

What is Good Contract Management?

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By contract management is meant the system of controlling and managing contracts from their very inception, i.e. the identification of the contract requirement to their final completion when the contractor ceases to provide services.

Good contract management will ensure that the most suitable contractor is selected, the contract is carried out efficiently and effectively, that both parties fulfil their contractual obligations and that the contract provides best Value For Money (VFM).

Good contract management should ensure that the following contracting objectives are met::

- a system of effective contract control is established over the whole contracting process;
- service performance is to the required standard and quality;
- basic contract terms and conditions are complied with;
- documentation is properly maintained;
- there is effective control over change to the contract;
- problems are anticipated;
- senior management is kept appropriately informed of the contract status;
- a workable structure to deal with default and contract termination is implemented;
- a workable structure to resolve disputes is implemented; and
- optimal VFM is assured.

Contract Management falls into two distinctive types of activity, those activities before a contract is awarded, ie "pre contract award", and those activities after a contract is awarded, ie "post contract award".

Figure 4.3-2 below summarises the Contract Management process in its entirety.

The Contract Management Process

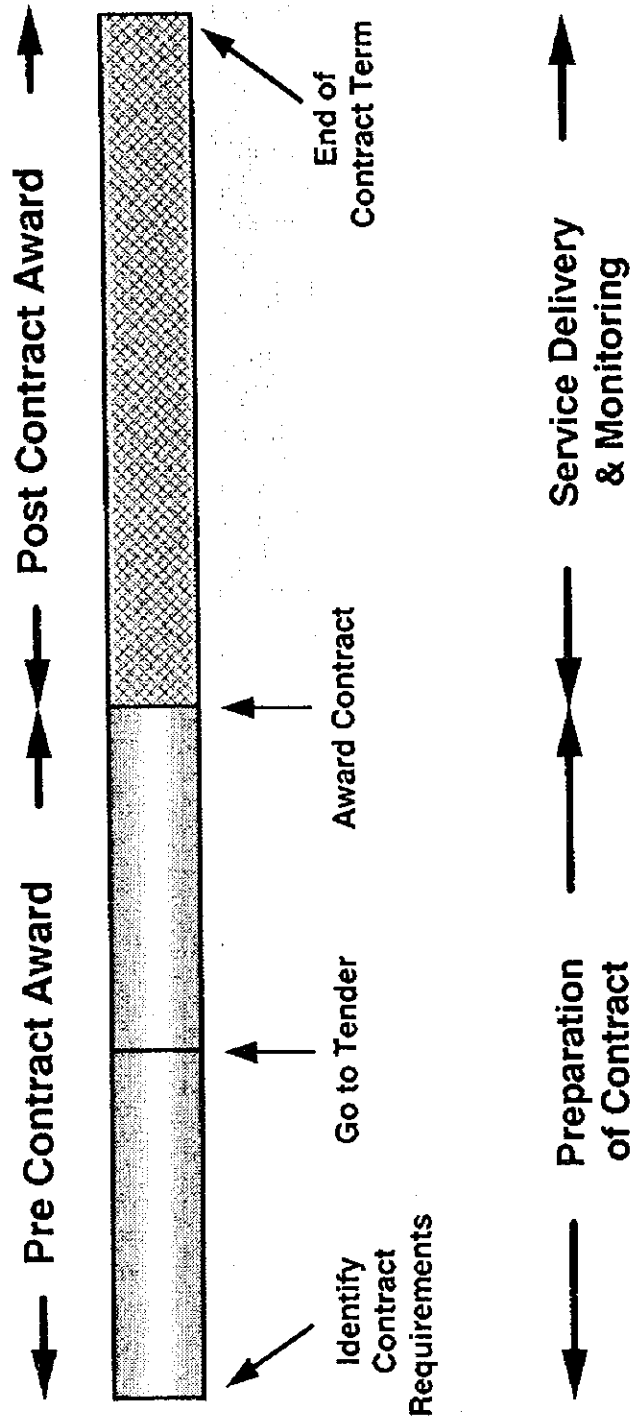


Figure 4.3-2 The Contract Management Process

Pre Contract Award Arrangements

The main elements of the pre contract award process include identifying the contract requirement and preparation of the contract specification, formulating the contract strategy, setting tender evaluation criteria, prequalification, the invitation to tender ie from preparation to issuing the tender documentation to contractors, tender evaluation and selection, and post tender contract negotiation and award of the contract.

Figure 4.3-3 below shows the typical stages and steps of the pre contract award process.

Post Contract Award Arrangements

Post contract award arrangements are the systems of contract control and monitoring which ensure that after the contract is awarded, it is executed and carried out according to the required performance, standard and quality specified in the contract, and to the contract's terms and conditions.

These arrangements include procedures to monitor service delivery, to monitor for compliance with contract terms and conditions, to manage change to contract requirements and/or terms and conditions, to properly maintain documentation, to deal with default or contract termination, to provide a workable structure to resolve disputes and to carry out a VFM assessment.

Figure 4.3-4 below shows the typical components of the post contract award process.

The Pre Contract Award Process

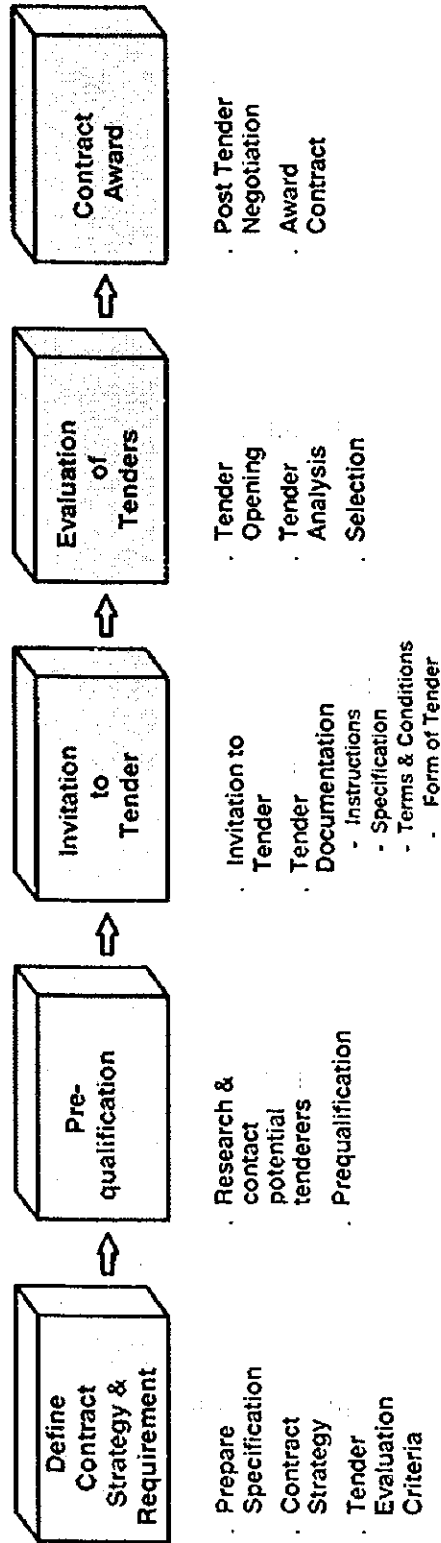


Figure 4.3-3 The Pre Contract Award Process

The Post Contract Award Process

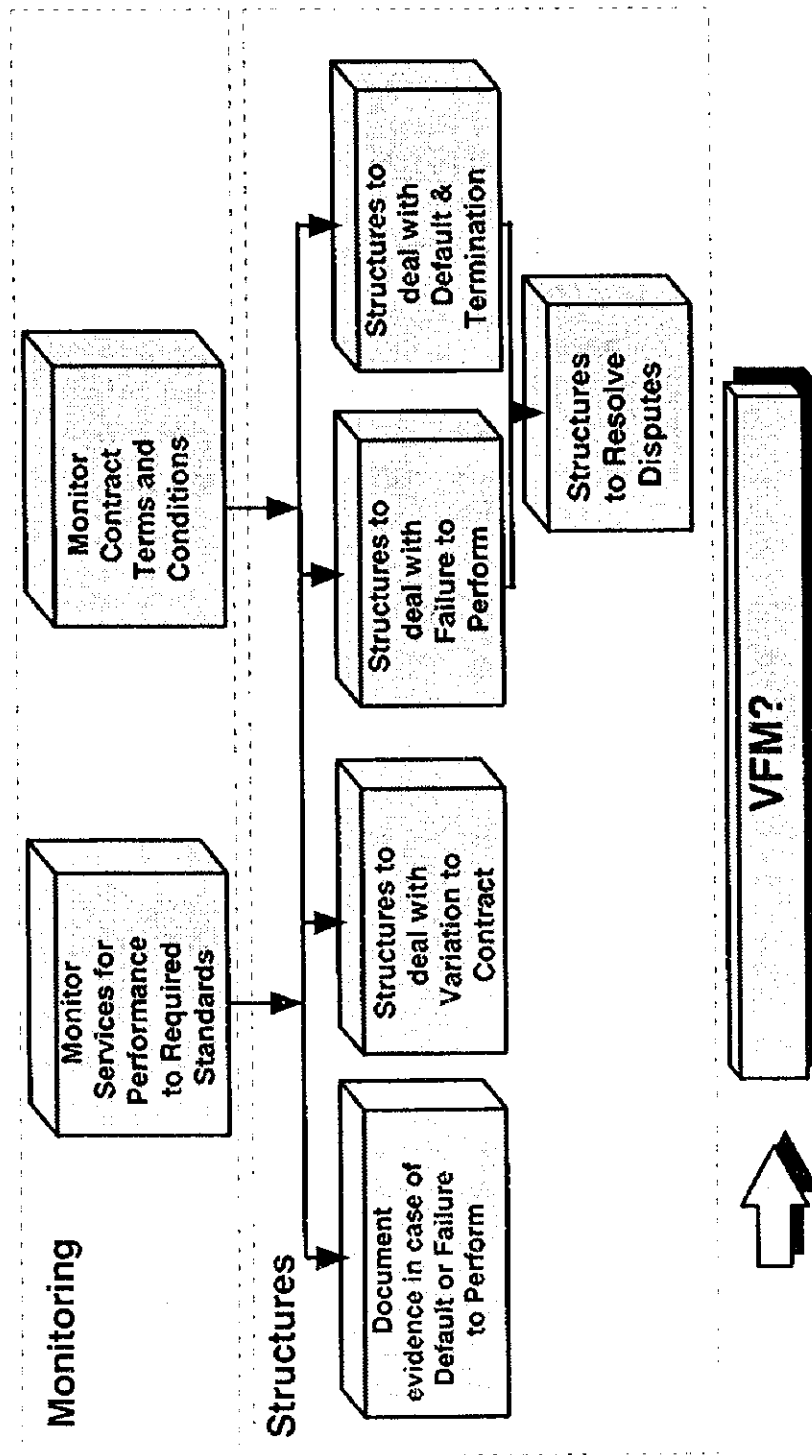


Figure 4.3-4 The Post Contract Award Process

Key Elements of Contract Management

Effective contract control and reporting systems

An efficient and effective organisation including staffing, procedures and control systems must be established over the whole contracting process to ensure that the contract is properly managed.

Such systems must be identified at the earliest possible stage and where appropriate reflected in the tender documentation so that all parties are familiar with them. The systems must provide mechanisms for the co-ordination of information and experience and its dissemination to other officers.

Performance to required standard

If the required performance and quality is to be achieved they must be clearly written into the contract. The clear, complete and unambiguous design and drafting of the tender documents is therefor crucial in this respect.

After contract award the local authority will need to monitor the service for the required performance and quality.

Compliance with contract terms and conditions

The contract conditions set out the framework of obligations. Managing them correctly will help to ensure that they are met. But if they are not, the contract conditions should provide for remedies to be applied properly and promptly. The conditions of contract normally set out the:

- legal framework within which the service will be provided;
- payment schedule;
- responsibility for monitoring performance and managing the contract;
- procedures and structures for:
 - 1) resolution of disputes;
 - 2) failure to perform;
 - 3) dealing with default; and
 - 4) dealing with termination.

Clear and documented evidence

It is important for contract managers to have clear and documented evidence before seeking correction of failures to perform or invoking default procedures. To ensure this, they must have:

- recorded the problems;
- notified the contractor of them; and
- set out the timescale for rectification.

It should be remembered that it is likely that the contractors will, in turn, be recording any problems they have encountered with the client and may use them as a defence or to counter any client's claim of failure to perform or default. In an ideal world, client and contractor should be working together to resolve problems before they reach the point of default.

Effective control over change to the contract

Most requirements are subject to change particularly if the contract term is long. Management must therefore be flexible to meet the evolving and changing needs of a contracted service and establish procedures to systematically manage variation to the contract specification and conditions.

Changes to the requirement normally affect cost and need to be reflected in a revision to the payment conditions.

Problems are anticipated

Although it is sometimes difficult to predict accurately where problems may arise, good contract management which includes regular dialogue between the Council and the contractor helps to identify potential problems. Problems can be dealt with swiftly and effectively thereby minimising their impact and prevent disputes.

Workable structure to resolve disputes

If there is a failure to perform or default then there must be a structure and procedures to enable the contracting parties to settle the dispute constructively and hopefully amicably.

Senior management is informed of the contract status

Contract managers must provide senior management with information on contractor's performance and the contract status.

VFM

Value for money is the balance of cost, risk, service delivery and quality. Having established the correct balance in the contract documents, the contract should be managed to:

- record the full cost;
- ensure timely delivery of service;
- ensure no change in the balance of risk; and
- ensure quality.

If these objectives are met then the local authority will obtain VFM.

Pre Contract Award Arrangements

Pre Contract Award Arrangements

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1. The Contract Strategy and the Formulation of the Contract Specification

The contract management process starts with the formulation of the contract strategy. Preparing the right strategy is essential for the success of the contract. The strategy should take account of all aspects of the contract management process ie:

1. the basic service requirements or the "specification" - defines the service, standards and quality required;
2. the type of contract and its basic conditions, ie operating contract or franchise, pricing structures etc ;
3. contract duration;
4. the "competition strategy" including the need for prequalification;
5. the policy on the Council's assets, ie vehicles and premises;
6. the policy on the Council's employees, eg whether the contractor is required to reemploy Council employees;
7. the plan for the tendering process covering the tender evaluation criteria, tendering timetables, and Terms of Reference for the Tendering Committee;
8. the avoidance of conflicts of interest;
9. the tender documentation to be prepared;
10. procedures for variation to the contract;
11. review of the basic terms and conditions of the contract, eg payment conditions, default, etc;
12. length of the commissioning period - usually 8 weeks; and
13. the procedures to manage and monitor the contract after it is awarded.

The formulated strategy should be set out in a contracting plan. The plan should delineate the path to be followed, and the procedures and the controls to be implemented to ensure that the contract's objectives are achieved.

The plan should contain:

1. the overall strategic approach, ie the type of contract, pricing, duration, competition strategy, policy on assets and employees etc;
2. the basic service requirements including the quality standards expected from the service provided. This should be contained in the "Specification";
3. proposals for the contract's terms and conditions;
4. a plan for the tendering process covering the tender evaluation criteria, the bid evaluation process, staff responsibilities and tendering timetables, and Terms of Reference for the Tendering Committee;
5. proposals for the tender documentation to be prepared; and
6. procedures to manage and monitor the contract after it is awarded.

An Action Plan should also be included, assigning responsibility and a timetable for all staff involved in the contracting process. The focus of the Contracting Plan will be on the scheduling and implementation of the tendering process.

The Type of Contract and the Pricing Structure

The strategy should decide on the most suitable type of contract and pricing including any financial incentives to be built into the contract.

Typically collection contracts tend to be simple operating contracts ie fixed price zonal monopoly agreements.

If franchises are selected where the contractor collects tariffs and bears the financial risks of revenue collection, the Council will have to regulate prices through the contract to ensure that they are socially equitable, affordable and give the contractor financial viability.

Generally operating contracts are preferable to franchises because billing and collection adds considerable cost, economic regulation adds cost and franchises only work where everyone in the franchised zone can afford to pay the contractor's tariffs.

Duration of Contracts

The optimal length of the contract should be selected based on:

1. the trade off between the competitive value of short term contracts (which tends to keep both price lower and quality higher) and the stability, continuity and possibly lower costs of longer contracts; and
2. the contractors need to recover his capital equipment costs.

Longer term contracts tend to provide lower annual costs as the contractor has a longer period to amortise his capital equipment. The local authority's costs of the tendering will also be reduced if the contracting frequency is lower. However there are the some disadvantages to longer contracts which should be considered:

Firstly, the efficiency gains of new technology may be lost if Council is locked into a long contract;

Secondly, the contract price may become out of line with the market price. It will need to be retested with the market price;

Thirdly, a cosy relationship with the contractor can develop which will reduce efficiency; and

Lastly, the benefits of competition may be lost if new suppliers enter the market.

Typically collection contracts in developing countries run for 5 to 7 years, eg in the UK. But the length can be shortened depending on the age and condition of the contractors equipment. The economical life of collection vehicles is generally between 6 to 8 years, but if collection vehicles are under intensive use the economical life may be only 4 to 5 years. If this is so then the contract should be for at least 4 years.

Lastly, it should be remembered that local authority's often have limits on the length of contracts eg in Seoul where they are limited to 1 year. If this is so then the contracts need to contain extension clauses which give the contractor some security.

The "Competition Strategy"

The "competition strategy" should follow the local authority's strategy for managing PSI and should consider:

1. the need for prequalification; and
2. the trade off between the competitive value of a short term contract and the stability, continuity and possibly lower costs of a longer contract.

Prequalification procedures ensure that only the tenderers with a realistic chance of winning the contract are invited to tender ie the most competitive. The Prequalification process also ensures that only those contractors which operate good contract management are invited to tender.

Evaluation Criteria

The key objective of the tendering process is to select the bid which gives the best overall value for money. Value for money is a balance amongst cost, risk, quality, performance and efficiency. The criteria that should be used for the evaluation should be decided during the formulation of the strategy.

The criteria typically used are capability (including the company's reputation and experience), technical compliance, quality of the proposed services to be performed and the relative costs of the tenders.

It is essential that tenderers are aware of the criteria before they bid. Typically purchasers use an acceptable minimum criteria of "the most economically advantageous bid".

Conflicts of Interest

The purchaser must assure himself of safeguards to protect and preserve fair and open competition. Conflicts of interest arising at any stage in the process should be identified and eliminated.

For example a company contracting to give advice to the local authority in any stage of the tendering process up to and including prequalification should not normally be allowed to bid.

2. Prequalification

The purpose of the prequalification of prospective tenderers is to ensure that only those assessed as being capable of delivering the services are allowed to continue to bid for the contract.

The output of the prequalification process is drawing up a short tender list of potential bidders.

The process starts with screening potential contractors through advertisements, contacting trade associations, arranging pre-tendering meetings and visits to potential contractors. Potential contractors should supply information on capacity, financial performance, competence and experience.

If advertisements are placed inviting potential contractors to express an interest in the contract their expressions must be registered and they should be informed whether they are on the short list or not.

If the market is small and well known to the purchaser then prequalification may be unnecessary.

3. Invitation to Tender - the "Tender Documentation"

Once prequalification is completed potential contractors can be invited by the local authority to bid and submit their tenders for the contract.

All invitations must be identical and individual tenderers must not be offered different terms and information. The invitation to tender comprises the "tender documents". These will typically include:

1. Instructions to Tenderers;
2. The "Specification";
3. Bill of Quantities;
4. Standard Contract Terms and Conditions;
5. The Form of Tender;
6. The Tender Certificate or Confidentiality Statement; and
7. Performance Bond.

The specification may also contain a number of proforma schedules which the Tenderer is requested to submit in his bid, eg a proforma "Dayworks" Schedule or the Tariff Schedule for Additional Work; an Analysis of Resources Schedule and an "Organisation and Method of Work" Schedule.

The form and content of the tender documentation can vary between local authorities.

Information and Instructions to Tenderers

The Instructions to Tenderers give guidance to Tenderers on the procedures for preparing and submitting tenders, the documents to be submitted, instructions on how tenderers are to ask questions and seek clarification, and general information on eg the acceptance period, the contract commencement date, the commissioning period, etc:

The Specification

The specification is the key document in the contract process and its importance cannot be overstated.

The specification defines the work to be undertaken, the conditions and standards of the work to be performed and the quality required by the local authority.

It should not be overprescriptive in how the work is to be achieved, rather it should define the principal requirements of the work, leaving the tenderer scope on how to meet and to formulate the organisation and method of work.

All specifications must clearly define the:

1. scope or general description of the work to be undertaken;
2. the outputs and specific requirements of the collection work eg storage, operational periods, frequency, time bands, remedial times, collection points and locations, advanced pulling of waste, any assumptions for the scheduling (programming) of work, etc;
3. basic standards and quality to be met in collecting of waste;
4. working times for the collection service;
5. how to deal with complaints;
6. claims against the service for damage to property etc;
7. when and how the work will be measured;
8. facilities (eg premises) to be provided by the local authority and the equipment to be hired or purchased by the contractor from the local authority;
9. special staffing requirements, eg where the local authority requires the contractor to reemploy the local authority's employees;
10. definition of the type of additional work beyond the basic service requirement which may be required;
11. any payments the contractor must collect for special wastes, eg asbestos;
12. statutory requirements. The contractor should be aware of the local authority's statutory obligations and any other legislation which the contractor must comply with; and
13. arrangements for public holidays.

Additional information in the Specification should be attached in Schedules or Appendices. Typically this will include:

1. description of the local authority including a map the local authority's jurisdiction;
2. details of facilities eg depots and workshops to be licensed to the contractor;
3. common facilities to be provided by the local authority at its premises, eg telephone, utilities, security, etc;
4. details of the vehicle fleet to be rented, leased or purchased by the contractor from the local authority;
5. addresses where special collections are required;
6. details of disposal sites;
7. relevant policies of the local authority; and

8. definitions and specifications, eg bin types to be supplied or used.

The specification should be clear, unambiguous and objective. It should also define, as appropriate, the interfaces and reporting arrangements between the local authority's managers and staff and the contractors managers and staff.

Bill of Quantities

The pricing of operating contracts is usually fixed price. Fixed price can incorporate a price adjustment mechanism which increases the price of the contract by the amount of inflation. This ensures that contractor can recover the costs of inflation and minimise risks to his financial viability.

The Specimen Bill of Quantities sent in the invitation pack specifies how the local authority requires the contractor to price the tender. It will typically contain the major areas of work to be priced ie the price for collecting each type of waste. Each item should be independently priced and prices should reflect full cost recovery.

"Dayworks Schedule" or the Tariff Schedule for Additional Work

A proforma schedule to be submitted by the tenderer of the tariffs for providing additional services outside the normal specification.

Analysis of Resources Schedule

A proforma schedule to be submitted by the tenderer of the numbers and type of staff, vehicles and equipment to be used in work.

Organisation and Method of Work or the Operational Plan

A proforma schedule instructing the contractor to submit his operational plan on how he intends to carry out the Specification.

Standard Contract Terms and Conditions

The contract's "terms and conditions" set out the general rights and obligations in a contract between the local authority and the contractor. Typically the main and standard clauses are:

1. payment conditions;
2. the performance of the service which sets out the controls over how the contractor is to perform his services. This will refer to the Specification and the contractor's "Organisation and Method of Work" or the "Operational Plan" which he submits in his tender. This together with the specification forms the basis for measuring and monitoring the contractors performance;
3. use of the local authority's assets, ie vehicles and premises;

4. obligations towards the local authority's employees, eg whether the contractor is required to reemploy them;
5. setting the roles, functions and communication arrangements amongst the local authority officers and the contractor's managers;
6. responsibilities and obligations for reporting by the contractor;
7. responsibilities and obligations for contract monitoring. Usually these specify the contractor's self monitoring obligations;
8. procedures for a variation to the contract eg adjustment of the "operational plan", by mutual agreement, to take account of a significant increase the level of service and/or the need to employ extra staff, provide additional equipment etc;
9. procedures for dealing with failure to perform;
10. procedures for dealing with default;
11. the circumstances and procedures under which the local authority can terminate the contract; and
12. procedures for resolving disputes through arbitration.

Other common clauses could include:

1. the Contract Standard setting out the spirit and the intentions for the conduct of the contract;
2. the operation of the Contract Standard eg liaison, Quality Assurance;
3. method of the annual review of the contract; and
4. health and safety.

One important difference to note in the contract is the between the parties rights and obligations set in the contract's "terms and conditions" and the contract's "performance requirements and standards" which are rooted in the "Contract Specification" and the contractor's "Operational Plan".

This difference highlights the distinction between "failure to perform" and "default".

A "failure to perform" is where the contractor fails to carry out his work according to requirements of the Specification and/or the Operational Plan, whereas a default is where a term or condition the contract is breached.

A "failure to perform" is not of itself a breach and the local authority will instruct the contractor to remedy the failure. Typically, if the contractor fails to comply with the instructions this is then a default with punitive consequences, eg accrual of default points, penalties, damages and ultimately termination. Unlike failure to perform default cannot be remedied.

Form of Tender

The Form of Tender constitutes the Tenderer's offer to the local authority. The offer's conditions typically include:

1. a commitment of the Tenderer to keep his offer open and valid for acceptance for a specified period eg 120 days from the date of the tender. This is the time required by the Local authority to evaluate and select the winning bid;
2. an agreement that the Tenderer will provide a Performance Bond if he wins the tender; and
3. the contractor's Tender is constitutes a binding contract between the contractor and the local authority.

The Tender Certificate or Confidentiality Agreement

Tenderers are required to sign and return the "Confidentiality Agreement" in their bids. The Tenderer confirms in the Agreement that he has neither colluded with other contractors or any other person in bidding for the work, eg to fix the price of the tender, nor canvassed or solicited any member of the staff of the local authority in connection with the tender.

Performance Bond

The Performance Bond is a financial guarantee obtained from the winning Tenderer through its bank or insurance company to protect the local authority from financial costs it may incur in the event of the contractor's failure to perform or default. The Bond provides an immediate financial remedy for the local authority.

The Performance Bond, sometimes called the "Security for Performance", is set at a certain sum, usually 10% of the tender sum or contract price.

The Performance Bond is a tripartite agreement between the local authority, the Contractor and the bank or insurance company and forms part of the contract. The value of the Bond is usually increased at each of the contract's review dates.

4. Clarification of Meaning of Contract - Tenderers' Questions

Either before submission of the tender tenderers may wish to raise questions seeking clarifications about the tender. Clarifications sought should be given. However, no tenderer should be given an advantage by being offered more information than others. Therefore, any clarifications made must be copied to all the other tenderers.

Sometimes it is preferable to meet with potential tenderers to discuss questions and make clarifications which must then be reduced to writing. If, after clarification, there is need to amend the tender care must be taken to ensure that the changes do not materially affect the competitive tendering process, or discriminate against other tenderers.

5. Evaluation and Selection of the Tender

This deals with the process for evaluating tenders. The aim of the evaluation process is to select the proposal which represents the best overall value for money by a balance between quality, performance, delivery, and risk. Section 143(5) of the Local Government Act provides that a local authority may accept any tender which, "having regard to all the circumstances appears to it to be the most advantageous".

This is a minimum benchmark criterion. It needs to be given concrete meaning through more specific definition, attaching weight to each criterion which should be agreed before inviting bids. It is essential that tenderers are aware of the evaluation criteria to be used. Once set, these should not be changed as it may prejudice the fairness of the process.

Typically, criteria for judging bids include capability (including the company's reputation and experience), technical compliance, quality of the proposed services to be performed and the relative costs of the tenders.

A tender evaluation team comprising people with expertise on these various factors needs to be established to evaluate tenders. An important principle of tender evaluation is that the evaluation process must be systematic, thorough, fair and seen to be fair. The choice of bid must therefore be based on the published evaluation criteria.

On capability relevant questions include whether the tenderer has the capability (as defined by experience) to meet the specification's requirements. As part of the evaluation process the tenderer's references should be checked, particularly to verify the tenderer's statements about his past performance for other clients.

An assessment of the tenderer's technical capability evaluates whether the tenderer can meet the quality and performance standards set out in the specification. The evaluation should consider also whether the tenderer has sufficient capacity available to carry out the task.

An evaluation of the tenderer's quality work program will indicate whether the tenderer can meet the quality specifications and how his plan compares with that presented by the other tenderers.

A financial assessment of the tender evaluates whether the proposals are financially viable. The evaluation must:

1. check that all relevant costs are included in the bid;
2. check any adjustments needed to make bids comparable;
3. assess any proposals which might result in significant cost changes during the period of the contract; and
4. assess the effects of any proposed changes in pricing over the life of the contract.

The choice of bid and the reasons for the choice, based on the evaluation criteria, needs to be put in writing. This is important both for accountability and for the information of those who are responsible for monitoring, managing and renewing the contract. The report should set out:

1. a summary of the tenders submitted;

2. details of the competing bids;
3. reasons for awarding the contract to the selected tenderer; and
4. the implications to the Council (financial, employment etc) of making the award.

6. Contract Award

Following the recommendation of the tender evaluation team, the decision making entity (e.g. senior management or the political authority, such as the Council) needs formally to approve the award of the tender to the successful tenderer.

At times, prior to formally awarding the tender the tender may be negotiated. This process is known as "post-tender negotiation". It involves negotiating the tender with the successful tenderer with a view to obtaining an improvement in the content of the tender. The practice is fraught with risks of putting the other tenderers at a disadvantage, distorting competition or affecting adversely the competitive tendering process. In view of these risks the NCC, as a matter of policy, does not engage in post-tender negotiation. It awards tenders as submitted.

After the tender is awarded the contract is drawn up. Typically the contract will include:

1. the specification of services to be provided, including the quality plan and the standards to be achieved;
2. the methods by which the specification's requirements will be measured and monitored; and
3. the contract terms and conditions;
4. definitions;
5. Performance Bond;
6. Bill of Quantities;
7. Additional works ("Dayworks") tariff schedule.
8. Analysis of Contractor's Resources

The contract needs to specify how the contractor will be notified of failures to meet the agreed performance specifications. It must also include a provision to allow termination in the event of a breach of conditions or continual non-performance.

The formal award should be by a properly executed contract, not by a letter of intent. It is advisable that the contractor not be allowed to start work without a formal contract and not until proof of insurance and a performance bond have been received by the Council. Also, the Council must check that it is able to fulfil its own contractual responsibilities to avoid defaulting on its contractual obligations. For instance:

1. the premises and equipment are available for the contractor's use;
2. the contractor's work methods are understood by the officers responsible for monitoring;
3. monitoring arrangements and management information systems are in place; and

4. arrangements to make payments to the contractor as required are in place.

The formal award of contract is followed by a mobilisation period as defined in the contract after which the performance of the contract commences.

Current Tendering Arrangements in NCC

JICA SWM Study

Current Tendering Arrangements in NCC

NCC's practice is, on the face of it, largely in conformity with the regulatory requirements outlined above. They are as follows:

The technical department (eg the DoE) defines its requirements. It then makes a recommendation to the relevant Committee of the Council for a contract to be tendered out. If its recommendation is accepted, it prepares the tender documents, including specifications. It may liaise with the Town Clerk's department as appropriate. In particular it may seek the assistance of the Conveyancing Section of the Legal Department in drafting the tender documents.

The notice inviting tenders is prepared and published by the Town Clerk's department. The notice will also give the other details relating to the processing of the tenders, such as the date for opening tenders. Ordinarily tenders are open to any party to bid, and the law does not allow pre-qualification of contractors who may bid. However, NCC does resort to pre-qualification by waiving the tender procedure outlined in the Local Government Act altogether. The procedure in this situation is that the department concerned makes a recommendation to the relevant Committee which may recommend pre-qualification to the Council for approval. If approval is given the department, in conjunction with the Conveyancing Section, sets the criteria for pre-qualification.

On the Tender opening date, the tenders are opened by the Tender Committee which includes representatives from the Council, the Town Clerk's department and the Conveyancing Section. It is a Standing Committee of the Council which is constituted at the first meeting of the Council. Representatives of the bidders are allowed to attend the tender opening, as are members of the public. The Committee goes through the tender documents, checks that they are in order and numbers them. The Chairman of the Tender Committee, the representative of the relevant department and the lawyer from the Conveyancing Section all sign the documents. The bidders' representatives witness the opening but do not sign the documents. If any documents specified on the tender documents as requirements are missing this is noted by the Tender Committee.

Following opening the tenders are passed on to the Audit Section of the Treasurer's Department which checks the figures for errors. From the Audit Section the tenders are passed on to the technical department concerned for analysis. The department may seek the assistance of any other department of the Council as appropriate. The tenders are evaluated and ranked according to criteria which have been developed by the department in conjunction with the Treasurer's department. These criteria are normally stipulated in the tender documents.

The Council does not employ a standard marking (or "points") system. Specifically, the Council does not evaluate the technical aspects of the proposal separately from its financial aspects as is the standard procedure with Central Government tenders. The evaluation process in the Council takes an overall view of the suitability of the tender, including experience, past performance and capability.

The lack of a points system poses the danger that financial considerations will predominate and tenders will be awarded to those who have presented low tenders without sufficient weight being given to technical factors. Additionally, the fact that the evaluation criteria are developed on a case by case basis presents risks of introducing

subjectivity into the evaluation exercise. Thirdly, the initiative in the evaluation is left to department concerned which is at liberty, but is not required, to consult other relevant departments. The possibility of bias in the evaluation exercise can be greatly reduced if the evaluation reports are made available to either the public generally or to other (losing) bidders.

Following its evaluation the Department concerned passes the tenders to the Conveyancing section which analyses them for compliance with the terms and conditions of the tender documents. The Conveyancing Section passes the tenders back to the technical department concerned which then prepares an item for the Tender Committee. The Tender Committee recommends the award of the tender to the Finance Committee.

If the Finance Committee has "plenary powers" it may award the tender directly. If on the other hand it does not have "plenary powers" it has to send the recommendation to the full Council who will award the tender. "Plenary powers" are powers to make a decision which does not require ratification by the full Council. The decision of whether to give plenary powers and the Committees to which to give it is made by the full Council, normally at the beginning of its term.

As required by the Local Government Act (section 143(5)(a)) NCC ordinarily awards tenders to the Contractor whose offer is "most advantageous" to the Council. Where the recommendation is to award the tender to a Contractor whose tender is not the lowest then the department must prepare a Report which is submitted to the Minister for his consideration. The particular office within the Ministry of Local Government which handles these references is the office of the Chief Finance Officer.

The recommendation to award the tender to a bidder that is not the lowest can come either as a result of the advice of the department concerned, or it can be a decision taken by the Committee of the full Council, contrary to the advice of the department. In the latter case the Head of Department may ask that his opinion on the matter be recorded. This is in keeping with Standing Order Number 28 which provides that the Head of Department or his representative has the right to require that his opinion be recorded in the minutes if the Committee arrive a decision, which, in his opinion, is contrary to his advice. The record forms part of the documents presented to the Minister for his consideration.

The Minister's decision is binding and the tender is normally awarded directly after the Minister has given his decision without presentment to the Council a second time. It is however not clear what factors, apart from the technical report presented to him, the Minister considers in coming to a decision. The opinion of the Head of Department however is supposed to carry considerable great deal of weight.

Although there are statutory requirements that Council members and officers who have an interest in a contract under consideration must disclose this and not participate in the consideration of the contract, these are hardly, if ever, complied with. Possible methods of improving the effectiveness of these provisions are:

1. to introduce a term in the tender and contract documents that the subsequent discovery a failure to disclose an interest will lead automatically to blacklisting for future contracts; and

2. to make independent inquiries about the bidding companies at the Companies Registry and any other appropriate places with a view to verifying the information given.

The contract documents for the award of the tender are prepared by the Conveyancing Section. It is not the practice to negotiate a tender after the award, and the award is normally made on the basis of the bid.

Following the award the department concerned has to monitor the performance of the contract. This is on the basis of criteria for monitoring which it is required to design as part of the tender specifications. There are no legal stipulations governing tender monitoring but these are normally contained in the tender documentation. Similarly, the contract documentation will ordinarily specify the consequences of default.

The Council does not routinely make a "value for money" assessment of the contracts it enters into. Any assessments made are by the Audit Section, and these concentrate of financial issues. Technical audits are rarely, if ever, carried out.

Formulate Pre Contract Award Arrangements

JICA SWM Study

Formulate Pre Contract Award Arrangements

Introduction

Based on the evaluation of the current tendering arrangements in NCC the Workshop participants will formulate pre contract award arrangements.

The outputs should specify arrangements for the key stages ie:

1. the contract strategy
2. prequalification
3. invitation to tender - the "tender documentation"
4. evaluation and selection of the tender and contract award

Methodology for Formulating the Strategy

The Workshop participants will be split into 3 groups. Each group will formulate a strategy and prepare outputs. One of the Groups will then present its recommendations in plenary which will discuss them, add and adjust them as appropriate.

Scheduling

The recommendations will be formulated on Day 1. A presentation of the recommendations will be made during the Closing Session at the end of Day 2.

Good Practice of Post Contract Award Arrangements

JICA SWM Study

Good Practice of Post Contract Award Arrangements

After a contract is awarded the objectives of contract management are that:

1. services are performed to the required level, standards and quality as stipulated in the specification and in the contractor's work program (or "operational plan") both of which form part of the contract;
2. the contract's terms and conditions are complied with, ie both parties fulfil their contractual obligations; and
3. the contract provides best Value For Money (VFM) for NCC.

These objectives express the vital distinction between the activities of:

1. "monitoring" collection services, on the basis of the specification and the contractor's work program contained in the contract; and
2. "running or managing the Contract", which ensures compliance with the contract's terms and conditions.

This distinction needs to be clearly understood. Each of these activities is separately dealt with.

1. Monitoring Collection Services

A good monitoring system enables a local authority to identify where the contractor has "failed to perform" the service to standard required in the contract.

Planning

Monitoring systems need to be carefully planned so that they are:

- appropriate to the service being delivered;
- relevant to the service objectives; and
- proportionate to the costs of the contract.

The planning should consider:

- whether the services in the specification are defined in input or output terms;
- the monitoring priorities ie which parts of the services are the most important to monitor;
- the performance indicators to be used;
- the information required for performance measurement and reporting;
- resources required, ie financial, staff, information systems; etc
- how the "customer" is to be built into the systems, eg through surveys or complaints;
- how the "contractor's self monitoring" is to be built into the systems.

The Choice of Monitoring Methods

There are different ways of monitoring. Some of the more common methods are:

1. **Continuous monitoring** where there is close daily monitoring of activities;
2. **Random or sample monitoring** where the contractor's performance is directly monitored without the contractor's advance knowledge;
3. **Planned or scheduled monitoring** which is arranged in advance with the contractor;
4. **Outcome based monitoring** which is based on assessment of the service delivery by the Customer - usually through surveys;
5. **Complaints based monitoring** where the Customer reports directly to the local authority or the contractor about poor services; and
6. **Self monitoring** by the contractor.

Under self monitoring the contractor is responsible to report performance data to the local authority on a regular basis and the local authority uses the data and information generated by the contractor to assess performance.

In this way the contractor can be made responsible for early identification of problems and make proposals on how to resolve them. This should be supported by regular meetings between the authority and the contractor to discuss progress on the contract and to anticipate and resolve problems that may arise.

The choice of monitoring method and the emphasis will vary depending on how the specification is drafted.

An "input" specification directs the contractor on how to carry out the work. Typically specifications in refuse contracts are structured this way and monitoring focuses on the service process.

An "output" specification is concerned with the outputs and the standards achieved and rather than the contractor's method of working. Here monitoring focuses on the service outputs.

Typically a local authority will use a combination of monitoring methods for different aspects of the service.

The monitoring systems for the City of Westminster's Cleansing Contract which are described in Annex 3 illustrate this. The Westminster Contract covers both collection and street cleansing and is input based.

The Annex also describes Westminster's procedures for dealing with failures to perform, remedies and default.

2. Managing or "Running" the Contract

Managing or "running" the contract essentially means that the local authority must ensure that the contract's terms and conditions are complied with, ie both parties fulfil their contractual obligations.

It also incorporates the responsibility of carrying out VFM assessment and ensuring that all contracting goals and objectives have been met.

The major responsibilities of running the contract are:

1. variation to the contract;
2. procedures for default;
3. procedures to manage disputes;
4. procedures for termination; and
5. VFM.

Variation to the Contract

The contract should incorporate provisions to enable the parties to make changes to the contract's specification or terms and conditions when they are required. Procedures should be implemented to enable the contracting parties to flexibly manage these changes.

Typically variations will be changes to the collection service eg change in the frequency, change in times of the day, the day of collection etc.. Other variations might be made for include for technological change or as a result of changes in laws.

Default

If a failure to perform is identified there must be systems to report, record and give the contractor the opportunity to remedy the failure usually within amount an of time specified in the contract.

The authority must also review the remedy to ensure that it has been corrected properly. If the contractor "fails to remedy" he is then in default or in breach of the contract.

Typically default results in some form of penalty which will escalate depending on the seriousness of the breach. The contract will contain a default clause which will specify the various penalties. These penalties typically include:

1. award Default Points which cumulate;
2. deduct Default Sums from contract payments. These sums are estimates of the extra administrative costs incurred by the authority in dealing with the default;
3. make "financial deductions" from the contract payments. These deductions are based on the value of the services which were not provided; and
4. issue warning notices based on the number and gravity of accumulated defaults.

The authority must have procedures to impose the penalties.

Disputes

A dispute is a fundamental disagreement between the parties about a factual situation or its contractual consequences. For example disagreement as to whether there was a failure to perform or not.

The contract will contain a dispute resolution clause which usually provides for mediation or the determination by an expert.

If disputes arise the procedures and mechanisms laid down in the contract should be followed.

Termination

Termination is rare and is an extreme measure. Termination brings to an end the contractual relationship between the parties to the contract. It should only be considered if the contractor is consistently in default.

The decision should be thoroughly analysed and will require a full legal and technical audit. This should consider whether the contract could be repackaged, how fundamental the problem is and whether it is fatal both to the contract and to the relationship. Solutions might be to revoke part of the contract or implement better quality assurance systems. Often an innovative and face saving solution will work and restore the relationship.

VFM

Part of contract management is to ensure that optimal VFM is assured for the authority and that contracting goals and objectives are met.

Monitoring is essential to enable the DoE to assess whether the contract is giving Value for Money. The VFM assessment considers the balance between risk, cost, service delivery and quality. The contract should be managed to ensure that all costs are recorded, services are delivered on a timely basis, there is no change to the balance of risk and that quality is assured.

Proper Documentary Evidence

It is essential that proper documentary evidence is maintained where the contractor fails to perform or there is default. Maintaining good documentary evidence facilitates the correction of failures to perform and enables default procedures to be effectively implemented and to avoid disputes.

Formulate Contract Monitoring Arrangements for the DoE

JICA SWM Study

Formulate Contract Monitoring Arrangements for the DoE

Introduction

Currently the DoE does not have an effective contract monitoring or contract management capability.

The objective of the Workshop participants is to formulate the contract monitoring systems and procedures the DoE would require for a collection contract.

The outputs should specify the:

1. monitoring principles and approach; and
2. the monitoring methods and systems.

Methodology for Formulating the Strategy

The Workshop participants will be split into 3 groups. Each group will formulate recommendations and prepare outputs. One of the Groups will then present their recommendations in plenary which will discuss them, add and adjust them as appropriate.

Scheduling

The recommendations will be formulated on Day 2. A presentation of the proposed strategy will be made during the Closing Session at the end of Day 2.

Closing Session

Presentation of the Workshop's Key Recommendations

The Workshop groups will present the key decisions and recommendations from the Workshop covering the formulation of:

1. contracting arrangements for collection contracts for NCC and the Department of Environment before they are awarded; and
2. arrangements to monitor collection contracts after they are awarded

Closing Speeches.

Annexes

"Contract Management" Workshop

JICA SWM Study

Annex 1

Specimen Specification for Refuse Collection



SPECIFICATION FOR REFUSE COLLECTION

These documents, known as "The ACTO Specification for Refuse Collection," were first issued in May 1986 and reprinted in May 1987.

This Second Edition was issued in May 1988 incorporating amendments jointly agreed by:-

1. Association of Chief Technical Officers
2. The Institute of Wastes Management
3. National Association of Waste Disposal Contractors
4. Contract Cleaning and Maintenance Association.

INSTRUCTIONS TO TENDERERS
AND
SPECIFICATION, BILLS OF QUANTITIES,
CERTIFICATE

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INFORMATION AND INSTRUCTIONS TO TENDERERS

1. Refuse Collection Service

The Council has decided to invite tenders for the collection of Household, Industrial and Commercial Waste currently carried out by its Direct Labour Organisation but does not bind itself to accept the lowest or any tender that is received.

2. The Authority

Details of the Authority including its area, population, the number of separately rated premises in various categories and a general description of the area are included in Appendix A of the Contract Document together with the address of the principal offices of the Council, the name and title and address of the Officer to whom the tender is to be delivered and the name, title and address of the Officer who is defined as the Supervising Officer for the Contract.

3. The Basis of the Tenders

Tenders are being invited from a selected list including the Council's Direct Labour Organisation on the basis that:

- (a) If an external Tenderer is successful the Council's operation would cease and the employees, other than those offered employment by the successful Tenderer, would be the responsibility of the Council.
- (b) The successful Contractor can take licences from the Council for parts of the premises described in Appendix B at no cost but a Prime Cost Sum to cover an annual payment for the use of the depots will be included in the Bills of Quantities and will be expended whether or not the successful Tenderer elects to use the depots. The annual payment includes maintenance works which will be undertaken by the Council. If the Contractor uses the depots a service charge will be payable in respect of the common facilities provided by the Council at the depots and details are contained in Appendix C.
- (c) Subject to the approval of the Council and in accordance with the Conditions of the licences, the Contractor will be permitted at his own expense to make such minor modifications and alterations to the premises as are necessary.
- (d) The contract will be for FIVE years and the rates as quoted in the Tender documents shall remain fixed for one year from the commencement of the Contract and thereafter be revised on each anniversary in accordance with the Method of Review Clause as defined in the Standard Conditions of Contract.
- (e) The Contractor will either be required to hire or to purchase sufficient of the Council's existing fleet of vehicles in order to perform the Contract. Details of the hire charge and the period over which they may be hired are given in Appendix D. The annual hire charge shall be paid in twelve equal instalments each to be deducted from the monthly contract payments to the Contractor.
- (f) The required vehicles, if purchased will be at a price to be agreed between the Council, Contractor and FTA Engineer or equivalent. Defects will either be repaired by the Council prior to handover or an appropriate deduction will be made to the rental or purchase price.
- (g) On the Termination of the Contract, the Council shall have the option of purchasing or taking an assignment with the provision of the Standard Conditions of Contract.

4. Employment of Existing Council Staff

- (a) The successful Contractor will be required to interview and consider for employment any of the Council's existing staff who want to be employed by him.
- (b) Tenderers are required to give details of the terms of employment that they would be prepared to offer to existing Council staff (subject to interview and selection by them), who elect to leave the Council's service and join the successful Tenderers.

5. Performance Bond

The form of performance bond to be used for the Contract is set out in the Contract Document. The sum which will be required under the Bond will be 10% of the Annual Sum defined in the Standard Conditions of Contract for the first year of the Contract.

6. Trade Association

Tenderers shall state if they are members of a bona fide Trade Association.

7. Clarification of Meaning of Contract

Tenderers should seek to clarify any points of doubt or difficulty with the Council before submitting a Tender. For this purpose contact should be made with the Supervising Officer. Should there be any matters of principle or remaining doubt or difficulty which Tenderers consider are not adequately covered in the Tender documents then these matters should be submitted in writing.

8. Period of Validity

Tenderers are required to keep Tenders valid for acceptance for a period of 120 days from the date of Tender.

9. Commencement Date

The successful Contractor will be required to commence operations within 60 days of acceptance of the Tender, or such other date as may be agreed.

10. Commissioning Period

A period of 8 weeks will be allowed at the commencement of the Contract as a settling-in period but the Contractor will be expected after this period to be performing the Contract to the entire satisfaction of the Council and the penalty provisions set out in the Standard Conditions of Contract will come into operation.

11. Tendering Procedure

Tenders for the execution of the Services must be made on the Tender Form included with the Contract Documents and:

- (a) The form must be signed by the Tenderer and submitted with the following, all of which must be properly completed.
 - (i) Bills of Quantities
 - (ii) A certificate that the Tender is bona fide, (a copy is included with this document)
 - (iii) An analysis of resources in the Tender
 - (iv) Details of additional vehicles to be acquired by the Tenderer
 - (v) An illustration of the way in which the Tenderer proposes to carry out the Contract, including his management, supervisory and administrative structure.
 - (vi) The name and address of the Bank or Insurance Company which will provide the Bond.
- (b) All the documents must be placed in the envelope provided which must then be sealed. The envelope shall in no circumstances bear any name or mark indicating the name of the sender.
- (c) Tenders must be delivered in the manner described to the address defined in Appendix A. No Tender will be considered if it reaches the named Officer after the time specified in the letter of invitation to submit a Tender.
- (d) Tenderers are advised to visit the area to ascertain all relevant conditions and means of access and to thoroughly acquaint themselves with the extent and nature of the proposed Services and will be deemed to have done so before submitting a Tender.
- (e) Tenderers should treat details of their Tenders and any subsequent Contract as private and confidential.
- (f) The Council will publish the amounts of all the tenders and the name of the successful Tenderer.

12. Plan of Authority.

A plan of the area of the Authority accompanies the Tender documents for the assistance of Tenderers.

1. General Description of the Service

- (a) Subject to clauses 4 and 18, Household refuse is to be collected on a strict weekly cycle and Industrial and Commercial Waste on a varying frequency, throughout the area. Containers for refuse include dustbins, wheeled bins, sacks and boxes together with bulk bins, some in special chambers served by chutes in multi-storey flats. There are also trade premises which generate varying amounts of refuse according to their use and this refuse is housed in bins, wheeled bins, sacks, boxes, bulk bins, skips and compacting skips.
- (b) The refuse is to be disposed of at such locations as may be directed by the Supervising Officer. Present locations are as indicated in Appendix F of the Conditions.
- (c) The refuse Collection Service required by the Council broadly consists of:
 - (i) One collection per week of Household refuse from all domestic premises including any new properties and the disposal thereof to disposal points.
 - (ii) The collection of Industrial and Commercial refuse from premises which have requested the service and the disposal thereof to disposal points in accordance with the existing agreements.
 - (iii) The collection and disposal to disposal points of the contents from bulk bins containing Household, Industrial and Commercial Waste including those in chambers serving multi-storey or other combinations of flats and houses and commercial and public authority buildings.
 - (iv) The delivery, collection and transport and the disposal at disposal points of refuse contained in skips.
 - (v) The delivery, collection and transport and the disposal at disposal points of refuse contained in compacting skips.
 - (vi) The provision of a special collection service for bulky domestic items or in circumstances as required by the Supervising Officer.
 - (vii) The delivery, collection and transport and the disposal at disposal points of Special Waste as defined in Clause 9.

2. Supervision

The Contractor shall provide sufficient supervision in order to ensure the Service is being carried out to the satisfaction of the Supervising Officer, such supervision must be available during all times that the Contract is operational.

The Council will also exercise a quality control and a random checking system of all aspects of the Refuse Collection work performed by the Contractor.

3. Statutory Requirements

- (a) It is important that Tenderers fully understand the statutory duties of the Council because it will be incumbent upon the Contractor to carry out the Services in accordance with those statutory requirements on behalf of the Council. Any penalties prescribed by law and any consequential costs resulting from the Contractor failing to carry out those statutory duties must be paid by the Contractor. Payments may be deducted from any monies due to the Contractor, or recovered the same as a debit from the Contractor.
- (b) The Contractor will be expected to acquaint himself with the relevant provisions of the Control of Pollution Act 1974 (Section 12 to 14).

4. Regular Collection Duties

Refuse shall be collected weekly on a regular day of the week (except where a Bank or Public Holiday falls in the week) from each property except in the case when a more frequent service is necessary. (Situations where these more frequent collections are required are shown in Appendix E of the Conditions).

5. Refuse Disposal

Refuse will be disposed of at the disposal points defined in Appendix F or at such other locations as may be directed by the Supervising Officer.

- (a) If an alteration in the location or type of any disposal point required by the Supervising Officer incurs the Contractor in any greater or lesser expense than at the date of submission of the Tender then such difference in expenditure shall be the subject of negotiation between the Contractor and the Supervising Officer.
- (b) All Commercial and Industrial Waste disposal charges levied by the Refuse Disposal Authority in connection with the Council's Industrial and Commercial Waste Contracts will be the responsibility of the Council and not the Contractor.

6. Household Waste

- (a) Subject to Clause 7 of the Specification all Household Waste which is placed at the collection point in an "appropriate container" shall be removed by the Contractor but at properties where wheeled bins are in use only the refuse in the bin shall be removed.
- (b) Subject to the provisions of (a) concerning wheeled bins and also subject to the provisions of subsequent sub-clauses the removeable waste from households shall be unrestricted in quantity or number of receptacles. The waste may be in a number of "appropriate containers" including metal or plastic dustbins, plastic or paper sacks, cardboard or wooden boxes, bundles or in any other receptacle which the householder clearly intends to be used for disposal. Spillage and loose refuse around the collection point must be removed but if occurring regularly will normally denote a bin deficiency or storage problem requiring customer liaison by the Contractor to remedy.
- (c) Small bulky articles which are clearly of a household nature and can easily be handled must be removed and no charge will be made to any householder for doing so.
- (d) The provision of dustbins, wheeled bins, sackholders, bulk-bins and other refuse receptacles does not form part of the Services but the Contractor must allow in his rates for replacing free of charge any bins damaged by him or his employees actions under this Contract.
- (e) The Contractor will purchase refuse sacks to the specification and from the supplier as detailed in Appendix G. Such details may be altered by the Council from time to time following at least 6 months prior notice to the Contractor.

The Contractor will supply at no cost to the householder sufficient of these polythene sacks to each property to enable the adequate storage of refuse prior to collection.

Sacks will normally be provided by the Contractor on a "one new one for one used one" basis. The Contractor will ensure that he is always in possession of at least three weeks supply of sacks.

- (f) The Contractor should allow in the Bill of Quantities for all costs incurred in transporting the bulk bins to and from the depots for maintenance and repair. In those cases where the Supervising Officer agrees that bulk bins require replacing he will be issued an appropriate order and the Contractor should allow in his rates for the collection of new bulk bins from depots, installation at their final location and disposal of the old bulk bins.
- (g) Normally for domestic refuse the collection point will be as specified in Appendix E of the Contract Document. However, where the collection point is at the kerbside or the curtilage of the property, a list of premises where the householder is infirm or disabled or where operational requirements so dictate, will be provided by the Supervising Officer from time to time and in these cases, together with any others notified by the Supervising Officer, the Contractor will bring out the refuse from the rear of the dwelling or wherever the collection point is, and return the empty containers to that point. Bulk bins must be collected from and returned to their normal collection position. The Contractor shall include for these non-front gate collections in his price and no extras will be allowed.

7. Separate Collections for Bulky Domestic Items

- (a) A free collection of bulky domestic items is to be provided to ensure that it is not necessary to overload the vehicle or delay the routine working of the rounds or cause possible injury or damage to the workforce or equipment. Such bulky refuse will be collected within SEVEN days of notification. A definition of Bulky Domestic Items is shown in Appendix E.
- (b) Requests for the collection of bulky refuse will be referred to the Supervising Officer who will arrange to issue the appropriate order.
- (c) The Council does not provide a collection service for the removal of builders rubble.
- (d) Vehicle drivers shall carry a working stock of "Separate Collection" leaflets for issue to residents on request or to be left at the premises where bulky items are put out for collection but are not removed by the domestic crew.

8. Garden Refuse

The Council have decided that no charge will be made for the collection of garden refuse.

9. Special Waste

- (a) A separate collection of Clinical Waste is to be provided to each of the premises listed under Appendix H.

Such medical waste is to be disposed of in accordance with the Health and Safety Executives document "The Safe Disposal of Clinical Waste". The Disposal Authority must be informed of the type of waste carried on arrival at the disposal site.

The Supervising Officer will inform the Contractor of any additions or deductions from the premises listed in Appendix H. A definition of Clinical Waste is also shown in Appendix II.

- (b) The Contractor shall, at the request of the householder collect and dispose of bonded asbestos materials on a fully rechargeable basis.

The handling, storage, transportation and disposal of asbestos shall be in accordance with the policies of the Waste Disposal Authority.

10. Industrial and Commercial Waste

- (a) One collection per week is given free to every domestically occupied hereditament which includes houses, flats and multi-storey premises.
- (b) Collections from shops, offices, hotels, guest and boarding houses, restaurants, hostels, public houses and commercial firms or any other non-domestic premises are only made in accordance with an Industrial and Commercial Waste Agreement. A full list of all such agreements will be provided by the Supervising Officer.
- (c) The Council will be responsible for sending out accounts and receiving all income.
- (d) The Council will be responsible for the payment of any Commercial and Industrial Waste charge made by the Refuse Disposal Authority.
- (e) Bulk bins and ordinary bins containing Industrial and Commercial Waste must be collected from and returned to their normal collection position.

11. Site Conditions

The collection of all the waste from the collection point shall be carried out and the Service maintained (normally at the regular collection times): irrespective of the distance from the collection point to the point where the refuse can be loaded on to a vehicle; site conditions; handling problems; mode of storage; access problems; weather conditions or other constraints.

12. Approved Methods

The constraints implied by Clause 13 do not prohibit the use of handling aids or mechanisation or sensible group working systems but do declare as unsatisfactory workmanship such practices as non-return of emptied bins or lids to the storage point, throwing bags and bins up or down basements, leap-frogging and missed collections, non-closure of gates and doors and other similar activities.

13. Unacceptable Methods

Methods of collection which would impair safe working arrangements or give rise to nuisance or damage to private property or inconvenience to residents are unacceptable. The Contractor shall, at the direction of the Supervising Officer, investigate all unacceptable methods reported to the Supervising Officer and if appropriate discipline any employee undertaking such methods or any dangerous practice.

14. Quality of Service

All collections are to be made in a tidy manner and any spilled rubbish whether arising on the public highway or on private property must be swept up and removed at the time of collection. Lids are to be replaced on bins which must be returned to the original collection point. Missed collections, complaints, customer liaison, damaged bins or bin deficiencies, unsatisfactory storage arrangements and other similar occurrences necessitating remedial action by the crew or by supervision or management must be dealt with promptly and efficiently by the Contractor in such a manner as to promote customer satisfaction. Such incidents reported to the Contractor before noon shall be dealt with on the same day. Incidents reported to the Contractor after noon shall be dealt with on the next working day.

15. Complaints

The Council will normally receive all complaints but those directed to the Contractor must be dealt with as follows:-

- (a) The Contractor will deal with any complaints that he receives in a prompt, courteous and efficient manner.
- (b) Unresolved complaints received by or referred to the Council will be investigated by the Supervising Officer, who in appropriate cases can invoke the default provision.
- (c) The Contractor shall keep a written record of all complaints received by him direct from any source and of the action taken by him in relation to that complaint. Such records shall be kept available for inspection by the Supervising Officer at all reasonable times.

16. Claims

Claims against the Service for damage to private property, loss of bins, unauthorised and or accidental removal of articles not intended by the householder for refuse collection form part of the normal incidents which the Contractor should prevent but nevertheless he should make suitable arrangements under the Contract for insurance or otherwise to deal with those incidents which do arise and shall indemnify the Council accordingly.

17. Working Times

- (a) Normal daily collections should take place from Monday to Saturday inclusive and should not commence prior to 7.30 a.m. nor continue after 6.00 p.m. in order to avoid nuisance and complaint. Work outside these hours can only be carried out with the prior approval of the Supervising Officer and might incur a levy to cover the Council's additional supervisory costs.
- (b) The Contract should note that the opening hours of the tip or refuse transfer loading station could be a constraint on his operating hours and he must ascertain from the Refuse Disposal Authority the hours when they are open. If the Contractor wishes to operate outside these hours then he should make arrangements with the Refuse Disposal authority and be responsible for any additional special charges made by that Authority in complying with the Contractor's request.

18. Bank and Public Holidays

The Contractor will be expected to make arrangements to ensure that collections are maintained during working weeks affected by Bank and other Public Holidays. Subject to the Supervising Officer's agreement the normal working collection day can be varied in respect of such weeks, but the normal sequence of collection shall generally be followed. No payment will be made to the Contractor for any additional expenses in which he may be involved in complying with the requirements of this Clause. The agreed collection arrangements shall be finalised with the Supervising Officer at least twenty eight days in advance and the Supervising Officer will be responsible for publicising the revised arrangements at the expense of the Council. The Contractor will also include a suitable notice on all his vehicles.

19. Inclement Weather

If, in the opinion of the Supervising Officer, the weather due to snow and ice on any particular day or part of a day, is so inclement as to make work impracticable, then if requested by the Contractor, he will agree to suspend the normal refuse Service for that day or part of a day. The Contractor will, however, be required to make collections as soon as possible and within the same working week where practicable to those properties omitted from the collection rounds as a result of the inclement weather. No additional payments will be made to the Contractor in respect of any additional expenses he may incur in complying with this requirement.

20. Dayworks

An additional refuse collection and disposal to tip service may be required to cater for requirements during and following special events in the area including fairs and carnivals and similar events. The Contractor will be required to clear and dispose of any refuse arising from such special events as directed by the Supervising Officer. Payment for this additional Service will be made in accordance with the appropriate Dayworks rates.

21. Programming of Work

A programme of work in writing shall be submitted with the Tender. No alteration to the Programme will be permitted without the prior approval of the Supervising Officer. It shall be the obligation of the Contractor, at his expense, to notify each individual property from which refuse is collectable of the arrangements for collection included in the Programme. (i.e. day of the week on which refuse will be collected from the property).

BILL OF QUANTITIES
PREAMBLE

1. Attention is directed to all the documents comprised in the Contract documents and these are to be read in conjunction with the Bills of Quantities. The Contractor should visit the area to satisfy himself as to the local conditions, the full extent and character of the operation, parking and general traffic level conditions, the supply and conditions affecting labour and all other factors which could affect the execution of the Contract generally as no claims on the grounds of want of knowledge will be entertained.
2. The Supervising Officer or his representative will be available during the Tender period to answer any queries that Tenderers may have on the matter referred to above. The Supervising Officer does not have the power to alter any of the documents or the intent of this Tender but if in the Tenderer's opinion there is any omission, inaccuracy or clarification required in the Tender documents then the Tenderer should submit his views in writing.
3. All the Services provided under the Contract will be subject to regular quality inspection.
4. Each item shall be priced independently of any other works scheduled in the Bills of Quantities and shall, unless otherwise specified, include haulage, cartage, labour, tipping charges and every item of work necessary to make a complete job to the entire satisfaction of the Supervising Officer. Each item in the Bills of Quantities shall be priced.
5. The method of work and frequencies of repetition specified in the Specification and Bills of Quantities represent the standard of service that the Council currently requires. However, the Council reserves the right to make changes to the Service described in the Specification in accordance with the rates in the Bills of Quantities. It is intended that such variations would take place in April in any year but may be varied at any time in accordance with the Conditions of Contract.
6. The prices and rates to be inserted in the Bills of Quantities shall be the full inclusive value of the work described under several items, including all costs and expenses which may be required to provide a satisfactory refuse collection Service together with all general risks, liabilities and obligations set forth in or implied as necessary to comply with the Conditions of Contract, the Specification and all documents forming part of the Contract.
7. The Tenderer, in pricing items in the Bills of Quantities should have particular regard to the Clause of the Specification relating to the amount of refuse to be collected at any premises.
8. The Tenderer is to allow in his prices for meeting the cost of using parts of the depots in accordance with the Conditions of Contract and hiring vehicles. However if the Tenderer decides that he will not use the depots he must allow in his prices for meeting the cost of using alternative premises.
9. THE CONTRACTOR IS REMINDED THAT THERE IS NOT A PRELIMINARIES BILL INCLUDED WITH THESE DOCUMENTS AND ALL ADMINISTRATIVE AND SUPPORTING CHARGES AS IDENTIFIED ABOVE MUST BE INCLUDED IN THE RATES FOR THE VARIOUS ITEMS OF WORK IN THE AVAILABLE BILLS OF QUANTITIES.

REFUSE COLLECTION — BILLS OF QUANTITIES

Item No.	DESCRIPTION		Amount
1.	Collect weekly and dispose of, at authorised disposal point, Household Waste contained in dustbins, wheeled bins, bags, boxes or similar containers from all premises throughout the area in accordance with the Specification	Annual Sum	£
2.	Ditto in respect of Industrial and Commercial Waste	Annual Sum	£
3.	Collect and dispose of, at authorised disposal point, Household Waste contained in Bulk Bins and described in the Appendices in accordance with the Specification	Annual Sum	£
4.	Ditto in respect of Industrial and Commercial Waste	Annual Sum	£
5.	As instructed by the Supervising Officer to make special collections from properties of bulky domestic items and dispose of at authorised disposal point in accordance with the Specification which sum shall include for any abortive calls made. Average annual number of collections made	Annual Sum	£
6.	Collect weekly and dispose of at authorised disposal point, clinical Waste from the premises described in Appendix H in accordance with Specification Clause 9	Annual Sum	£
7.	Prime Cost Item to cover the annual cost to the Council of the use of depots for refuse collection purposes including maintenance works. The moneys will be expended whether or not the Contractor takes a licence for use of part of the depots	Annual Sum	£
ADDITIONAL WORK			
8.	From additional properties collect weekly and dispose of at authorised disposal point, Household Waste contained in dustbins, wheeled bins, bags, boxes or similar containers in increments of 50 properties over and above the number existing at the date of Tender in accordance with the Specification	Per 50 Premises extra p.a.	£
9.	Ditto in respect of Industrial and Commercial Waste	Per 50 Premises extra p.a.	£
10.	Collect and dispose of at authorised disposal point, Household Waste contained in Bulk Bins for additional properties over and above the number existing at the date of Tender in accordance with the Specification	Bulk Bin p.a.	£
11.	Ditto in respect of Industrial and Commercial Waste	Bulk Bin p.a.	£
12.	From additional properties collect weekly and dispose of at authorised disposal point, Clinical Waste in increments of 10 properties over and above the number of existing at the date of Tender in accordance with the Specification	Per 10 Premises extra p.a.	£
Total Carried to Tender Form			£

* To be inserted by Supervising Officer

DAYWORKS SCHEDULE

The Contractor shall insert the comprehensive hourly rate he required to cover all expenses incurred including administration and supervision and all other costs incurred directly or indirectly in providing the additional items outside the normal Specification.

Rate per Hour (£)

1. Normal Working Hours

- a) Normal refuse collection vehicle
- b) Bulk bin collection vehicle
- c) Driver
- d) Loader

2. Weekdays Outside Normal Hours

- a) Normal refuse collection vehicle
- b) Bulk bin collection vehicle
- c) Driver
- d) Loader

3. Saturdays and Sunday

- a) Normal refuse collection vehicle
- b) Bulk bin collection vehicle
- c) Driver
- d) Loader

4. Bank and Public Holidays

- a) Normal refuse collection vehicle
- b) Bulk bin collection vehicle
- c) Driver
- d) Loader

1. Number of refuse collection rounds proposed
 Household
 Industrial and Commercial

2. Number and type of vehicles to be used including spare vehicles

3. Total number of employees to be allocated to the contract.

	<u>Drivers</u>	<u>Drivers/Loaders</u>	<u>Loaders</u>	<u>Supervisors</u>	<u>Management/Admin.</u>
Full time	.....	.....	.....	.....	.....
Part time	.....	.....	.....	.....	.....

4. Total number of man-hours to be allocated to the contract per week

	<u>Drivers</u>	<u>Drivers/Loaders</u>	<u>Loaders</u>	<u>Supervisors</u>	<u>Management/Admin.</u>
Hours	.....	.....	.....	.....	.....

5. Addresses from which contract is to be managed (nearest local office).

 Tel. No.

6. Conditions of Service proposed for employees

	<u>Full Time</u>	<u>Part Time</u>
Minimum hourly rate of pay	.....	.....
Bonus pay	.....	.....
Overtime rates	.....	.....
Normal Working Week	hours	.....
Holidays	weeks per annum	.....
Sick pay scheme in addition to SSP if any	.....	.....
Pension or superannuation scheme if any	.....	.....
Employees contribution	..... % or £	p.w.

ORGANISATION AND METHOD OF WORKING

The Contractor is required to set out below his proposed management, supervisory and administrative structure and give details of the way he will organise his workforce to carry out the services for which he is tendering.

(Continue on a separate sheet if necessary)

CERTIFICATE

In recognition of the principle that the essence of selective tendering is that the client shall receive bona fide competitive tenders from all those tendering

WE CERTIFY THAT:-

1. The tenders submitted herewith are bona fide tenders intended to be competitive.
2. We have not fixed or adjusted the amount of the tenders under or in accordance with any agreement or arrangement with any other person.
3. We have not done and we undertake that we will not do at any time before the hour specified for the return of the tenders any of the following acts:
 - (a) Communicating to a person other than the person calling for these tenders the amount or the approximate amount of the tenders (except where the disclosure, in confidence, of the approximate amount of the tenders was essential to obtain insurance premium quotations required for the preparation of the tenders).
 - (b) Entering into any agreement with any other person that he shall refrain from tendering or as to the amount of any tenders to be submitted, and
 - (c) Offering or paying or giving or agreeing to give any sum of money or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any other tenders or proposed tenders any act or thing of the sort described above.

In this certificate:-

1. "Person" includes any person and any body or association corporate or incorporate.
2. "Any agreement or arrangement" includes any transaction of the sort described above, formal or informal and whether legally binding or not.

Dated this

day of

19

SIGNED (as tenders)

duly authorised to sign

for and on behalf of

.....
.....

APPENDIX A

Description of Local Authority

Name of Council

Address for Correspondence

.....

Tel. No.

Name of Supervising Officer

Address for Correspondence

.....

Tel. No.

General Description of Area

.....

.....

.....

.....

Size in Hectares

Population

Density

Number of rated properties:

Household

Commercial

Industrial

Other

TOTAL

APPENDIX A (CONTINUED)

Map of Council's Area

APPENDIX B

Parts of Depots to be licensed to Contractor

Description

Plan

APPENDIX C

List of Common Facilities at the Depot to be provided by the Council

Individual Cost
£

- a) Gas
- b) Electricity
- c) Water
- d) Telephone
- e) Cleaning
- f) Security Service
- g)
- h)

Total Annual Cost of Providing Facilities

£ _____

Note:-

The Contractor must allow for meeting these charges within his tendered amount. This Annual Cost will be increased each year in accordance with the Method of Review Clause.

APPENDIX D

Details of Vehicle Fleet to be Hired (or purchased) by the Contractor from the Council

Reg. No.	Fleet No.	Date Acquired	Description	G.V.W.	Remarks

Total Annual Cost of Hiring the above vehicles £.....

Note:-
The Contractor must allow for meeting these charges within his tendered amount. This Annual Cost will be increased each year in accordance with the Method of Review Clause.

Addresses where collections are required more frequently than once each week and definition of Bulky Domestic Items and Collection Point of Domestic Refuse

<u>Address</u>	<u>No. and type of Containers</u>	<u>Days Collections Required</u>

Definition of Bulky Domestic Items (Separate Collection)

Whilst the majority of collections are for such items as refrigerators, cookers, beds, 3-piece suites and carpets, the following items, on occasions, require collection as part of the separate collection service:

- Concrete fire surrounds, window frames, doors, baths, boilers, radiators, grass mowers, motor cycles, car parts, pianos, etc.

The above list is not intended to be comprehensive or complete. It is merely to give the Tenderer an indication of the articles which require collection under the separate collection service.

Collection point

The Collection Point for Domestic Refuse shall be:-

APPENDIX F

Details of Refuse Disposal Sites

Ref. No.	Name and Address of Site	Occupier	Tel. No.	Opening Hours
1				
2				
3				
4				
5				
6				

Present Disposal Locations

Area	Tip Ref. No.	Area	Tip Ref. No.	Area	Tip Ref. No.

APPENDIX G

Polythene Refuse Sack Details

1. Sack Specification

- a) B.S.S. Conformity No:
- b) Type of Material:
- c) Minimum acceptable gauge:
- d) Gussetted or Non-gussetted:
- e) Minimum size of sack base:
- f) Minimum size of sack top:
- g) Minimum sack length:

2. Supply Details

- a) Name of Company:
- b) Address of Company:

- c) Telephone Number:
- d) Name of Sales Contact:
- e) Name of Production Contact:
- f) Name of Delivery Contact:

3. Average Number Used Per Annum

APPENDIX II

List of Addresses from which Clinical, Veterinary and Other Wastes have to be collected weekly in non-compression vehicles and place and method of disposal

Address	No. and type of containers	Disposal Point	Method of Disposal

Definition of Clinical Waste

- (a) Any waste which consists wholly or partly of human or animal tissue, blood or other body fluids, excretions, drugs or other pharmaceutical products, swabs and dressings, used syringes and needles or other sharp instruments, and which may prove a hazard unless previously rendered safe; and
- (b) Any other waste arising from medical, nursing, dental, blood transfusion, veterinary, pharmaceutical or similar practice, investigation, treatment, care, teaching or research, and which may cause infection.

APPENDIX I

Statement of the Council's policy under the provision of the Health and Safety at Work etc. Act, 1974.

Published by:
Association of Chief Technical Officers,
R. J. C. WOOD, C.Eng., F.I.C.E., M.B.I.M.
Director of Technical and Leisure Services,
Pendle Borough Council,
Booth Street,
NELSON,
Lancashire.

In conjunction with:
The Institute of Wastes Management
National Association of Waste Disposal Contractors
Contract Cleaning and Maintenance Association

Copies available from:
J. Holdsworth,
Borough Surveyor,
Warrington Borough Council,
Palmyra House,
Palmyra Square North,
Warrington,
Tel. Warrington (0925) 35961.

Annex 2

Specimen Contract for Refuse Collection



Annex 2

Specimen Contract for Refuse Collection



CONTRACT FOR REFUSE COLLECTION

These documents, known as "The ACTO Conditions of Contract," were first issued in May 1986 and reprinted in May 1987.

This Second Edition was Issued In March 1988 incorporating amendments jointly agreed by:-

1. Association of Chief Technical Officers
2. The Institute of Wastes Management
3. National Association of Waste Disposal Contractors
4. Contract Cleaning and Maintenance Association.

CONDITIONS OF CONTRACT
AND
FORM OF TENDER AND BOND

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Data Book 4

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STANDARD CONDITIONS OF CONTRACT

1. Definitions

In this Contract, save where the context otherwise requires, the following expressions shall have the meanings assigned to them.

"Annual Sum" means the annual sum payable by the Council to the Contractor calculated in accordance with the Tender;

"Commencement Date" means the date from which the Contractor commences to provide the Services;

"Conditions" means these conditions, any supplementary conditions and any modification thereof;

"Contractor" means the person, persons or company whose Tender is accepted;

"Council" means the Council of the
.....or any successor authority;

"Supervising Officer" means the
..... for the time being of the Council or any person duly authorised by him in writing to act on his behalf;

"Services" means the services described in the Tender document or any of them;

"Daywork Rates" means the rates for the performance of additional services described in the Bills of Quantities forming part of the Tender Documents;

"Contract" means any formal contract document entered into between the Contractor and Council and includes the documents incorporated therein and forming part thereof. A reference to an Act of Parliament or any Order, Regulation, Statutory Instrument or the like shall include a reference to any amendment or re-enactment of the same;

"Week" means seven consecutive days starting on Monday and ending on the following Sunday;

"Review Dates" means the first, second, third and fourth anniversaries of the Commencement Date as the context requires;

"Review" means the review of the Annual Sum and Daywork Rates to be undertaken on the first, second, third and fourth Review Dates;

"Index Period" means;

- (a) For the first Review the period of one year commencing twenty eight days prior to the Commencement Date.
- (b) For the second Review the period of one year commencing twenty eight days prior to the first Review Date.
- (c) For the third Review the period of one year commencing twenty eight days prior to the second Review Date.
- (d) For the fourth Review the period of one year commencing twenty eight days prior to the third Review Date.

"Tender Documents" means the tender and accompanying documents relating to refuse collection.

The masculine includes the feminine and in the case of a limited company the indefinite article and the singular includes the plural and vice versa.

2. Variation of Contract

- (a) Without prejudice to any other of the Conditions hereof no omission from, addition to or variation of the Contract shall be valid or of any effect unless it is agreed in writing and signed by the Supervising Officer, and by a duly authorised representative of the Contractor.
- (b) Save for an omission, addition or variation agreed pursuant to paragraph (a) any provision inconsistent with the Conditions contained in any other document or in any oral agreement is agreed to be void and of no effect.

3. The Supervising Officer

The functions, rights and powers conferred by this Contract upon the Council shall be exercised by the Supervising Officer. The Contractor shall in no circumstances question the existence or extent of the authority of any person authorised by the Supervising Officer to act on his behalf and the duties and extent of authority will be given in writing to the Contractor.

4. Sufficiency of Tender

The Contractor shall be deemed to have satisfied himself before submitting his tender as to the correctness and sufficiency of the rates and prices stated by him in the Priced Bill of Quantities which shall (except in so far as it is otherwise provided in the Contract) cover all his obligations under the Contract.

5. Contract Period

This Contract shall extend for a period of FIVE years from the Commencement Date and shall not be terminable by either party within that period save in accordance with these Conditions.

6. Performance of Service

- (a) During the Contract Period the Contractor shall perform the Services (and any modifications thereof authorised under the Conditions) in a manner totally consistent with the terms and conditions of tender and to the entire satisfaction of the Supervising Officer.
- (b) The Contractor shall at all times perform such Services in accordance with the Programme (and any modification thereof) authorised under the Conditions.

7. Modification

The Supervising Officer shall be entitled to issue to the Contractor instructions in writing requiring the Contractor to do all or any of the following, and the Council will reimburse to the Contractor reasonable costs expended by the Contractor in carrying out any instructions under this clause.

- (a) To omit and to cease to perform any part of the Services for such period as the Supervising Officer may fix;
- (b) To perform the Services or any part thereof in such manner as the Supervising Officer may require;
- (c) To perform such additional services outside the scope of the Services as the Supervising Officer may require provided that such additional services shall be the same as or similar to the Services under the Contract in which case rates shall be agreed between the Supervising Officer and the Contractor based on the rates in the Contract or alternatively the Daywork Rates shall apply to such additional services;
- (d) To vary the Programme and to perform the Services in accordance with the Programme as so varied and the Contractor shall forthwith carry out all such instructions.

8. Method of Payment

Provided that the Contractor shall have performed the Services in accordance with the Contract, the Council shall pay to the Contractor the Annual Sum in twelve equal monthly instalments in arrears subject to the additions and deductions hereinafter provided and in the manner hereinafter provided. Any additional Services shall be paid for at the rates and prices agreed in clause 7.

9. Monthly Statement

The Contractor shall submit to the Supervising Officer after the end of each calendar month a statement showing:

- (a) His valuation of the work undertaken in respect of each aspect of the Contract up to the end of that month;
- (b) The amounts to which the Contractor considers himself entitled in connection with any variations or instructions for additional services duly authorised by the Supervising Officer.

10. Certification

Within twenty eight days of the date of delivery to the Supervising Officer of the monthly statement by the Contractor, the Supervising Officer shall certify and the Council shall pay to the Contractor (after deducting any previous payment on account) the amount which, in the opinion of the Supervising Officer on the basis of the monthly statement is due to the Contractor including the sum (if any) to be added by way of Value Added Tax and the sum (if any) to be deducted by way of Income Tax.

11. Additions and Deductions

The Supervising Officer shall have the power to amend any monthly statement in respect of:

- (a) the deduction of any penalties for work not carried out or work not done to a satisfactory standard and for which the appropriate default notices have been issued in accordance with the Conditions;
- (b) The variation by addition or deduction of the value of any additional work or omission which has been duly authorised.

12. Interest on Overdue Payments

- (a) In the event of failure by the Supervising Officer to certify or the Council to make payment in accordance with the Conditions, the Council shall pay to the Contractor interest on any payment overdue thereunder at a rate per annum equivalent to $\frac{1}{4}\%$ plus the Bank of England Minimum Lending Rate current on the date upon which such payment first becomes overdue.
- (b) In the event of variation in the Minimum Lending Rate being announced whilst such payment remains overdue the interest payable to the Contractor for the period that such payment remains overdue shall be correspondingly varied from the date of each such variation.

13. Copy Certificate

A copy of the valuation, (including amendments), which the Supervising Officer has used to prepare the Certificate of Payment shall be sent to the Contractor.

14. Value Added Tax

- (a) Sums payable to the Contractor pursuant to this Contract are exclusive of Value added Tax ("VAT").
- (b) The Council shall pay to the Contractor in the manner hereinafter set out any V.A.T. properly chargeable on the supply by the Contractor of the Services at the appropriate rate.
- (c) The Contractor shall not later than the date for the issue of the monthly certificate in accordance with the Conditions inform the Supervising Officer in writing in respect of the Services during that period;
 - (i) Which part or parts of such Services are exempt from V.A.T.
 - (ii) Which part or parts of such Services bear a zero rate of V.A.T.
 - (iii) Which part or parts of such Services bear a rate of V.A.T. greater than zero, in each case specifying the exact rate chargeable.
- (d) Upon receipt of the Contractor's written notice under (c), unless the Council objects to any part of such notice, the Supervising Officer shall calculate the amount of V.A.T. due in accordance with the contents of such notice and shall so certify pursuant to the Conditions.
- (e) Upon receipt by the Contractor of any payment made by the Council pursuant to the Conditions, being a payment including V.A.T., the Contractor shall forthwith issue to the Council an authenticated receipt in such form as may be required by the Finance Act 1972 ('The Act') or any amendment or re-enactment thereof or by any Regulations made thereunder.
- (f) If the Council objects to any part of such notice and such objection cannot be resolved by the parties by agreement, the Council may require the Contractor to refer to the Commissioners of Customs and Excise ("The Commissioners") any dispute difference or question in relation to any of the matters specified in Section 40(1) of the Act.
- (g) If the Contractor refers the matter to the Commissioners (whether or not under (f) hereof) and the Council is dissatisfied with their decision on the matter the Contractor shall at the Council's request refer the matter to a Value Added Tax Tribunal by way of appeal under Section 40 of the Act whether the Contractor is so dissatisfied or not. Should the Contractor be required to deposit a sum of money equal to all or part of the tax claimed under Section 40(2) (a) of the Act, the Council shall pay an equivalent sum to the Contractor. The Council shall further reimburse the Contractor any costs or expenses reasonably and properly incurred in making the reference (less any costs awarded to the Contractor by the Tribunal).
- (h) Upon the final adjudication by the Commissioners or, in the event of a reference to a Tribunal, by the Tribunal the Council shall pay the amount of the V.A.T. adjudged due to the Contractor. Should the amounts already paid by the Council either by way of payment of V.A.T. or by way of reimbursement of any money required to be deposited by the Contractor with the Commissioners under (g) exceed the V.A.T. adjudged to be due, the Contractor shall forthwith repay such excess to the Council.
- (i) Notwithstanding any provision to the contrary in the Conditions the Council shall not be obliged to make any further payment to the Contractor if the Contractor is in default in providing the receipt referred to in (e) provided that this Sub-Condition shall only apply where the Council can show that it required such receipt to validate any claim for credit for V.A.T. paid or payable which the Council is entitled to make to the Commissioners.

15. Income Tax

For the purposes of the Finance (No. 2) Act 1975 or any amendment or re-enactment thereof the Contractor is deemed to be a "sub-contractor". The Contractor shall produce to the Council such evidence as the Council shall deem necessary to satisfy the Council that the Contractor has a valid and current certificate in form 714I, form 714P or form 714C and shall further produce such documents as are set out in the documents published by the Board of Inland Revenue as IR14/15 of 1976 (or any amendment or replacement of that document) to satisfy the Council that the Contractor is entitled to be paid without deduction of tax pursuant to that Act (or any amendment or re-enactment of that Act). Should the Contractor fail to produce the said documents or any of them, the Council will deduct tax from any payment due to the Contractor at such rates as are currently in force. However this condition will only apply if the Contractor carries out work coming within the definition of "construction operations" as defined by the above Act and subsequently amended by Statutory Instrument.

16. Assignment

- (a) The Council shall be entitled to assign the benefit of this Contract or any part thereof to a statutory or other public body and shall give written notice of any assignment to the Contractor.
- (b) The Contractor shall not assign the Contract or any part thereof or any benefit or interest therein or thereunder without the written consent of the Council, PROVIDED that any assignment occurring as a result of any internal reconstruction of a Contractor which is a limited company shall be deemed not to be a breach of this condition.
- (c) The Contractor shall not sub-let the whole of the Services. Except where otherwise provided by the Contract the Contractor shall not sub-let any part of the Services without the written consent of the Supervising Officer and such consent if given shall not relieve the Contractor from any liability or obligation under the Contract and he shall be responsible for the acts defaults and neglects of any sub-contractor his agents servants or workmen as fully as if they were the acts defaults or neglects of the Contractor his agents servants or workmen.

17. Premises

- (a) The Contractor shall at all times during the Contract Period provide and maintain such premises as are necessary for the proper performance of the Services.
- (b) Without prejudice to the generality of paragraph (a) hereof the Council shall grant and the Contractor may take a Licence in writing to occupy the premises set out in Appendix B upon the terms indicated provided that, notwithstanding anything contained in such licence to the contrary, such licence shall automatically determine at the end of the Contract Period or upon the determination of this Contract in accordance with the Conditions whichever shall first occur and the Contractor shall forthwith thereafter deliver up possession of all such premises to the Council.
- (c) The Contractor shall not use any part of the premises in respect of which the licence has been granted by the Council to the Contractor for any purpose other than that of the Contractor's performance of this Contract, save with the prior written consent of the Supervising Officer.
- (d) The Council will maintain the premises referred to in (b) above but the Contractor shall reimburse the Council for the cost of repairing any damage arising from any negligent, wilful or criminal act upon the part of the Contractor or any person for whom it is responsible or any consequential costs arising from any negligent, wilful or criminal act.
- (e) The Contractor shall at all times permit the Supervising Officer access to all premises occupied for the purposes of this Contract (whether the subject of a licence from the Council or not).

18. Vehicles, Plant and Machinery

- (a) The Contractor shall at all times during the Contract Period provide and maintain all such vehicles, plant, machinery and equipment (hereinafter together referred to as "Plant") as are necessary for the proper performance of the Services.
- (b) All Plant owned by the Contractor or by any company in which the Contractor has a controlling interest shall when being used in connection with the performance of the Services be deemed to be the property of the Council.
- (c) The Contractor shall either:
 - (i) Hire from the Council the vehicles set out in Appendix D upon the terms prescribed therein provided that, notwithstanding anything contained in the hiring agreement such agreement shall automatically determine at the end of the Contract Period or upon the determination of this Contract in accordance with the Conditions whichever shall first occur and the Contractor shall forthwith deliver up to the Council such Plant as the Council requires under paragraph (i) hereof.

or

 - (ii) Purchase from the Council the vehicles set out in Appendix D at a price to be agreed by the parties. At the end of the Contract Period or upon the determination of this Contract in accordance with the Conditions whichever shall first occur and the Contractor shall forthwith deliver up to the Council such Plant as the Council requires under paragraph (i) hereof. Defects will either be repaired by the Council prior to handover or an appropriate deduction will be made to the rental or purchase price.
- (d) All Plant (other than the vehicles referred to in (c) above) employed by the Contractor in the performance of the Services at any time must be either owned by the Contractor or hired by the Contractor pursuant to a contract of simple hire (and not hire purchase) which contract must contain a clause permitting the Contractor to assign the benefit of the contract to the Council.
- (e) The Contract of simple hire for any of the Plant referred to in (d) above which is not owned by the Contractor and which must be available to enable the provision of the Services to continue in the event of a determination of this Contract in accordance with the Conditions must include a provision that the owner thereof will on request in writing by the Council within seven days after the date on which any determination has become effective and on the Council undertaking to pay all hire charges from such date hire the Plant to the Council on the same terms as the Plant was hired to the Contractor save that the Council shall be entitled to permit the use of the Plant by any other Contractor employed to continue providing the Services.
- (f) The Contractor shall at all times be fully responsible for licensing and for the payment of all licensing fees, taxes and insurances required in connection with or arising out of the possession or use of all Plant employed in the performance of the Services.
- (g) The Contractor shall at his own expense keep all Plant employed in the performance of the Services at all times in good and serviceable repair and in such condition as is commensurate with the proper performance by the Contractor of his obligations under this Contract.

- (h) The Contractor shall at all reasonable times permit the Supervising Officer access to all Plant employed for the purposes of this Contract. The Supervising Officer shall be entitled to serve upon the Contractor a notice in writing requiring the Contractor to put any item of Plant into such condition as is required by paragraph (g) above and the Contractor shall forthwith upon receipt of such notice cause all necessary works to be carried out to comply with such notice. In the event of the Contractor failing so to carry out such works, the Council shall be at liberty to have such works carried out and the Contractor shall pay to the Council by way of liquidated damages such sum as the Supervising Officer shall certify to have been the cost of executing such works.
- (i) At the expiry of the Contract Period or upon the determination of the Contract, in accordance with the Conditions, whichever shall first occur, the Council shall be entitled to serve upon the Contractor a notice requiring the Contractor to sell to the Council such Plant as may be specified in such notice and to transfer to the Council the benefit of all contracts relating to the hire of such Plant as may be specified in such notice and in neither case need such notice be confined to such items of Plant as the Contractor may have acquired from the Council.
- (j) Upon receipt of a notice under (i) requiring the Contractor to sell any item of Plant to the Council, the Contractor shall forthwith sell and deliver such item to the Council in such condition as it may be at the date of the notice at a price to be agreed by the parties or in default of such agreement at such price as the Supervising Officer in his discretion may certify to be a fair price for such item.
- (k) Upon receipt of a notice under (i) requiring the Contractor to assign to the Council the benefit of any agreement for the hiring of any item of Plant, the Contractor shall forthwith and without any payment from the Council execute all documents necessary to effect such assignment and shall deliver such item to the Council in such condition as it may be at the date of the notice. The Council shall thereafter indemnify and hold the Contractor harmless in respect of any liability arising under such hiring contract after the date of such assignment save where such liability arose from or was contributed to by any breach of the hiring contract by the Contractor prior to such assignment.
- (l) The Contractor shall cause all Plant to bear such words, devices or insignia as the Supervising Officer may approve and in addition shall cause all new Plant to be painted in such colours as the Supervising Officer may approve. No Plant shall bear any advertising matter of any sort without the prior written consent of the Supervising Officer.
- (m) Except with the specific approval in each case of the Supervising Officer no vehicle used by the Contractor in the execution of this Contract shall be more than 8 years old and shall not be used on any work except that specified in this Contract.
- (n) The Contractor shall give full details of all new Plant acquired or hired by him in connection with this Contract and in relation to hired Plant full details of the agreement for hire within seven days of the completion of any transaction.
- (o) Vehicles used on the Contract shall comply with the relevant Construction and Use regulations and be of a design which is entirely suitable for the performance of the Contract. The Contractor shall ensure that he has an adequate level of reserve vehicles available to him at all times as lack of suitable vehicles will not be considered as a reason for non-performance of the requirements of the Contract.

19. Vehicle Operation

The Contract shall ensure that:

- (a) Drivers and operators of the Plant are made aware of their responsibility for the operation and use of the Plant;
- (b) Drivers drive safely and correctly at all times in accordance with statutory regulations and instructions of the Contractor. Speed limits are to be observed and reversing should only take place under guidance;
- (c) Drivers are trained and thoroughly competent in the safe use of the Plant paying particular attention to the tipping of refuse at disposal sites;
- (d) The daily routes to be taken by Plant for all the purposes required in connection with the performance of the Services are clearly defined and agreed with the Supervising Officer;
- (e) Plant operations are carried out in a reasonable and workmanlike manner without causing unreasonable obstruction or annoyance to the public;
- (f) The Plant is cleaned internally and externally and maintained in such a condition to the satisfaction of the Supervising Officer;
- (g) The interior of vehicle bodies and hoppers, the wheels and chassis are washed clean at the end of each days use. The exterior of vehicles are washed clean at the end of each working week. If in the opinion of the Supervising Officer or his representative the frequency of cleaning of exteriors requires changing due to special circumstances, the Contractor shall comply with any such request.

20. Use of Depot

- (a) At the depots licenced for use by the Contractor parking spaces are allotted to each vehicle and at all times when the vehicles used by the Contractor are returned to depot by the Contractor's drivers the vehicles must be parked at the correct locations.
- (b) Vehicles parked up at the end of the duty cycle shall be empty of refuse, the cab locked by the driver and the keys returned to the Contractor's officer for safe keeping and ready accessibility in cases of emergency. The Contractor must provide the name, address and telephone number of a senior person on his staff who can be contacted at any time in case of emergency.
- (c) Any private cars brought within the curtilage of the depot by the Contractor or his employees must be parked at all times in an allocated parking space. Parking space for private vehicles might be limited and the Contractor may be requested to ration the available spaces and be responsible for any additional costs involved in finding or providing alternative parking for private vehicles belonging to him or to his employees. Vehicles are parked at the owner's risk and the Council will not accept any liability for loss or damage howsoever arising.
- (d) The Tenderer is to acquaint himself and comply with the Councils existing arrangements for security at depots which arrangements will continue to apply during the Contract period. Notwithstanding these arrangements the Council can accept no responsibility for any disruption, damage or loss that the Contractor may suffer, whether it be by virtue of the said arrangements or their temporary failure or the absence of a watchman or caretaker. If the Contractor considers that additional security measures are required to safeguard his interests in depots then he should allow for such expenditure in his normal collection rates in the Bills of Quantities. Opening hours outside the normal working hours can be arranged but the Contractor will be required to reimburse the Council for the additional costs occasioned thereby.

21. Employees

- (a) The Contractor shall at all times during the Contract Period employ sufficient persons of sufficient abilities and skills for the proper performance of the Services. The Council would not normally expect persons under 18 years of age to be employed on the Services.
- (b) The Contractor shall at all times during the Contract Period employ sufficient persons of sufficient abilities and skills to supervise and administer performance of the Services in a proper and continuous manner.
- (c) The Contractor shall notify the Supervising Officer of the name, address and telephone number of the person who will be in charge of the Contract at local level.
- (d) The Contractor shall at all times take all such precautions as are necessary to protect the health and safety of all persons employed by him and shall comply with the requirements of the Health and Safety at Work, etc., Act 1974 (and any amendment or re-enactment thereof) and of any other Acts, Regulations or Orders pertaining to the health or safety of employed persons.
- (e) The Contractor shall have regard to the Councils safety policy and safe working practices when preparing his own statements, copies of which shall be supplied to the Council prior to the commencement of the Contract. The Contractor shall nominate a person to be responsible for health and safety matters as required by the Act. Whilst on Council owned premises the Contractor shall require his employees to comply with the lawful requirements of the Councils safety advisors.
- (f) The Contractor shall at all times be fully responsible for the payment of all income or other taxes, national insurance contributions or levies of any kind, relating to or arising out of the employment of any person employed by the Contractor and shall fully and promptly indemnify the Council in respect of any liability of the Council in respect thereof.
- (g) The Supervising Officer shall be entitled to recommend the Contractor by notice in writing to remove from the performance of the Services or to discipline any employee of the Contractor specified in such notice. The Council shall in no circumstances be liable either to the Contractor or to the employee in respect of any liability, loss or damage occasioned by such removal or disciplinary action and the Contractor shall on demand fully and promptly indemnify the Council against any claim made by such employee.
- (h) At the expiry of the Contract period or upon the determination of the Contract in accordance with the Conditions whichever shall first occur, the Council shall be entitled to offer employment to any person employed by the Contractor in the performance or supervision of the Services and in the event of such person accepting employment with the Council, the Contractor shall forthwith release such person from all contracts of service without any payment being made to the Contractor by either the Council or the Employee.
- (i) The Contractor shall recognise the right of his employees to join a Trade Union of their choice.
- (j) The Contractor shall endeavour to employ local residents in connection with the Services.

22. Uniforms and Identification

- (a) The Contractor shall ensure that all persons employed in the performance of the Services including Supervisors shall at all times be properly attired and presentable in appropriately identifiable uniforms or clothing which shall have been approved by the Supervising Officer. The clothing provided shall be adequate and sufficient to afford protection to the employee in the performance of his duties.

- (b) Representatives of the Contractor shall carry at all times identity cards in a form approved by the Supervising Officer and make such cards available for inspection on request by any Officer of the Council who similarly discloses his identity.
- (c) When requested to do so or when communicating with other persons as a representative of the Contractor all persons employed by the Contractor in the performance of the Services shall disclose their identity and shall not attempt to avoid so doing.

23. Agency

- (a) The Contractor is not and shall in no circumstances hold himself out as being the agent of the Council.
- (b) The Contractor is not and shall in no circumstances hold himself out as being authorised to enter into any contract on behalf of the Council or in any other way to bind the Council to the performance, variation, release or discharge of any obligation.
- (c) The Contractor has not and shall in no circumstances hold himself out as having the power to make, vary, discharge or waive any byelaw or regulation of any kind.
- (d) The employees of the Contractor are not, shall not hold themselves out to be and shall not be held out by the Contractor as being, servants or agents of the Council for any purposes whatsoever.

24. Liability of Contractor

- (a) The Contractor shall fully and promptly indemnify the Council against any liability to any person whatsoever arising out of or connected with the execution of the Contract or any act or omission of any employee of the Contractor howsoever such liability may arise.
- (b) The Contractor shall fully and promptly indemnify the Council in respect of any damage caused to any land, building or chattel in the ownership, occupation or possession of the Council by any employee or agent of the Contractor (whether such damage be caused by negligence or in any other way whatsoever) arising out of or connected with the execution of the Contract.
- (c) The Contractor shall fully and promptly indemnify the Council and all persons concerned in respect of any personal injury caused to any employee of the Council by any employee or agent of the Contractor (whether such injury caused to by negligence or in any other way whatsoever) arising out of or connected with the execution of the Contract.

25. Insurance

- (a) The Contractor shall at all times maintain in force such policies of insurance with reputable insurers or underwriters approved by the Council as shall fully insure and indemnify the Contractor against liability:
 - (i) To the Council and to any employee of the Council.
 - (ii) To the employees of the Contractor.
 - (iii) To any other person.
 - (iv) In the sum of at least £2,500,000.
- (b) The Contractor shall be liable for and indemnify the Council against and insure and cause any sub-contractor to insure against any expense, liability, loss, claim or proceedings in respect of any damage whatsoever to any private property real or personal insofar as such damage arises out of or in the course of or by reason of the carrying out of the Services and is due to any negligence, omission or default of the Contractor or any person for whom the Contractor is responsible or of any sub-contractor or person for whom the sub-contractor is responsible.

- (c) The Contractor shall, prior to the commencement of the Contract and thereafter annually, and at such other times as the Supervising Officer may require, supply the Supervising Officer with copies of all insurance policies, covernotes, premium receipts and other documents necessary to comply with paragraph (a) and (b) above.
- (d) The Supervising Officer shall be entitled to notify the Contractor in writing that in the opinion of the Supervising Officer any such policy of insurance does not effect sufficient cover to comply with the Conditions and to require the Contractor to effect such insurances as will so comply. Upon receipt of such notice, the Contractor shall forthwith procure and effect such insurance as the Supervising Officer shall require and in default the Supervising Officer may himself cause such insurance to be effected whereupon the Contractor shall pay to the Council as liquidated damages such sum as the Supervising Officer shall certify as being the cost to the Council of effecting such insurance.

26. Performance Bond

On the execution of the Contract the Contractor shall at his own expense provide a Bond from a Bank or Insurance Company approved by the Council for a sum equal to 10% of the Tender Sum to guarantee the due performance of his obligations under the Contract and for the payment by the Contractor to the Council of all sums due hereunder. The Contractor shall ensure that such Bond remains in force throughout the Contract period and the value of the Bond shall be increased by each Review Date in line with the Method of Review Clause.

27. Bribery and Corruption

The Council shall be entitled to cancel the Contract and to recover from the Contractor the amount of any loss resulting from such cancellation, if:

- (a) The Contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind as inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the Contract or any other contract with the Council.
or
- (b) The like acts shall have been done by any person employed by the Contractor or acting on his behalf (whether with or without the knowledge of the Contractor).
or
- (c) In relation to any contract with the Council the Contractor or person employed by him or acting on his behalf shall:
 - (i) Have committed any offence under the Prevention of Corruption Acts 1889 to 1916.
or
 - (ii) Have given any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972.

28. Gratuities

The Contractor shall not whether by himself or by any person employed by him to perform the Services, solicit any gratuity or tip or any other form of money-taking or reward, collection or charge for any of the Services.

29. Liability of Council

- (a) The Council shall not be liable for any loss or damage howsoever arising except for loss or damage directly arising from negligent acts or omissions of the Council, its servants or agents. Damages arising from such negligent acts or omissions shall be limited to direct and unavoidable losses and the Contractor shall take all reasonable steps to mitigate such losses.
- (b) The Council in the accompanying documents has provided details of quantities and of properties and premises. Any errors or omissions in the documents shall, if found, be brought to the attention of the Supervising Officer during the Tender Period. Such errors or omissions will be covered by the supplementary sheets issued to all Tenderers or alternatively will be dealt with by a variation to the Bill of Quantity rates submitted by the Tenderer.

30. Default in Performance

At any time after eight weeks from the Commencement Date:

- (a) The Supervising Officer may investigate each case where the Contractor has failed to perform the Services completely in accordance with the provisions of the Contract;
- (b) Where the Supervising Officer is satisfied that in any particular case the Contractor has failed to perform the Services completely in accordance with the provisions of the Contract he shall be entitled to instruct the Contractor to remedy the failure in order to comply fully therewith within such reasonable period as a Supervising Officer may determine, but no later than the following day;
- (c) If the Contractor fails to comply with an instruction of the Supervising Officer issued under (b) above the Supervising Officer shall be entitled to record in writing a Notice of Default (hereinafter called "A Default Notice") which shall be sent to the Contractor;
- (d) A deduction shall be made by the Supervising Officer from the monthly instalment referred to in the Conditions in respect of default notices in accordance with the table below — "Table Showing Percentage Deductions", unless there are mitigating circumstances.

This percentage deduction shall be calculated using the population of the Authority detailed in Appendix A and shown in the table below — "Table Showing Populations Bands"

Table Showing Population Bands

<u>Reference</u>	<u>Population of Authority</u> (000's)
A	0 — 250
B	250 — 500
C	500 — 1000
D	1000 +

Table Showing Percentage Deductions

<u>Default Notices in</u> <u>Any One Week</u>	<u>Percentage Deduction from</u> <u>Monthly Instalment</u>			
	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>
More than 5 but less than 11	1.00	0.75	0.50	0.25
More than 10 but less than 16	2.00	1.50	1.00	0.50
More than 15 but less than 26	5.00	3.50	2.50	1.00
More than 25	10.00	7.50	5.00	2.50

- (e) In addition to any deductions which may be made under (d) above, where more than 25 default notices are recorded in any one week or more than 75 in any four-week period, the Council may terminate the Contract in accordance with the appropriate Condition of Contract.
- (f) For the purposes of this Condition each individual property or in the case of a block of flats each collection point at which refuse is collectable can be the subject of a default notice.

31. Works in Default

If by reason of any accident or failure or other event occurring to, on or in connection with any premises, depot, vehicle, plant or machinery, or any part thereof either during the performance of the Services or at any other times any remedial or other work or repair shall in the opinion of the Supervising Officer be urgently necessary and the Contractor is unable or unwilling at once to do such work or repair the Council may by its own or other workmen do such work or repair as the Supervising Officer may consider necessary. If the work or repair so done by the Council is work which in the opinion of the Supervising Officer the Contractor was liable to do at his own expense under the Contract all costs and charges properly incurred by the Council in so doing shall on demand be paid by the Contractor to the Council or may be deducted by the Council from any monies due or which may become due to the Contractor. Provided always that the Supervising Officer shall as soon after the occurrence of any such emergency as may be reasonably practicable notify the Contractor thereof in writing.

32. Method of Review

For the second and subsequent years of the Contract Period, the Annual Sum and the Daywork Rates shall be increased or decreased on the Review Dates by a factor calculated using the following sub-clauses.

- (1) The amount payable by the Council to the Contractor upon the issue by the Supervising Officer of an Interim Certificate pursuant to Clause 10 (other than amounts due under this Clause) shall be increased or decreased in accordance with the provisions of this Clause if there shall be any changes in the following Index Figures compiled by the Department of the Environment and published by H.M.S.O. in the Monthly Bulletin of Construction Indices (Civil Engineering Works).

- (a) The Index of the Labour and Supervision in Civil Engineering,
- (b) The Index of the Plant and Road Vehicle: provision and maintenance;
- (c) The Indices of Constructional Material Prices applicable to those materials listed in sub-clause (4) of this Clause.

The net total of such increases and decreases shall be given effect in determining the Annual Sum.

- (2) For the purpose of this Clause:
 - (a) "Final Index Figure" shall mean any Index Figure appropriate to sub-clause (1) of this Clause not qualified in the said Bulletin as provisional;
 - (b) "Base Index Figure" shall mean the appropriate Final Index Figure applicable to the date 28 days prior to the date for return of tenders;

- (c) "Current Index Figure" shall mean the appropriate Final Index Figure to be applied in respect of any certificate issued or due to be issued by the Supervising Officer pursuant to Clause 11 and shall be the appropriate final Index Figure applicable to the date 28 days prior to each Review Date.
- (d) The "Effective Value" in respect of the whole of the Services shall be the difference between:
- (i) The amount which, in the opinion of the Supervising Officer, is due to the Contractor under Clause 11 (but before deducting sums previously paid on account) less any amounts for other items based on actual cost or current prices and any sums for increases or decreases in the Contract Price under this Clause, and,
 - (ii) The amount calculated in accordance with (i) above and included in the last preceding Interim Certificate issued by the Supervising Officer in accordance with Clause 11.

Provided that, in the case of the first Certificate, the Effective Value shall be the amount calculated in accordance with sub-paragraph (i) above.

- (3) The increase or decrease in the amounts otherwise payable under Clause 11 pursuant to sub-clause (1) of this Clause shall be calculated by multiplying the Effective Value by a Price Fluctuation Factor which shall be the net sum of the products obtained by multiplying each of the proportions given in (a) (b) and (c) of sub-clause (4) of this Clause by a fraction the numerator of which is the relevant Current Index Figure minus the relevant Base Index Figure and the denominator of which is the relevant Base Index Figure.
- (4) For the purpose of calculating the Price Fluctuation Factor the proportions referred to in sub-clause (3) of this Clause shall (irrespective of the actual constituents of the work) to be as follows and the total of such proportions shall amount to unity:
- (a) _____ in respect of labour and supervision costs, subject to adjustment by reference to the Index referred to in sub-clause (1) (a) of this Clause;
 - (b) _____ in respect of costs of provisions and use of all plant and road vehicles, etc., which shall be subject to adjustment by reference to the Index referred to in sub-clause (1) (b) of this Clause;
 - (c) the following proportions in respect of the materials named which shall be subject to adjustment by reference to the relevant indices referred to in sub-clause (1) (c) of this Clause:

	in respect of fuel for plant to which the Derv Fuel Index will be applied;
0.10	in respect of all other costs which shall be subject to any adjustments.
1.00	TOTAL
- (5) Provisional Index Figures in the Bulletin referred to in sub-clause (1) of this Clause may be used for the Provisional adjustment of interim valuation but such adjustments shall be subsequently recalculated on the basis of the corresponding Final Index Figures.

33. Termination

- (a) The Council shall be entitled forthwith upon the happening of any of the following events to terminate this Contract, such events being:
- (i) The events referred to in Clause 30 hereof concerning defaults in performance;
 - (ii) Any breach by the Contractor of any other provision of the Contract.

- (iii) The Contractor having failed to complete the Services for a period of two weeks.
 - (iv) The Contractor suffering an execution to be levied on his goods, or if the Contractor consists of one or more individuals, any such individual dying, entering in to a composition or arrangement for the benefit of his creditors or having a receiving order in bankruptcy made against him or, if the Contractor consists of a body corporate, the Contractor having a receiver or a receiver and manager appointed or being the subject of a resolution or order for winding up, PROVIDED that an amalgamation or reconstruction of a limited company shall be deemed not to be a breach of this Condition.
- (b) Upon such termination, in addition to such consequences as are set out in the other provisions of the Contract:
- (i) The Contractor shall forthwith cease to perform any of the Services;
 - (ii) The Contractor shall fully and promptly indemnify the Council in respect of the cost of causing to be performed such Services as would have been performed by the Contractor during the remainder of the Contract period to the extent that such cost exceeds such sums as would have been lawfully payable to the Contractor for performing such Services. The Council shall be at liberty to have such Services performed by any persons (whether or not servants of the Council) as the Council shall in its entire discretion think fit and shall be under no obligation to employ the least expensive method of having such Services performed.
 - (iii) The Council shall be under no obligation to make any further payment to the Contractor and shall be entitled to retain in its hands any payment which may have fallen due to the Contractor before termination until the Contractor has paid in full to the Council all sums due under this Contract or to deduct therefrom any sum due from the Contractor to the Council under this Contract.

34. Notices

- (a) No notice to be served upon the Council shall be valid or effective unless it is sent by prepaid post or delivered by hand to the Council at the address specified in Appendix A or to such other address as the Supervising Officer may notify the Contractor in writing.
- (b) Any notice to be served upon the Contractor shall be valid and effective if it is sent by prepaid post or delivered by hand to the registered office, principal place of business or to the premises referred to in the Tender documents or is delivered by hand to a Director, Proprietor or other responsible representative of the Contractor.

35. Arbitration

- (a) If any dispute or difference concerning this Contract shall arise between the Council or the Supervising Officer on its behalf and the Contractor, such dispute or difference shall be and is hereby referred to the arbitration and final decision of a person to be agreed between the parties or, failing agreement within 14 days after either party has given to the other a written request to concur in the appointment of an arbitrator, a person to be appointed on the request of either party by the President of the Institute of Wastes Management or a person appointed by him.
- (b) The Arbitrator shall be entitled to make such decision or award as he thinks just and equitable having regard to the circumstances then existing the cost of such arbitration to follow the event or in the event of neither party succeeding to be apportioned between the parties by the Arbitrator in such proportions as he in his absolute discretion thinks fit.

- (c) Any award or decision of such Arbitrator shall be final and binding on the parties hereto.
- (d) Unless the Contract shall have already been determined or abandoned the Contractor shall in every case continue to proceed with the Services with all due diligence and the Contractor and Council shall both give effect forthwith to every such decision of the Supervising Officer unless and until the same shall be revised by an arbitrator as hereinafter provided.

36. British Standards

Where an appropriate British Standard Specification or British Standard Code of Practice issued by the British Standards Institution is current, all goods used or supplied and all workmanship shall be in accordance with that Standard.

37. Observance of Statutory Requirements

The Contractor shall comply with all statutory and other provisions to be observed and performed in connection with the Services provided under the Contract and shall indemnify the Council accordingly.

38. Rights and Duties Reserved

All rights and duties which the Council has as a Local Authority or which the Council's Officers have as a Local Authority Officers are expressly reserved.

39. Stamp Duty and Legal Fees

Each party shall bear its own legal and other fees in relation to the preparation and submission of the Tender documents and any formal Contract documents arising therefrom.

40. Provision of Statistical Information

The Contractors shall provide the following statistical information, together with any further statistics which the Council may from time to time reasonably require. The period for the information should be from 1st April to 31st March following and should be provided no later than 30th June for the previous period above, or any other such period as the Supervising Officer may require.

The Supervising Officer may from time to time require the Contractor to weigh the quantity of refuse collected from Household, Industrial and Commercial premises at a suitable weighbridge. Any reasonable costs incurred by the Contractor in carrying out this request will be reimbursed to him (usually over a 1 week period in any one year). Where no suitable weighbridge is available, the Contractor will be required to provide details of the cubic capacity of refuse collected.

- (a) Number of separate collections per annum of:
 - (i) Bulky Domestic Items
 - (ii) Special Waste
- (b) Number and sizes of bulk storage containers:
 - (i) With compaction
 - (ii) Without compaction
- (c) Number of collection vehicles operated on the Contract:
 - (i) With compaction
 - (ii) Without compaction
 - (iii) General purpose

- (d) Daily analysis of the number of personnel employed on the Contract. Information to be supplied on a weekly basis.
 - (i) Drivers
 - (ii) Loaders
 - (iii) Drivers/Loaders
 - (iv) Other manual collection employees
 - (v) Vehicle maintenance

41. Clause Headings

The Clause headings shall not be construed as part of these Conditions.

TENDER FOR REFUSE COLLECTION

TO
.....
.....

LADIES AND GENTLEMEN

Having examined the Conditions of Contract, Bills of Quantities and the Specification for the performance of the above services we offer to carry out the said Services in conformity therewith over a period of FIVE years for the annual sum specified below, or such other sums as may be ascertained in accordance with the said Tender Documents.

Household, Industrial and Commercial Waste Collection £.....

(..... pounds pence)
If our tender is accepted we will provide the name of a Bank or Insurance Company (to be approved by you) to be jointly and severally bound with us in a sum equal to ten per centum of the annual value of the accepted tender such sum to be adjusted each year in accordance with the Method of Review Clause as defined in the conditions.

Unless and until a formal agreement is prepared and executed, the tender together with your written acceptance thereof, shall constitute a binding Contract between us.

We understand you are not bound to accept the lowest of any tender you may receive, and you will not pay any expenses incurred by us in connection with the preparation and submission of this tender.

If successful the name and address of the Bank or Insurance Company to enter into the Bond will be
.....
.....
.....

We are, Ladies and Gentlemen,
Yours faithfully,

Signature

Position in Firm or Company

Name and Address of Firm or Company

.....
.....

Date

FORM OF BOND

BY THIS BOND WE

whose registered office is situate at

(hereinafter called "the Contractor") and

whose registered office is situate at

(hereinafter called "the Surety") are jointly and severally held and firmly bound to the Council of

(hereinafter called "the Council") in the sum of £.....
which sum shall be increased each year on the anniversary hereof in line with the Method of Review Clause for the payment of which sum the Contractor and the Surety bind themselves their successors and assigns jointly and severally by these presents

SEALED with our respective Seals and dated this day of

One thousand nine hundred and

WHEREAS by a certain Contract bearing even date with the above written Bond and made between the Council of the one part and the Contractor of the other part the Contractor has contracted with the Council to perform the services mentioned therein in conformity with the provisions of the said Contract.

NOW THE CONDITION of the above-written Bond is such that if the Contractor shall duly perform and observe all the terms provisions conditions and stipulations of the said Contract on the Contractor's part to be performed and observed according to the true purpose intent and meaning hereof or if on default by the Contractor the Surety shall satisfy and discharge the damage sustained by the Council thereby up to the amount of the above written Bond then this obligation shall be null and void but otherwise shall be and remain in full force and effect but no alteration in the terms of the said Contract made by agreement between the Council and the Contractor or in the extent or nature of the services to be performed thereunder and no allowance of time by the Council or the Supervising Officer under the said Contract nor any forbearance or forgiveness in or in respect of any matter or thing concerning the said Contract on the part of the Council or the said Supervising Officer shall in any way release the Surety from any liability under the above written Bond.

THE COMMON SEAL of the above bounden Contractor was hereunto affixed in the presence of: }

Director
Secretary

THE COMMON SEAL of the above bounden Surety was hereunto affixed in the presence of: }

Director
Secretary

APPENDIX A

Description of Local Authority

Name of Council

Address for Correspondence

.....

Tel. No.

Name of Supervising Officer

Address for Correspondence

.....

Tel. No.

General Description of Area

.....

.....

.....

.....

Size in Hectares

Population

Density

Number of rated properties:

Household

Commercial

Industrial

Other

TOTAL _____

APPENDIX A (CONTINUED)

Map of Council's Area

APPENDIX B

Parts of Depots to be licensed to Contractor

Description

Plan

APPENDIX C

List of Common Facilities at the Depot to be provided by the Council

Individual Cost
£

- a) Gas
- b) Electricity
- c) Water
- d) Telephone
- e) Cleaning
- f) Security Service
- g)
- h)

Total Annual Cost of Providing Facilities £_____

N.B. Contractor must allow for meeting these charges within his tendered amount. This Annual Cost will be increased each year in accordance with the Method of Review Clause.

APPENDIX D

Data Book 4

Details of Vehicle Fleet to be Hired (or purchased) by the Contractor from the Council

Reg. No.	Fleet No.	Date Acquired	Description	G.V.W.	Remarks

Total Annual Cost of Hiring the above vehicles £.....

N.B. Contractor must allow for meeting these charges within his tendered amount. This Annual Cost will be increased each year in accordance with the Method of Review Clause.

APPENDIX E

Addresses where collections are required more frequently than once each week and definition of Bulky Domestic Items and Collection Point of Domestic Refuse

Address	No. and type of Containers	Days Collections Required

Definition of Bulky Domestic Items (Separate Collection)

Whilst the majority of collections are for such items as refrigerators, cookers, beds, 3-piece suites and carpets, the following items, on occasions, require collection as part of the separate collection service:

Concrete fire surrounds, window frames, doors, baths, boilers, radiators, grass mowers, motor cycles, car parts, pianos, etc.

The above list is not intended to be comprehensive or complete. It is merely to give the Tenderer an indication of the articles which require collection under the separate collection service.

Collection point

The Collection Point for Domestic Refuse shall be:-

Details of Refuse Disposal Sites

Ref. No.	Name and Address of Site	Occupier	Tel. No.	Opening Hours
1				
2				
3				
4				
5				
6				

Present Disposal Locations

Area	Tip Ref. No.	Area	Tip Ref. No.	Area	Tip Ref. No.

Polythene Refuse Sack Details

1. **Sack Specification**

- a) B.S.S. Conformity No:
- b) Type of Material:
- c) Minimum acceptable gauge:
- d) Gussetted or Non-gussetted:
- e) Minimum size of sack base:
- f) Minimum size of sack top:
- g) Minimum sack length:

2. **Supply Details**

- a) Name of Company:
- b) Address of Company:

- c) Telephone Number:
- d) Name of Sales Contact:
- e) Name of Production Contact:
- f) Name of Delivery Contact:

3. **Average Number Used Per Annum**

List of Addresses from which Clinical, Veterinary and Other Wastes have to be collected weekly in non-compression vehicles and place and method of disposal

Address	No. and type of containers	Disposal Point	Method of Disposal

Definition of Clinical Waste

- (a) Any waste which consists wholly or partly of human or animal tissue, blood or other body fluids, excretions, drugs or other pharmaceutical products, swabs and dressings, used syringes and needles or other sharp instruments, and which may prove a hazard unless previously rendered safe; and
- (b) Any other waste arising from medical, nursing, dental, blood transfusion, veterinary, pharmaceutical or similar practice, investigation, treatment, care, teaching or research, and which may cause infection.

APPENDIX I

Statement of the Council's policy under the provision of the Health and Safety at Work etc. Act, 1974.

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