

WEST SUSSEX COUNTY COUNCIL

BUILDING CONTRACT DIRECTIVE

DATE: November 2016

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REFERENCE

TENDERS AND CONTRACTS

1. Standing Orders

When dealing with tenders and contracts compliance with Standing Orders is of the utmost importance and unauthorised departure from the requirements can lead to serious consequences.

Any doubts or difficulties must be identified at an early stage in order that appropriate action can be agreed and authorisation obtained to any action at variance with the normal requirements.

2. Forms of Contract

Reference should be made to the JCT2011 Practice Note 'Deciding on the appropriate JCT Contract 2011' when deciding on what contract to use.

Most contracts for building work or engineering services arranged by WSCC carried out using one of the following :

i) The JCT Standard Building Contract With Quantities 2011 (SBS/Q.)

Appropriate:

- For larger works designed and/or detailed by or on behalf of the Employer, where detailed contract provisions are necessary and the Employer is to provide the Contractor with drawings and bills of quantities to define the quantity and quality of the work
- Where a Contract Administrator and Quantity Surveyor are to administer the conditions

It can be used:

- Where the Contractor is to design discrete part(s) of the works (contractor's designed portion)
- Where the works are to be carried out in sections
- By both private and local authority employers.

ii) The JCT Standard Building Contract Without Quantities 2011 (SBC/XQ)

Appropriate:

- For larger works designed and/or detailed by or on behalf of the Employer, where detailed contract provisions are necessary and the Employer is to provide the Contractor with drawings and either a specification or work schedules to define adequately the scope and quality of the work and where the degree of complexity is not such as to require bills of quantities.
- Where a Contract Administrator and Quantity Surveyor are to administer the conditions

It can be used:

- Where the Contractor is to design discrete part(s) of the works (contractor's designed portion)

- Where the works are to be carried out in sections
- By both private and local authority employers.

iii) The JCT Intermediate Building Contract 2011 (IC2011)

Appropriate:

- Where the proposed building works are of a simple content involving the normal, recognised basic trades and skills of the industry, without building service installations of a complex nature or other complex specialist work.
- Where the works are designed by or on behalf of the Employer, fairly detailed contract provisions are necessary and the Employer is to provide the Contractor with drawings and bills of quantities, a specification or work schedules to define adequately the quantity and quality of the work
- Where a Contract Administrator and quantity Surveyor are to administer the conditions.

This contract provides more detailed provisions and more extensive control procedures than the Minor Works Building Contract (MW) but is less detailed than the Standard Building Contract (SBC)

Can be used:

- Where works are to be carried out in sections
- By both private and local authority employers
- Where provisions are required to cover named specialists

Not suitable:

- Where the Contractor is to design discrete part(s) of the works, even though all other criteria are met- consider the Intermediate Building Contract with contractor's design (ICD).

iv) The JCT Intermediate Building Contract with contractor's design 2011 (ICD2011)

Appropriate:

- Where the proposed building works are of a simple content involving the normal, recognised basic trades and skills of the industry, without building service installations of a complex nature or other complex specialist work.
- Where the works are designed, the requirements for the contractor's design of discrete part(s) are detailed by or on behalf of the Employer, and the Contractor is required to design those part(s) of the work (Contractor's Design Portion)
- Where fairly detailed contract provisions are necessary and the Employer is to provide the Contractor with drawings and bills of quantities, a specification or work schedules to define adequately the quantity and quality of the work
- Where a Contract Administrator and quantity Surveyor are to administer the conditions.

This contract provides more detailed provisions and more extensive control procedures than the Minor Works Building Contract with contractor's design (MWD) but is less detailed than the Standard Building Contract (SBC)

Can be used:

- Where works are to be carried out in sections
- By both private and local authority employers
- Where provisions are required to cover named specialists

Not suitable:

- As a design and build contract.

v) The JCT Minor Works Building Contract 2011 (MW2011)

Appropriate:

- Where the work involved is simple in character
- Where the work is designed by or on behalf of the Employer
- Where the Employer is to provide drawings and/or a specification and/or work schedules to define adequately the quantity and quality of the work
- Where a Contract Administrator is to administer the conditions

Can be used:

- By both private and local authority employers

Not suitable:

- Where bills of quantities are required
- Where provisions are required to govern work carried out by named specialists
- Where detailed control procedures are needed
- Where the Contractor is to design discrete part(s) of the works, even though all other criteria are met- consider the Minor Works Building Contract with contractor's design (MWD).

vi) The JCT Minor Works Building Contract with contractor's design 2011 (MWD2011)

Appropriate:

- Where the work involved is simple in character
- Where the work is designed and/the requirements for the contractor's design of discrete part(s) are detailed by or on behalf of the Employer, and where the Contractor is required to design those part(s) of the work (contractor's design portion)
- Where the Employer is to provide drawings and/or a specification and/or work schedules to define adequately the quantity and quality of the work
- Where a Contract Administrator is to administer the conditions

Can be used:

- By both private and local authority employers

Not suitable:

- As a design and build contract.
- Where bills of quantities are required
- Where provisions are required to govern work carried out by named specialists
- Where detailed control procedures are needed

vii) The JCT Design and Build Contract 2011 (DB2011)

Appropriate:

- Where detailed contract provisions are necessary and Employer's Requirements have been prepared and provided to the contractor.
- Where the Contractor is not only to carry out and complete the works, but also to complete the design
- Where the Employer employs an agent (who may be an external

consultant or employee) to administer the conditions.

Can be used:

- Where the works are to be carried out in sections
- By both private and local authority employers

Where the Contractor is restricted to design small discrete parts of the Works and not made responsible for completing the design for the whole works, consideration should be given to using one of the JCT contracts that provide for such limited design input by the Contractor and the employment of a Contract Administrator.

3. **Tender Process**

Contractors from the WSCC Framework or Select List of Tenderers are invited to tender electronically. This is arranged by WSCC Procurement Team.

All tenders must be invited this way.

4. **Inviting Tenders**

When inviting tenders it is important that tenderers comply with the Conditions of Tender and in particular with regard to returning priced Bills of Quantities, Schedules of Work or Contract Analysis etc., in accordance with the requirements set out on the form of tender. The Consultant is to be responsible for ensuring that all tender documents are complete and sent to WSCC Procurement Team prior to tenders being invited.

The Consultant will prepare all tender drawings, specifications and preliminaries and the draft contract documentation in duplicate.

Should amendment to the tender documents be found necessary during the tender period, notification must be given in writing to all tenderers as early as possible and with a definitive requirement that written acknowledgement must be submitted by return. WSCC Procurement Team will normally deal with this.

Avoid the need to extend tender return dates wherever possible by allowing a sufficient tendering period at the time of invitation. An inadequate tender period can result in high tenders and/or poor results.

Where it is necessary to extend the tender return date ensure that all tenderers are informed in writing and acknowledgement of receipt of the information obtained. WSCC Procurement Team will arrange this if the need arises.

5. **Inviting Quotations on Small Works**

For small works, normally works below the value of £10,000, it may be more appropriate to obtain competitive quotations, rather than to seek formal tenders. An audit trail should be maintained so that fairness in contractors' selection and the acceptance of the quotation that represents the best value for money can easily be checked.

WSCC has established procedures for obtaining quotations which are to be followed by Consultants

A standard formal letter of invitation for obtaining quotations has been prepared within WSCC – E366, and this format is to be used wherever possible.

Record of Quotations Requested Form D371 should be completed to provide an audit trail. Consultants are to assist WSCC in the completion of this record

Form of
Tender [E281](#)
and [E281](#)
Appendix

Letter [E366](#)

Form [D371](#)

information on quotations.

6. **Report on Tenders**

When the tenders have been examined by the Consultant a report on the tenders received is to be submitted to WSCC. A typical format of tender report to be followed by consultants is attached as Appendix A.

See BCD 6

7. **Awarding the Contract**

Contracts of a value not exceeding £75,000 can be accepted by the placing of a Direct Order issued by WSCC.

When the work is in excess of £75,000 it will have a formal contract prepared in draft by the Consultant and provided to Legal Services for review and the preparation of the final contract for execution by the Contractor. A memorandum to Legal Services using 'Contract Notification to Legal Services' needs to be prepared by the Project Manager confirming the date of tender, CDM information, Client Approval, start/finish dates, contract documents and details about planning consent (where such consent is required) to enable a letter of acceptance and contract documents to be sent together.

[D410](#)

The draft form of contract and other supporting documents required for formal contract purposes MUST be prepared by the Consultant and submitted to WSCC at TENDER STAGE to avoid the possibility of delay. The WSCC Project Manager shall forward the draft form of contract (received from the Consultant) to Legal Services at least 2 weeks prior to the sending of the letter of tender acceptance to enable Legal Services to review, complete and send the contract documentation to the contractor for execution at the same time as the letter of acceptance.

CONCLUSION

(Appendix A follows)

**CONSULTANT'S TENDER REPORT
TO WEST SUSSEX COUNTY COUNCIL**

Typical format to be followed (include items as relevant to the scheme)

HEADING

Project Number:

Project Title:

Nature of Works:

1. Introduction

Include any special/unusual circumstances in way tenders invited.

2. Schedule of Information sent to Tenderers

3. Tender Results and Programme Dates

- (a) Schedule of tender results, listing:
 - (i) Tenders invited (names)
 - (ii) Tenders received (names)
 - (iii) Tender sums
 - (iv) Comments
- (b) Tender Period/return date
- (c) Where tenderers have declined/not returned tenders – state reasons
- (d) Details of tenders analysed
- (e) Contract dates for possession and completion

4. Details of Most Economically Advantageous Tender

- (a) Name of tenderer/tender sum
- (b) Arithmetical check
- (c) The resolution of caveats, errors or discrepancies
- (d) Where need to negotiate on price (following approval under Standing Orders) a schedule of the amendments and written confirmation of the contractor's agreement

5. Comparison of Tenders with Pre-Tender Estimate

To include:

- (a) Pre-tender estimate and basis of estimate
- (b) Explanation for significant differences

6. Summary

7. Recommendation

To include:

- (a) Consultant's view on contractor's capacity and expertise to carry out project.
- (b) Confirmation whether project complies with Client brief and Council's Standing Orders/Financial Regulations
- (c) Statement of compliance with planning permission, and whether any pre-conditions to be met prior to Date of Possession
- (d) Advice to Client on action necessary to maintain programme
- (e) Confirmation of the contractors duties under the Construction (Design and Management) Regulations 2015

Supplementary information

Note: WSCC will need to add information on other items chargeable to the scheme budget in the report to the client. Where the consultant has information that is perceived should be included, this is to be added at the end of the tender report.