



ARTICLE NO: 2A

**CORPORATE & ENVIRONMENTAL
OVERVIEW & SCRUTINY COMMITTEE**

**MEMBERS UPDATE 2013/14
ISSUE: 2**

Article of: Assistant Director Housing and Regeneration

Relevant Managing Director: Managing Director (Transformation)

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SUBJECT: ACCEPTANCE OF LATE TENDER

Wards affected: Borough wide

1.0 PURPOSE OF ARTICLE

1.1 To inform members of the decision made by the Managing Director (Transformation) to grant an exception to contract procedure rules to allow the consideration of a tender that was received approximately 10 minutes late.

2.0 BACKGROUND

2.1 Invitations to tender were issued in May for the replacement of heating systems in Birkrig flats in Skelmersdale.

2.2 The tender return date was 4.00 pm on the 31st May, 2013.

2.3 During the afternoon of the 31st May, 2013 at approx. 2:30pm a telephone call was received from the senior quantity surveyor of one of the tenderers a Mr Tony Vasey. He advised that they were hand delivering their tender but the person who was tasked with that delivery was held up in traffic on the motorway in Salford due to a road traffic accident and it would probably be impossible to deliver the tender by 4.00 pm.

2.4 In the event, the tender was delivered to 52 Derby Street and was date and time stamped at 4.10 pm on the 31st May, 2013.

3.0 CURRENT POSITION

- 3.1 Contract Procedure Rule No. 11 (iii) deals with the matter of late receipt of tenders. The relevant wording of the Rule says that under no circumstances will a tender be accepted if delivered late unless it bears a mark showing clear evidence of being posted by first class post at least the day before tenders were due to be returned; in such circumstances the Borough Solicitor has authority to admit a “late” tender. As the tender in question was delivered by hand, it did not bear a post mark and therefore cannot be accepted by the Borough Solicitor in accordance with Rule No. 11 (iii).
- 3.2 However, as it appeared that the tenderer bore no real fault in the late delivery, as it was caused by circumstances totally outside the tenderers control and the journey time allowed seeming to be more than reasonable (Experience shows that tender submissions are more often than not close to deadline, and here the other tenders were only received on the final day for submission) an exception to contract procedure rules was sought and the tender opening exercise deferred pending the exception decision.
- 3.2 The exception was considered by the Managing Directors and following legal and contract advice the exception was considered to be justified and granted by the Managing Director (Transformation).

4.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 4.1 There are no significant sustainability impacts associated with this article and, in particular, no significant impact on crime and disorder. The article has no significant links with the Sustainable Community Strategy.

5.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 5.1 There are no significant financial or resource implications arising from this article. However, should the late tender prove to be successful a saving will have been achieved.

6.0 RISK ASSESSMENT

- 6.1 This item is for information only and makes no recommendations. It therefore does not require a formal risk assessment and no changes have been made to risk registers as a result of this article.
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Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Article.

Equality Impact Assessment

The Article is for information only and does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore no Equality Impact Assessment is required.

Appendices

None.