

**ABERDEEN CITY COUNCIL**

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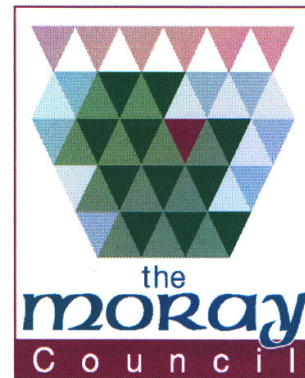
## **ANNUAL MAINTENANCE CONTRACT 2011/2012**

**INSTRUCTIONS FOR TENDERING**

**Aberdeenshire**  
COUNCIL



**ABERDEEN**  
CITY COUNCIL



# ANNUAL MAINTENANCE CONTRACT 2011/2012

## INSTRUCTIONS FOR TENDERING

### DOCUMENT REVISION RECORD

Revision Number	Issue Date	Description of Revision

## INSTRUCTIONS FOR TENDERING

TENDERS SHALL BE SUBMITTED IN ACCORDANCE WITH THE FOLLOWING INSTRUCTIONS. TENDERS NOT COMPLYING WITH THESE INSTRUCTIONS IN ANY PARTICULAR MAY BE REJECTED BY THE EMPLOYER WHOSE DECISION IN THE MATTER SHALL BE FINAL.

- 1 The tender document shall be treated as private and confidential. Tenderers should not disclose the fact that they have been invited to tender or release details of the tender document other than on an "In Confidence" basis to those who have a legitimate need to know or whom they need to consult for the purpose of preparing the tender.
- 2 Tenderers shall not at any time release information concerning the invitation to tender and/or the tender documents for publication in the press or on radio, television, screen or any other medium.
- 3 Tenderers should note that, as a Scottish Public Authority, the Employer, (Aberdeenshire Council, Aberdeen City Council or The Moray Council), is bound by the provisions of the Freedom of Information (Scotland) Act 2002. All information submitted to the Employer may therefore need to be disclosed and/or published by the Employer in compliance with the Act (the decisions of the Employer in the interpretation thereof shall be final and conclusive in any dispute, difference or question arising in respect of disclosure under its terms), any other law, or, as a consequence of judicial order, or order by any court, tribunal or body with the authority to order disclosure (including the Scottish Information Commissioner).

Accordingly, if you consider that any of the information included in your Tender Submission should not be disclosed by the Employer please identify it on Appendix B to the Form of Tender and explain (in broad terms) why the information should not be disclosed. Please also indicate for how long you think the information should be covered by a non-disclosure provision.

In terms of the Freedom of Information (Scotland) Act 2002, information may be exempt from disclosure if it is

- (i) a trade secret
- (ii) information which is likely to substantially prejudice someone's commercial interests if disclosed (this could be the Tenderer's interests or the Employer's)
- (iii) personal data where disclosure cannot be justified in terms of the Data Protection Act 1998.
- (iv) subject to an enforceable obligation of confidentiality. (This means that the information should be recognisable as confidential in nature and must not be in the public domain already; it must have been received in circumstances which impose an obligation to maintain confidentiality on the person receiving it; and any unauthorised disclosure would cause harm to the confider.)

Tenderers should therefore seek to ensure that those parts of the Tender Submission which they would prefer not to be disclosed fall into those broad categories. The Employer is more likely to resist disclosure and be able to justify non-disclosure of information in response to an FOI request if the suggested "non-disclosure" items are restricted to these categories. Please note that the Employer reserves the right to disclose even agreed Non-Disclosure items if it is satisfied (acting reasonably) that it is in the public interest for the information to be disclosed (the decisions of the Employer in the interpretation thereof shall be final and conclusive).

It should be remembered that, even where you have indicated that you would prefer for certain information not to be disclosed, the Employer reserves the right to disagree with this classification. Even when the Employer agrees that the information has been correctly identified, it may nonetheless be required to disclose it or elect to do so in the public interest. Receipt by the Employer of any material marked 'confidential' or equivalent should not be taken to mean that the Employer accepts any duty of confidence by virtue of that marking.

In all cases, the Employer may publish (either proactively or in response to a request) the following information:

- (i) The identity of all Tenderers;
- (ii) Overall value of the Contract awarded (or a general indication of the rates applicable under the Contract);
- (iii) The value of all Tenders received (not necessarily correlated to the identity of the Tenderers);
- (iv) General performance standards to be achieved under the Contract;
- (v) Performance and progress monitoring arrangements; and
- (vi) Early completion incentives and penalties for failure to meet targets.
- (vii) Tenderers should therefore avoid flagging anything as a Non-disclosure Item material which falls into the above categories.

4 Any queries arising from the tender documents which may have a bearing on the offer to be made shall be raised with the Engineer as soon as possible in writing and in any case not later than 7 days before the date for the return of Tenders. The Engineer will be ready to consider properly reasoned requests for an extension of the tender period.

4. Where it is desired to submit a Tender involving modifications to the design **or an alternative design not specifically provided for in the Tender Documents**, this shall be done by way of an alternative Tender. **But no alternative Tender shall be considered unless a Tender based strictly on the Tender Documents without qualification is also submitted.** Any alternative Tender shall also be free of qualifications and be fully priced to show clearly how and where costs would differ from the primary Tender. The Tenderer shall approach the Engineer in writing to ascertain what special design criteria and requirements apply in respect of the alternatives or modifications he is contemplating. Any such approach shall be treated in confidence but the following procedure shall also be followed: -

- (i) Proposals involving modification of design in whole or in part shall be notified in confidence to the Engineer as early as possible during the Tender Period. An alternative Tender shall not be considered unless this prior notification has been given not less than two weeks before the due date for return of Tenders. Following receipt of this notification the Engineer shall, after such consultation with the Employer as he may consider necessary, give a preliminary opinion as to the engineering acceptability of the modifications proposed; this shall not be binding on the Engineer or the Employer. In their own interest Tenderers are advised to provide as much information as possible about the modifications at this stage.
- (ii) If the Tenderer does decide to submit an alternative Tender it shall be accompanied by supporting information, drawings, an Approval in Principle Form (AIP) duly completed by the Tenderer covering the substitution of the alternative to enable its technical acceptability to be fully assessed. A priced Bill of Quantities addendum shall be submitted prior to award of Contract.
- (iii) Any alternative Tender involving modifications to the design shall be assessed on its merits and if considered valid may be accepted without recourse to re-Tendering. The Engineer shall accept responsibility for an accepted alternative design which shall become the design for the purpose of the Contract.
- (iv) Any alternative designs for Structures shall conform with the standards prescribed in the Scottish Executive Standard BD 2/05 in the Design Manual for Roads and Bridges or subsequent amendments. An alternative design that appears viable shall be approved in principle prior to acceptance of the Tender. Prior to award of Contract final approval shall be given by the Engineer after an independent check of the detailed design arranged by the Engineer and carried out at the Tenderer's expense has shown it to be satisfactory. The cost of any modifications shown by this check to be necessary shall be borne by the Contractor.
- (v) A decision to adopt a technically acceptable modified design shall be governed by the amount of the overall saving which can be reliably expected to accrue. In

assessing the overall saving account shall be taken of the effect of any deferment in starting and completion date of the project and the cost to the Employer of maintenance (assessed in accordance with the Scottish Executive BD 36/92 and Advice Note BA 28/92 of the Design Manual for Roads and Bridges or subsequent amendments thereto), of additional engineering and administrative resources involved in assessing the alternative design and in implementing it through to completion of Contract.

5 Tenderers shall satisfy themselves, prior to submission of their tender (s), that the following certificates are available as appropriate in relation to the work, goods and materials offered:

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- (i) certificates of conformity with quality management schemes;
- (ii) certificates of conformity with product certification schemes (where the product is not marked);
- (iii) British Board of Agreement Roads and Bridges Certificates;
- (iv) Statutory type approval certificates;
- (v) Transport Scotland type approval certificates;
- (vi) Transport Scotland registration certificates;
- (vii) Transport Scotland technical approval certificates (design and check certificates) for lighting columns;
- (viii) Manufacturers' and suppliers' test certificates.
- (ix) The attention of tenderers is directed to the provisions in the Contract for approval procedures in respect of certain proprietary products. Details of these are given in the Specification and are summarised in DMRB Advice Note SA 1/07 which includes the minimum periods of time that should be allowed for approval to be obtained. A list of products which currently meet the requirements is contained in DMRB Advice Note SA 1/07, or any subsequent amendments thereto.

7 Tenderers shall note that the Quality Assurance schemes listed in Appendices A and B of the Specification are mandatory and that proprietary products and systems listed in Appendix C of the Specification are required to have an Agrément Certificate, type approval or registration with Transport Scotland.

8 Tenderers should note the requirements of Appendix A in regard to QA Procedures for the supply and erection of Safety Fencing. However, the Employer has indicated that the extension of any existing QA Procedure to cover other sections of Safety Fencing for which no prior approval has been obtained may be carried out without the full pre-qualification procedures

9 Attention is directed to the Special Requirements in relation to :-

- (i) Scotia Gas Networks
- (ii) British Telecommunications P.L.C.
- (iii) Scottish & Southern Energy P L C
- (iv) Lighting Works
- (v) Scottish Water
- (vi) Scottish Environmental Protection Agency
- (vii) Network Rail
- (viii) B P Development Ltd
- (ix) Scottish Executive Environmental and Rural Affairs Department
- (x) British Pipeline Agency Ltd
- (xi) Cable & Wireless
- (xii) BAA PLC
- (xiii) British Rail Properties Board
- (xiv) Thus PLC

and to the fact that it will be necessary when effecting the insurance required by Clause 10.2 of the Conditions of Contract to let the Insurers know of these Special Requirements.

- 10 Tenderers are reminded of the provisions for compliance with relevant Health and Safety Legislation and Regulations (Clauses 9.1 and 13 of the Conditions of Contract refers).
- 11 The attention of Tenderers is drawn to the Construction (Design and Management) Regulations 2007.
- (i) The successful Tenderer shall be appointed as Principal Contractor under the regulations at the time of Contract award.
  - (ii) The successful Tenderer in his role as Principal Contractor shall develop the Construction Phase Plan in accordance with the requirements of the Regulations..
- 12 Tenderers are particularly reminded of the requirements of the Control of Pollution Act 1974, The Control of Pollution (Amendment) Act 1989 (relating to the identification of disposal sites and sources of fill) together with the provisions of The Environmental Protection Act 1990. Tenderers should also note the requirements on Appendix 1/70 of the Specification detailing requirements for the Management of Site Waste.
- 13 The Tender shall be made on the Form of Tender and Appendices A, B, C, and D to the Form of Tender incorporated in the Tender documents.
- (vi) All shall be signed by the Tenderer and submitted with the documents listed in paragraph 36 of these Instructions for Tendering, to the address and not later than the date and time stated in the Tender Document.
  - (vii) No unauthorised alteration or addition shall be made to the Form of Tender or any other component of the Tender Document. In addition Tenders SHALL NOT be qualified but shall be submitted strictly in accordance with the Tender Document and these Instructions for Tendering. Tenders SHALL NOT be accompanied by any covering letter or any statements that could be construed as rendering the Tender equivocal and/or placing it on a different footing from other Tenders.
  - (viii) Only Tenders submitted without qualification, strictly in accordance with the Tender Documents as issued (or subsequently amended by the Employer) shall be accepted for consideration.
  - (ix) The Employer's decision on whether or not a Tender is acceptable shall be final and the Tenderer shall not be consulted.
- 14 Figures shall be inserted against each item in the Bills of Quantities.
- (i) Unit rates and prices and extensions must be quoted in pounds and whole pence to two decimal places. The terms "nil", "included" and/or "-" shall not be used but shall be indicated as "£0.00"
  - (ii) Before award of the contract, the Employer will write to any Tenderer whose tender has required arithmetical adjustment.
  - (iii) Tenderers shall particularly note that the principles governing Public Procurement require that, as far as is reasonably possible, payments for Goods, Works or Services are made AFTER provision. Therefore any indication of a pricing strategy within a Tender which provides for substantial payments at the outset of the Contract shall be examined carefully to decide whether or not a Tender in such form can be accepted. If in the opinion of the Employer such substantial early payments appear excessive in relation to the requirements of the Contract the Employer reserves the right to require the Tenderer to spread such proportion of the costs as are considered excessive over the duration of the Contract. The

Employer reserves the right to reject the lowest or any Tender where in the opinion of the Employer early payments appear excessive.

- 15 The General Summary Page and, where applicable, the Dayworks Schedule, contained within the Bill of Quantities, shall be completed and signed by the Tenderer.
- 16 Tenderers shall take account within their tenders of the Aggregate Levy (as introduced by Section 16 of the Finance Act 2001) and all associated expenses and liabilities, and the effects of such matters shall be deemed to have been included within their tender total.
- 17 The Employer does not bind himself to accept the lowest or any Tender. It is the Employer's policy to make every effort to reach a decision on the award of any Contract within 90 days of the closing date for submission of Tenders. If the 90 day period appears likely to be exceeded, the Employer shall initially seek to negotiate an extension of that period with Tenderers. However, if exceptionally this is not possible or delay appears likely to be excessive, the Employer shall re-Tender the work. Tenders SHALL therefore remain open for acceptance for a minimum of 90 days.
- 18 (i) TENDERERS SHOULD PARTICULARLY NOTE that the calculation of Clause 4.6 Liquidated Damages in the Appendix to the Form of Tender will be based directly on the estimated final contract value. The daily figure will be calculated using the following formula:-
- (i) Estimated Final Contract Value x 15% divided by 365 Days = £....p per day Liquidated Damages.
  - (ii) The EMPLOYER will INSERT the actual figures for L/D's, produced by the application of the formula in the Schedule in the Appendix to the Form of Tender.
  - (iii) Where a contract provides for sectional completion the figures to be derived for the various Section(s) of the Works are expressed as a percentage of the daily rate calculated in accordance with the formula given at 16(i) above. The percentage(s) to be used for the calculation of actual values for each Section will be indicated in the Appendix to the Form of Tender in the schedule for Liquidated Damages.
- 19 Tenders shall be returned in the Tender Envelope provided clearly marked to the appropriate Council Office so as to arrive not later than the time and date advised in the letter of invitation to tender.
- 20 It is the responsibility of the Tenderer to ensure that the tender is received before the closing date and time detailed above. All tenders received after the closing time will not be considered and will be opened, identified and returned to the sender immediately.
- 21 The official tender envelope which has been supplied with this tender for use by prospective Tenderers has been specifically selected so that it is clearly identifiable when received in Woodhill House with other mail. Should you enclose it within a standard envelope, or send it by courier service within their special envelopes, the word "**TENDER**" together with the closing date must be prominently displayed with the address on these envelopes for ease of identification on arrival at Woodhill House.
- 22 All tenders which are delivered by hand, or sent by courier service, should be delivered to the Main Reception Desk, Ground Floor, Woodhill House, Westburn Road, Aberdeen AB16 5GB, where a receipt will be given detailing the date and time of receipt of the tender.: -
- 23 Any drawings and other documents not returned with the tender(s) are to be sent to :-
- (i) The appropriate Council Office.
- 24 Tenderers shall note that the Starting Date for the Works shall be specified in the Appendix to the Conditions of Contract or if no date is specified shall be notified to the Contractor in writing by the Engineer in accordance with Clause 4.1 of the Conditions of Contract. A

period of some 2 weeks may be expected to elapse between the date of award of the Contract and the Starting Date for the Works as notified in writing by the Engineer.

25 Tenderers shall note that Tenders and supporting documents shall be written in English and that any subsequent Contract, which may or may not be entered into, its formation, interpretation and performance, shall be subject to and in accordance with the law of Scotland.

26 Not taken up.

27 Tenderers shall submit details of their existing insurance or insurance proposals for the Employer's approval with their Tender as follows: -

(i) Details of any insurances they already hold or propose to effect to meet the requirements of Clause 10.1 of the Conditions of Contract. Where the insurance terms submitted for approval provide for an 'EXCESS SUM' (that being the portion of each claim for which, or below which, the insurer is not liable) The Employer shall allow the following levels of excess: -

(a). Against the requirements of Clause 10.1 : -

(i) Where the total sum of the accepted Tender is £100,000 or less - an excess of £1,000.

(ii) Where the total sum of the accepted Tender is £100,001 to £999,999 - an excess of £5,000.

(iii) Where the total of the accepted Tender is £1,000,000 or greater - an excess of £10,000.

(ii) Details of the terms of the insurance they propose to effect, or which they already hold and intend to use, to meet the requirements of Clause 10.2 of the Conditions of Contract SHALL be submitted. Where the insurance terms submitted for approval provide for an 'EXCESS SUM' (that being the portion of each claim for which, or below which, the insurer is not liable), Tenderers shall include with their Tenders a statement undertaking responsibility for dealing with third party claims, or parts of such claims, within the excess amount. Insurance provisions containing EXCESS SUMS of more than £1,000 shall NOT be approved.

(a). Against the requirements of Clause 10.2 : -

(i) An excess sum of £1,000.

(iii) Questions about insurance terms may be raised with the Engineer in writing at the earliest possible opportunity and in any event before return of Tender. TENDERERS SHALL PARTICULARLY NOTE that failure to present the required insurance details as requested may delay consideration of their Tender by the Employer. No Contract shall be awarded until existing insurances or insurance proposals have been inspected and approved.

28 Tenderers should note that completion of the "Prompt Payment Certificate" is required as part of the tender and that failure to provide a completed certificate or any unauthorised amendments thereto will render a tender qualified. The Prompt Payment Certificate is to provide the Employer with assurances from the tenderer(s) that in the event of any contract award they will make every effort to ensure that their sub-contractors and suppliers are paid promptly and within the terms of any sub-contract. Failure to comply with these requirements will be taken into account as provided for by the EC Works Directive when compiling future tender lists. In this respect tenderers should particularly note that the Employer through the



Engineer reserves the right to and will make periodic checks to ensure that the provisions of the Prompt Payment Certificate are being observed.

- 29 The transport by road of loads in excess of 27.4 metres in length requires movement authorisation from the Scottish Ministers under Section 44 of the Road Traffic Act 1988. This requirement shall not be affected by the award of this Contract. Clause 9.1 of the Conditions of Contract specifically requires the Contractor to conform with statutes. Tenderers shall note that movement authorisations are generally given only for the minimum distance necessary and movements of long loads by road over greater distances shall be in most cases permitted only if exceptional circumstances render such movement unavoidable. If in connection with the Contract, authorisation is not given for movement of long loads by road, it shall be the Contractor's responsibility to make whatever alternative arrangements are necessary for delivery to the Site, and to bear the costs of the alternative arrangements.
- 30 Tenderers attention is drawn to the minimum amount of Interim Certificates, which are stated in the Appendix to the Conditions of Contract.
- 31 Arrangements for inspection of the Site which involve access to land the Employer does not and shall not have cause to have access to shall be made in the first instance through the Engineer in order that prior permission is obtained from occupiers before going onto the property. However Tenderers shall note that permission to enter private land during the Tender period cannot be guaranteed. Whilst on the property care shall be taken to minimise disturbance to the occupiers.
- 32 Tenderers particular attention is drawn to the provisions in the Contract regarding the erection of information boards to advise the travelling public of the progress of the Works. Failure to comply with these requirements will be taken into account as provided for by the EC Works Directive when compiling future tender lists.
- 33 Tenderers should note that completion of the "Goods Vehicle Operator Licensing Certificate" is required as part of the tender and that failure to provide a completed certificate or any unauthorised amendments thereto will render a tender qualified. The Certificate is to provide the Employer with assurances from the tenderers(s) that in the event of any contract award they will make every effort, including inspection, to ensure that only properly licensed operators of goods vehicles in terms of the Goods Vehicle Operator Licence ('O'-Licence) and its associated statutory requirements will be permitted to operate on and/or to and from the Site. Failure to comply with these requirements will be taken into account as provided for by the EC Works Directive when compiling future tender lists.
- 34 The attention of Tenderers is drawn to the "Parent Company Guarantee" included with the Tender and that where a Parent Company exists the Tenderer shall be obliged to have a Parent Company Guarantee Form completed by the Parent Company prior to acceptance of the Tender.
- 35 The Contractor shall in accordance with Clause 8.2 of the Conditions of Contract, obtain written approval from the Engineer's representative agreeing to the appointment of any particular sub-contractor prior to entering into a sub-contract with that sub-contractor. This shall not relieve the contractor of his liabilities and obligations under the Contract, including the actions of his sub-contractor.
- 36 Signed copies of the following documents SHALL be returned with the Tender.

	<b>Description of Document</b>	<b>Instructions for Tendering Item No.</b>
	Form of Tender, Appendices and Annexes to Form of Tender (Includes Appendices A,B,C and D)	3, 13
	Priced Bill of Quantities and Dayworks Schedule	14, 15
	Terms of Insurance Policies	27

