement financial thresholds and the introduction of a new category specific to the appointment of consultants.

BACKGROUND

2. At the CMT meeting on 18th May 2006 the report procurement Issues included suggestions for changes to the current financial thresholds. CMT debated the figures and the need for sensible limits, which would protect the Council without placing un-necessary restrictions on services.
3. After a lengthy debate general agreement appeared to be reached on the revised proposals for goods and services, but identified an issue around the appointment of consultants.
4. As a compromise position it was suggested that rather than have a blanket increase across all categories it might be appropriate to introduce a separate category and threshold solely for the appointment of consultants. At the CMT meeting on 8th June 2006 CMT agreed the revised proposals detailed in this report.
5. In this case Consultancy will be taken to mean the appointment of firms, partnerships or practices offering their collective professional skills on a contract basis. It DOES NOT include agency or casual staff. A suggested guidance note

for the use of Consultants, Agency workers, Casual workers, Temporary and fixed term employment is appended at Appendix C.

6. To ensure that the use of consultants is monitored it is suggested that members require all services to notify the Strategic Commissioning & Procurement Unit (SCPU) in advance of appointing consultants, this would allow the correct use and annual spend to be monitored and recorded.

Consultation with Other Authorities

7. The original report included a comparison of the existing Middlesbrough financial thresholds with the other Tees Valley authorities and the levels were in the main very similar. Further consultation with the Tees Valley authorities has identified that Stockton already has a separate category for the appointment of consultants. Based on the Stockton figure already approved by District Audit a proposed revised Middlesbrough schedule is appended to this report

Consultation with Internal and District Audit

8. Consultation has taken place with both Internal Audit and District Audit; in both cases they are comfortable with the new proposed thresholds and the introduction of a separate category for consultants. The DA has provided written confirmation of this agreement.

Consultation with Members

9. The member of Resources has been consulted and agreed the proposals.

Standing Orders Financial Thresholds

10. Appendix A provides a comparison between the current Middlesbrough Financial thresholds required to trigger the appropriate procurement process for Goods and Services and other Tees Valley authorities. Appendix B makes proposals for revised Middlesbrough Financial threshold figures to be used when identifying the appropriate procurement route. If accepted by members it is also proposed that the threshold figures are increased each year in line with the RPI figure and a complete review is carried out every third year.

FINANCIAL, LEGAL AND WARD IMPLICATIONS

11. **Financial** – Where the financial thresholds refer to Middlesbrough requirements set out in standing orders the Council always has the option to waive the requirements in specific circumstances. However, where the thresholds refer to OJEU (European Procurement) limits these are compulsory and cannot be waived.
12. **Ward Implications** – No direct ward implications arising from this report.

13. **Legal Implications** – Failure to comply with OJEU requirements could lead to a legal challenge, any agreement or contract set aside and possible financial penalties being imposed on the Council.

RECOMMENDATIONS

14. That members agree the following
- a. The revised financial thresholds detailed in Appendix B
 - b. That they are increased in line with RPI inflation figures each year, with a complete review every 3 years.
 - c. That a separate category for the appointment of consultants is introduced
 - d. That services inform the Strategic Commissioning & Procurement unit prior to the appointment of consultants
 - e. A review of the application of the revised thresholds for consultants is undertaken during 2007 / 08

REASONS

15. The processes and procedures laid down in standing orders are not excessive and aimed at protecting both the council and employees. However, it is acknowledged that the current process is adding the delays in certain cases where specialist advice is required.
16. By adjusting the current financial thresholds, limits will stay in contact with market rates.

BACKGROUND PAPERS

The following background papers were used in the preparation of this report:

- **A Constitution for Middlesbrough Version 3, 2005**
- **Extracts from Redcar & Cleveland, Darlington, Stockton and Hartlepool standing orders**

AUTHOR: Ron Brown, Strategic Commissioning & Procurement Manager
TEL NO: 729181

Supply of Goods And Services	Process	Redcar	Darlington	Stockton	Hartlepool - current (Proposed)
Up to £3,399	Neither written quotations nor tenders need to be invited but Accounting instructions must be observed	Less than £15,000	Less than £5,000	Up to £6,000	Up to £5,000 (Up to £5000)
£3,400 - £34,999	At least 3 written quotations must be sought. Tenders can be sought but this is optional.	£15,000 - £50,000	£5,000 - £35,000	£6,001 - £50,000	£5,000 - £10,000 (£5,000 - £15,000)
£35,000 - £49,999	At least 3 tenders must be sought. Tender advert in one local paper	£50,000 - £144,371	£35,000 - £75,000 (4 quotations)	Above £50,001	Above £10,000 (£15,000 - £30,000)
£50,000 - £144,371	At least 3 tenders must be sought. Tender advert in one local paper and a suitable trade magazine.		£75,000 - £99,000 (1 local advert) £100,000 – EU (1 local advert & trade journal)		(£30,000 – EU)
Above £144,371 (EU threshold)	EU Procedure – OJEU notice At least 3 tenders must be sought ensuring the process complies with EU Directives. In addition adverts in one local paper and a suitable trade magazine.	Above £144,371 (EU threshold)	Above £144,371 (EU threshold)		(Above £144,371)

Appendix A. a comparison of current Middlesbrough Financial Thresholds with the other Tees Valley authorities

Appendix B – proposed Changes for Goods & Services

Supply of Goods and Services	Process	Proposed Supply of Goods and Services	Possible threshold for Consultants		
Up to £3,399	Neither written quotations nor tenders need to be invited but Accounting instructions must be observed	Up to £4999	Up to £14,999	Neither written quotations nor tenders need to be invited but Accounting instructions must be observed	
£3,400 - £34,999	At least 3 written quotations must be sought. Tenders can be sought but this is optional.	£5000 - £34,999	£15,000 to £49,999	At least 3 written quotations must be sought. Tenders can be sought but this is optional.	
£35,000 - £49,999	At least 3 tenders must be sought. Tender advert in one local paper	£35,000 - £100,000	£50,000 to £99,999	At least 3 tenders must be sought. Tender advert in one local paper and on the government web site Supply2.gov.uk	Advertising on the Government web site is free
£50,000 - £144,371	At least 3 tenders must be sought. Tender advert in one local paper and a suitable trade magazine.	Above £100,000	Above £100,000	EU Procedure – OJEU notice, Even if not a mandatory service At least 3 tenders must be sought ensuring the process complies with EU Directives. In addition adverts in one local paper	By deleting the requirement to advertise in a trade magazine a saving of around £800 per occasion will be realised
Above £144,371 (EU threshold)	EU Procedure – OJEU notice At least 3 tenders must be sought ensuring the process complies with EU Directives. In addition adverts in one local paper and a suitable trade magazine.				By deleting the requirement to advertise in a trade magazine a saving of around £800 per occasion will be realised

At this moment in time it is proposed not to change the existing threshold for Works.

APPENDIX C EXTRACT FROM RECRUITMENT & SELECTION GUIDANCE FOR MANAGERS

RECRUITMENT AND SELECTION

1.0 Vacancies and New Posts

When a post becomes vacant, or where a change has occurred resulting in the need for an additional or different post within the service, the manager should consider the need to fill the post and how it will be resourced.

When it is an existing post which has become vacant the manager should take the opportunity to review the duties, responsibilities and grade of the post to ensure these continue to be appropriate and meet the needs of the service. If the post is already shared on a job share basis, the remaining job sharer must be offered the remaining hours before the post is advertised.

Approval to appoint to an unchanged post must be sought from the appropriate Head of Service. Authorisation to release the post for advertising must be given by the Vacancy Panel. (See forms on the MBC Policies and Employment Information tile)

New or changed posts must first be created or changed via the Establishment Control procedure. (See forms on the MBC policies and employment information tile on Lotus Notes). These posts must also be evaluated under the job evaluation scheme.

When considering any other options the following guidelines must be followed;

1.1 Permanent, Temporary and Fixed Term Employment

Normal recruitment rules apply to the engagement of permanent, temporary and fixed term employees. Managers should note that, once employees have 1 years service they acquire some employment rights; after 2 years service they will be entitled to a redundancy payment on termination (whatever the nature of the contract). Similarly, temporary and fixed term employees are entitled to be considered for re-deployment options. This becomes an obligation on the employer once the employee has over 1 year's continuous service (to avoid potential claims of Unfair Dismissal). See the Redeployment procedure for guidance.(MBC Policies and Employment Information tile) All first tier (Corporate management team members) appointments should be arranged through the Director of Human Resources. Please contact Human Resources (HBS) for advice and guidance for Head of Service appointments. Most jobs are suitable for job share. Managers who believe the job is not suitable must first seek guidance from Human Resources (HBS)

NOTE: The appointment of employees on a temporary basis purely in order to assess their suitability before offering permanent employment is not justifiable or approved by the Council.

1.2 Casual Workers

Some Casual workers may be referred to as 'bank' or 'temporary register' workers. Their initial appointment must follow normal recruitment rules, i.e. advertisement, interviews references etc. Casual employment in some areas of work attracts a higher than normal rate of pay because an allowance for holiday pay is paid in addition to the hourly rate.

Casual contracts should **not** be issued in circumstances where a temporary contract would be more appropriate i.e. predicted or lengthy block periods of work, especially where the need is known to extend beyond four weeks. If a genuinely casual arrangement extends, because of unforeseen circumstances, beyond 4 weeks, managers should review the situation and issue a temporary contract unless the casual arrangement will cease in the immediate future.

1.3 Consultants

Consultants are self-employed or employed by a private company. Procurement rules must be followed in engaging consultants. Dependent on the value of the commission, quotations or tenders may be required. For the current thresholds refer to standing orders or the desktop guide to procurement accessible via the procurement tile on Lotus Notes. Standard tender documents for use when appointing consultants are available from Strategic Commissioning and Procurement. Where services wish to appoint a specific consultant the normal exemption from standing orders procedure must be followed and approval received for this prior to any appointment being made.

Consultancy arrangements are appropriate for short - term project work where the particular skills or other requirements are not available within the Council and recruitment / employment is not a reasonable option.

N.B. 'Consultant' is sometimes used as a job title for posts within the Council but in this section the term 'Consultant' applies only to those engaged from outside the Council.

1.4 Agency Workers

The use of agency workers carries an additional on-cost, and wherever possible should be avoided. It should, in any case, be restricted to brief periods and situations where the Head of Service agrees that:-

- the need is urgent, so a recruitment process is impractical, and/or

- the skills needed are known to be unavailable on the open market.

If agency workers are engaged for a brief period and the need then extends, efforts must be made to recruit a temporary employee wherever possible. As a general rule, if agency workers are often being used for continuous periods of more than 8 weeks, consideration should be given to using temporary employees, casual / temporary register / bank workers or overtime since would this be more appropriate and more cost effective.

The council is already able to take advantage of an existing NEPO (North East Purchasing Organisation) agency framework contract. When considering the appointment of agency staff please consult HBS procurement for the latest information on the services available and the companies covered. If this contract does not cover the specific service requirement, then subject to the value of the requirement, the appropriate procurement route via quotations or tenders will apply.

Note- The contracts with agencies should set out the terms and conditions relating to payment for travel. This should only apply to travel on council business and not to and from work. In cases where terms are not specified then the following shall apply.

Travelling rate – shall be the least amount allowed under the Authorities casual car allowance scheme in force at the time and is payable by the authority to the contractor per mile travelled by the temporary worker, whilst on business for the authority.