



Procurement Agency
for **Essex**

Selling to the Procurement Agency for Essex and its Members

September 2004

SELLING TO THE PAE AND ITS MEMBERS

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FOREWORD BY KEN COLE

ENCOURAGING ENTERPRISE IN ESSEX

The Procurement Agency for Essex (PAE) has prepared this guide to help businesses, particularly local organisations and small and medium enterprises, that wish to sell to local Essex Councils and the Essex Fire & Rescue service. It is packed with information and tips and will help your business understand how the public sector buys, the types of things that they buy and the most appropriate way of approaching us.

The public sector is diverse in the range and value of products and services that it buys each year. However, we buy a lot of goods and services and the combined procurement expenditure of those authorities supporting this guide exceeds £1 billion a year (that is £1,000,000,000). The PAE is working towards encouraging collaborative procurement arrangements that not only allow us to improve the value that we get when spending public money, but also allow us to work with more businesses. It is in everyone's interests to ensure that even though contracts may get larger, smaller companies still get their share of business. We can do this in three ways:

- By making the use of local businesses an evaluation criteria when tendering for larger contracts
- By making it easier for you to trade with us, through removing duplicated form filling and unnecessary information gathering
- By actively supporting the moves towards e-Procurement

Clearly, we cannot guarantee that you will gain business as a result of reading and acting upon this guide.

For some things (e.g. for office products) we will already have existing contracts, however, there are also many areas where we need more potential suppliers.

The PAE has much to do in making this a reality, and it will take time to achieve our objectives. If you have access to the Internet, then go to www.paessex.gov.uk where you can find more information.

Ken Cole

Director, Procurement Agency for Essex

1. THE PROCUREMENT AGENCY FOR ESSEX (PAE)

BACKGROUND

The PAE was launched in April 2004 and is the first example in the UK of a genuinely cross public sector regional procurement organisation working to exploit the full benefits available from collaborative procurement.

It comprises fifteen public sector organisations in the County of Essex, plus two associate members working towards delivering an agreed Business Plan. Each of those members has collaborated to produce this guide.

PAE members spend in total over £1,000 million annually on a wide range of products, services and works programmes. Essex County Council accounts for about 60% of the total procurement expenditure. We cannot begin to tell you about the diversity of our procurement expenditure. However, if you think about the range of services and amenities that your local council provides and all the support needed to keep them going, then you will get an idea of the range of things we buy. Contracts can range in value from a few hundred pounds to tens of millions.

In order to obtain best value, a significant proportion of our procurement is carried out under our direct contracts, or under joint or consortium contracts with other government bodies. If you visit our website www.paessex.gov.uk you can find details of existing contracts including estimated values, current supplier details, expiry dates and contact details for enquiries.

You can also find the direct links to the websites of all those organisations that have produced this guide.

If you do not have Internet access at home or in your office, you can always go to your local library.

2. THE PUBLIC SECTOR MARKET

BUILDING A SUCCESSFUL RELATIONSHIP

Your relationship as a potential supplier with any Essex public sector organisation can be direct or indirect (i.e. as a sub-contractor). A lot will also be determined by:

- The size of your company
- Its previous track record and financial position
- Our current contractual arrangements
- The nature of your business (i.e. the products and services you provide)

To help you decide how best you could become a supplier to the PAE members, you may find the following helpful.

FINANCIAL THRESHOLDS

Most contracts are awarded following competition. This means that we ask a number of suitable potential suppliers to make proposals (quotations or tenders).

SELECT LISTS

As well as tendering for individual contracts, we hold a number of select lists of approved suppliers. These are mainly used for property and highways work and are usually reviewed and advertised for new applications every four years. In the longer term we may start consolidating these, so that you do not have to apply to be approved on select lists for every Council. However, in the mean time you should approach each Council separately to see how their list of suppliers is operated.

TYPES OF CONTRACTS

The types of contracts that we let are diverse. The nature of the requirement, estimated value and timescale determines, to a large extent, the way the procurement is carried out, and the type of contract that will be let to satisfy it. The basic types of contract that you may encounter are defined below.

Spot Contract

A spot contract is let to satisfy a definite, one-off requirement for either products or services. In principle, it serves the same purpose as a purchase order (a purchase order is a legal contract), but it is normally used for higher value or complex requirements that necessitate a tendering exercise to take place and/or the use of special terms and conditions.

Variations on this type of contract include:

- Lump Sum (performance of a specified amount of work by a specified date for a price quoted in advance)
- Stage Payments (linked to the achievement of targets or milestones)
- Prime Cost (contains variables of volume, usually materials and labour)

- Cost-Plus (payment for the actual cost of work done plus a margin for profit – rarely used)

Framework Agreement (or Framework Arrangement, Standing Arrangement, or Standing Offer)

A framework agreement is used for the supply of products or services over a given time period. It is not in itself a contractual agreement to supply, but is an *enabling* agreement providing agreed specifications, delivery terms, prices, and terms and conditions of contract.

Once a framework agreement is in place, individual purchase orders can be placed against it under the agreed terms and conditions. The orders, once placed (i.e. accepting the terms of the standing offer), are contractual.

Framework agreements do not specify definite quantities of goods or services that will be ordered against it, although indicative quantities are normally provided. Framework agreements are normally used to establish general supply arrangements with a supplier (e.g. use of a supplier's catalogue), or to establish central supply arrangements for use by local operational areas.

Call-Off Contract

A call-off contract is used for the supply of a specific quantity (a minimum and maximum range can be specified) of goods or services over a given time period, subject to the prices, specifications, and terms and conditions agreed. Delivery will be made either to a delivery schedule built into the call-off contract, or more usually by separate 'call-off' orders placed against the contract.

In essence, a call-off contract is the same as a framework agreement except that the call-off contract is a legally binding contract with the supplier.

Service and Maintenance Contracts

The three basic contract types above can provide for the provision of both goods and services, although the content (e.g. terms and conditions) is often quite different. Maintenance contracts are essentially service contracts, and may take the form of spot contracts (e.g. total maintenance cover for a fixed period) or call-off contracts/framework arrangements (e.g. maintenance cover available on an 'as required' basis, for example in the event of breakdown).

Capital Works Contracts

Capital works contracts are used for large-scale construction projects. These contracts are generally highly complex and involved.

Leasing

Leasing contracts are often used to enable organisations to control the total cost of ownership of items such as IT equipment, vehicles and buildings.

Public Private Partnerships

These contracts are complex and enable the public sector to benefit from private company investment. In return, the private company benefits from further business or services. Again they are complex and very high value.

3. PUBLIC SECTOR RULES AND POLICIES

The public sector is regulated not only by central government but also by the European Union (formerly known as the 'Common Market'). However, we do try to be pragmatic in our interpretation of some rules and policies and will help you comply with them where appropriate.

3.1 EUROPEAN UNION (EU) DIRECTIVES

ADVERTISING REQUIREMENTS

If a contract to be tendered exceeds the fixed amount laid down by the EU (currently £154,000 for products and services or £3.86 million for works), it must be advertised in the Official Journal of the European Union (OJEU).

There are two parts to the advertisement:

Contract notice – a contract notice is effectively the European equivalent of the advertisement that would be placed in the UK press seeking tenders or applicants to a select list of tenderers. It is based on a standard format laid down in the EU Procurement Directives.

Award notice – within 48 days of an award of a contract (which was subject to a contract notice published in OJEU), an award notice must be placed in OJEU declaring the name of the successful tenderer.

You can find full details of our current EU notices and awards on the Business Information Publications (BiP) website (www.bipcontracts.co.uk)

PUBLICATION OF A PRIOR INDICATIVE NOTICE [PIN]

As well as the contract notices and awards, each year we place a public notice containing details of contracts that we may be tendering at EU level during that financial year (April to March).

The information is provided as an advance guide to our potential procurement activity. It must be stressed that not all contracts listed will become the subject of an individual formal public notice.

STANDARDS

You will find that our conditions of contract and specifications will incorporate European standards and regulations. British standards and regulations will only apply where no other international standards and regulations exist.

3.2 INTERNAL PROCEDURES

All public sector bodies have internal procedures known as Contract Standing Orders (CSOs). These set out the rules by which each organisation spends money on the supplies, services and works in order to deliver its agreed services to the people of Essex.

The procedures (CSOs) will be different for each organisation but will share a number of common characteristics, i.e.:

- Reflect best value, to empower staff to develop ideas, and deliver improved and innovative services
- Refer only to corporate issues and prescribe the minimum corporate rules necessary for good

governance in the letting of contracts

- Apply equally to all staff and to any consultants acting on the Council's behalf
- Provide the necessary delegated authority to Lead Members (Councillors) and/or Chief Officers to make decisions

The CSOs will be arranged in a logical sequence of sections, following a procurement route and you can usually access them from a Council's website.

3.3 ENVIRONMENTAL ISSUES IN PROCUREMENT

We consider the environment in all our procurement activities and work pro-actively within our own organisations and with our partners, suppliers and contractors to create a high level of awareness of environmental issues.

PROCUREMENT DECISIONS

Where practical, we will seek to:

- Comply with all environmental legislative and regulatory requirements when buying products, services and works (see the Government's Sustainable Development website (www.sustainable-development.gov.uk) for more information)
- Integrate the environment into procurement decisions
- Procure products, services and works locally wherever possible taking into account the need to achieve best value for money
- Procure energy supplies generated from renewable sources

WORKING WITH SUPPLIERS AND CONTRACTORS

Where practical, we will seek to:

- Ensure that you are aware of environmental issues and policies, promote environmental awareness and encourage you to minimise the harmful environmental practices in your supply chain
- Work with you to increase the amount of environmentally preferable products and services available to the Council
- Ensure that your environmental claims are assessed and validated

DISPOSAL

Where practical, we will seek to:

- Ensure that existing goods and equipment are reused before procurement is considered
- Dispose of unwanted goods through (preferably) local organisations that are able to reuse and recycle them

- Dispose of all waste generated by procurement in the most environmentally responsible manner possible

EU RULES RELATING TO ENVIRONMENTAL ISSUES

The EU has rules governing environmental issues in contracts. Whether a contract is competitively tested informally, or through a formal tender process, environmental requirements must:

- Be included within the tender
- Be appropriate and relevant to the product or service
- Not be anti-commercial
- Not be anti-competitive, and must be equally capable of being met by suppliers from all member states in the EU

Contract awards can take environmental requirements into consideration (for example – whole life costs of a product or service). You cannot be rejected because you do not comply with EMAS or ISO 14001, as these schemes are voluntary. However, some Councils have a policy to only accept bids with these or equivalent standards.

3.4 EQUALITIES IN RELATION TO PROCUREMENT AND CONTRACTS

If you wish to do business with us you will need to be aware of our position on equalities and accept that our procurement activities are guided by the Race Relations Amendment Act 2000.

We have adopted the Commission for Racial Equality (CRE) approach, as set out in its guidance to local authorities launched in July 2003.

This means we have to consider:

- Services provided under contract or agreement
- Your equal opportunities policies and practices
- Contract opportunities for businesses owned or run by people from ethnic minorities

All contracts we issue contain a mandatory equalities clause. In addition, the equalities credentials of potential suppliers can be considered at the pre-qualification stage of any tendering exercise. All our business critical contractors are asked to complete an annual equalities questionnaire, which will enable us to assess the ongoing degree of compliance.

The Commission for Racial Equality website provides a useful source of reference (www.cre.gov.uk).

3.5 HEALTH AND SAFETY REQUIREMENTS FOR SUPPLIERS AND CONTRACTORS

You must have a comprehensive health and safety policy appropriate to the needs of the work being undertaken. For **some**, this will include providing risk assessments and method statements for all work that is to be carried out.

3.6 OTHER LEGISLATION

As you would expect, we also comply with all legislation including the Data Protection Act and other laws governing what we do with both commercial and individual information.

3.7 OUR PAYMENTS POLICY

Our payment policy states that you must be paid within mutually agreed terms or within 30 days if such terms do not exist.

The time starts from the date the Council receives your valid invoice (i.e. correctly completed) to the date of the BACS payment. If we dispute your invoice, we will contact you. If your invoice is received in advance, the 30-day period or agreed term period starts from the satisfactory receipt of the products or services.

We also have a policy that all our suppliers are paid electronically through BACS into a bank or building society unless there is a compelling reason to the contrary. There are rarely reasons for us to make this dispensation.

3.8 THE PROCUREMENT CODE OF CONDUCT

All public sector employees must abide by a *Procurement Code of Conduct*. Employees must declare their interests in existing or potential suppliers, and say if the connection is a private, social, domestic or professional one. Also, they must not, either directly or indirectly, accept any gift, reward or benefit from any member of the public or any organisation with whom they are brought into contact by reason of their duties.

3.9 ELECTRONIC TRADING

The Government has set targets for us to increase the amount of trade that we do 'electronically' as this saves both buyers' and sellers' time and money. Electronic trading comes in different forms including, Purchasing Cards (P-cards), faxed/e-mailed transactions, and transactions generated through websites, electronic catalogues or market places. You may encounter all of these in Essex, and we have our own electronic market place too. It is our policy to use these mechanisms to carry out most of our routine procurement activities.

4. SELLING TO US

4.1 TO SELL OR NOT TO SELL

We are continually looking to improve commercial flexibility within our procurement practices and to achieve best value for our organisations while working within statutory and EU requirements.

Local suppliers are encouraged to tender for our business wherever possible, either directly or indirectly as a sub-contractor to a larger company.

It is not possible to provide a complete list of the products and services we buy in any year. However, we would suggest that you bear in mind the following points:

- In some areas we already have plenty of good quality suppliers and potential suppliers (e.g. for stationery, furniture printing, temporary staff and photocopiers) most of which is already under contract. It is very unlikely that you will gain new business in these areas
- In other areas we need more good quality suppliers (e.g. for contract cleaners, food suppliers for care homes, cash collection services, suppliers of professional temporary staff such as surveyors, architects, social workers and teachers)
- Selling to us does not guarantee that you will get any new business. In fact, you may have to wait to be accepted onto bid lists
- Although we are keen to support local businesses and small to medium enterprises we are also bound to place contracts that are most 'economically advantageous'. This means that we take into account factors such as: total cost of ownership, quality, technical capability, after sales service and innovative ideas, as well as previous track records of service and financial stability. This does not mean we buy from the cheapest supplier, except for low value or routine purchases

4.2 MARKETING YOUR COMPANY TO US

It is not our policy to tell you how to market your company to us, but we have provided some thoughts to help you maximise your chances of gaining new business:

Do:

- Use the sources of information that we provide, as they will provide you with lots of practical help
- Familiarise yourself with the challenges that we are facing and the policies that we are trying to implement
- Research our procurement policies and procedures thoroughly
- Seek more information if you are unsure about something, particularly if you are responding to an invitation to quote or tender

Do Not

- Send us regular mail shots advertising your products or services

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- Spend time cold calling – if we have your details and a potential business opportunity, we will call you
- Assume that you have a right to do business with us as a local taxpayer
- Try to 'buy' business – it is bad for us, your company and your other customers

4.3 HOW YOU FIND OUT ABOUT OUR CONTRACTS AND TENDERS

We recommend that prospective suppliers check our website (www.paessex.gov.uk) for both existing contracts and new tenders. Details of public sector tenders are also advertised in:

- Relevant trade press
- Local and national press
- Publications *Government Opportunities* and *Contrax Weekly* (see www.bipcontracts.co.uk)
- Official Journal of the European Union (OJEU) if the contract is tendered across the EU

Tender advertisements will carry details of the contract, the closing date for application and a contact for enquiries. On application for tenders, we may issue you with a pre-qualification questionnaire (PQQ) in order to arrive at a short-list.

4.4 RESPONDING TO A TENDER NOTICE

We apply three tests to companies looking to do business with us. These are legal, financial and technical.

LEGAL

- You must accept English law as the governing law of any contract and the jurisdiction of the English courts
- You must be prepared to accept our contract conditions, although minor changes may be negotiated if in the interest of both parties
- You must have no convictions for serious environmental offences, fraud, corruption, or other major breaches of the Companies Act

FINANCIAL

- You must pass a financial check, usually based on your company's last two years' accounts (preferably audited) for all tendered work
- You must provide evidence of an acceptable and appropriate level of public liability insurance. Employers liability insurance and professional indemnity insurance may also be required

TECHNICAL

- You must provide two references for your company that we can contact. These can be from any

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sector

- You must provide evidence of any quality standards, appropriate to the work in hand, held by your company
- You must provide a company policy statement covering health and safety, environmental and equalities aspects of your business, which must meet legislative requirements. We can provide you with model forms if you are a small to medium enterprise

AWARDING OUR CONTRACTS

- Quotations and straightforward tenders for the supply of products and services are normally awarded on lowest price, unless other conditions apply
- Tenders for contracts, however, will generally be awarded using a range of evaluation criteria including price and quality. This is known as the 'most economically advantageous tender'. This enables us to take account of commercial and non-commercial considerations

SUPPORT FOR LOCAL SUPPLIERS

We aim to support local businesses wherever possible by one or more of the following:

- Ensuring that we take into account the needs of small to medium enterprises within our electronic procurement projects
- Ensuring that all higher value tenders have evaluation criteria, so that there is consideration of factors other than lowest cost
- Offering constructive debriefing to all those who compete for contracts in order to help them to do better in the future
- Providing comprehensive information on our website, including all contracts, sources of information and key contacts
- Improving commercial flexibility within the rules and regulations that we work to
- Reviewing and developing our procurement policies
- Regular monitoring of the number of local companies doing business with us
- Establishing preferred supplier arrangements suited to local businesses for non-critical, hard to value areas of spending
- Helping you make contacts with existing large suppliers where you could seek to work as a sub-contractor
- Providing free advice and assistance on compliance with statutory requirements relating to trading laws and advertising

5. FINDING MORE INFORMATION

As we have said earlier, you are strongly advised to access the Internet to find out more on procurement and about us.

The following are useful organisations that might be of value to you when considering whether you want to sell to us. They are not all directly related to procurement, but can be useful in helping you understand our market sector.

4ps	This is the local government body created to help support and improve the procurement of large projects through partnership.	www.4ps.gov.uk
Audit Commission	The independent body responsible for ensuring that public money is used effectively.	www.audit-commission.gov.uk
Business Information Publications (BiP)	BiP is an independent company that helps potential suppliers seek new business opportunities both here and in Europe, through publicising OJEU notices.	www.bipcontracts.co.uk
Central Buying Consortium (CBC)	A local authority buying consortium through which we access a number of contracts.	www.cbconline.org.uk
Chartered Institute of Purchasing and Supply (CIPS)	This is the professional body that represents procurement in both the private and public sectors.	www.cips.org
Commission for Racial Equality	This organisation is designed to promote racial equality, and can provide useful guidance on issues affecting employment.	www.cre.gov.uk
Improvement and Development Agency (I&DeA)	This is the government agency in the forefront of developing services to support the improvement of local government procurement.	www.idea.gov.uk
Office of Government Commerce (OGC)	This is the central government department responsible for public sector procurement policy as it relates to central government.	www.ogc.gov.uk
Office of the Deputy Prime Minister (ODPM)	This is the central government department responsible for public sector procurement policy as it relates to local government.	www.odpm.gov.uk www.procurementportal.odpm.gov.uk
Society of Purchasing Officers in Local Government (SOPO)	This is an organisation that provides guidance, support and best practice advice on local government procurement.	www.sopo.org.uk