

SECTION 27 OF THE HOUSING ACT 1985
THE GENERAL APPROVAL FOR HOUSING MANAGEMENT
AGREEMENTS 2009

The Secretary of State in exercise of the powers conferred by section 27(6), (11) and (12) of the Housing Act 1985(a) and in all powers enabling her in that behalf, gives the following general approval:

PART 1

Citation, commencement application and interpretation

1. This approval may be cited as the General Approval for Housing Management Agreements 2009 and revokes the General Approval for Housing Management Agreements 1994.

2. This approval comes into force on Monday 16th February 2009

3. This approval applies to local housing authorities in England.

4. In this approval,

“hostel” has the same meaning as in section 622(1) of the Housing Act 1985;

“houses” shall be interpreted in accordance with section 56 of the Housing Act 1985;

“management agreement” has the same meaning as in section 27(2)(a) of the Housing Act 1985 (excluding sub-agreements);

“manager” has the same meaning as in section 27(2)(b) of the Housing Act 1985;

“the authority” means the local housing authority which proposes to enter into a management agreement or which enters into such an agreement; and

“the Public Contracts Regulations 2006”(b) includes all relevant amendments, modifications or re-enactments of those Regulations as made under Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004;

(a) Section 27 was substituted by S.I. 2003/940
(b) S.I. 2006/5.

PART 2

General

5. A local housing authority in England may enter into a management agreement where the agreement complies with the conditions in paragraph 6 together with the conditions in any of the following:

- (a) Part 3
- (b) Part 4; or
- (c) Part 5.

6. The conditions referred to in paragraph 5 are that:

- (a) the agreement is for a duration of no more than five years;
- (b) before the agreement is made, the authority has complied with the requirements of section 105 of the Housing Act 1985 (consultation on matters of housing management) and any regulations for the time being made under section 27BA of that Act (consultation with respect to management); and
- (c) in making the agreement, the authority has selected the person with whom the agreement is to be made in a fair and open manner, in accordance with European Union and European Community law.

PART 3

Agreements subject to a competitive process

General

7. A management agreement complies with this Part where, in relation to the agreement:

- (a) the authority has complied with the tendering conditions set out in paragraph 8;
- (b) the terms of the agreement comply with the provisions of paragraph 9; and
- (c) the authority has complied with all necessary and applicable legal requirements and conditions including the requirements of the Public Contracts Regulations 2006.

Tendering conditions

8. The tendering conditions referred to in paragraph 7(a) are that:

- (a) the authority has drawn up a detailed specification of the functions which it proposes to be the subject of the management agreement (“the work”);
- (b) the authority has published a notice inviting tenders for the work in:
 - (i) at least one newspaper circulating in the area in which the houses and any other land to be covered by the agreement are located; and

- (ii) at least one other publication circulating among persons who carry out work of that kind;
- (c) the notice referred to in sub-paragraph (b) contains:
 - (i) a description of the work;
 - (ii) information about when and where the specification for the work can be inspected or obtained, either freely or at a reasonable charge; and
 - (iii) a requirement that any person wishing to carry out the work notifies the authority in writing of that wish within a reasonable time specified in the notice published by the authority; and
- (d) where the authority receives a notice from one or more persons indicating a wish to carry out the work, the authority offers an invitation to tender:
 - (i) to at least four of those persons where four or more persons have indicated a wish to carry out the work; or
 - (ii) to all of those persons where fewer than four persons have indicated a wish to carry out the work.

Terms of the agreement

- 9.** The terms of the management agreement referred to in paragraph 7(b):
- (a) must not include a requirement that the manager is required to use any of the authority's assets other than:
 - (i) information technology; or
 - (ii) those that are essential to ensure the efficient and effective delivery of the work to the standard specified by the authority; and
 - (b) must include provision for the authority to charge no more than a market rate for any assets to be used in accordance with sub-paragraphs 9(a)(i) and (ii).

10. In paragraph 9, the term "asset" does not include the houses or land which are the subject of the management agreement.

PART 4

Agreements dealing with small numbers of houses

11. Subject to paragraphs 12 and 13, a management agreement complies with this Part where the consideration paid for the management agreement is below the applicable threshold identified in the Public Contracts Regulations 2006((a)) for agreements entered into by local authorities for property management services and;

- (a) it relates to no more than ten houses (not including hostels); or

(a) Currently found in regulation 8(3)(b) of the Public Contracts Regulations 2006. This refers to sums mentioned in Article 7(b) of the Public Sector Directive. The current threshold figures are available from the Office of Government Commerce website at <http://www.ogc.gov.uk>

(b) it relates to a hostel which accommodates no more than twenty persons.

12. In determining whether the current agreement complies with this Part:

- (a) the number of houses or hostels to which any previous agreement relates must be added to those to which the current agreement relates; and
- (b) the value of any previous agreement must be added to that of the current agreement.

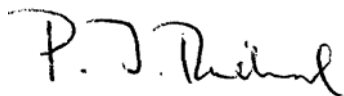
13. Paragraph 12 applies where the authority:

- (a) has entered into another management agreement (“the previous agreement”) within six months of the agreement in relation to which this Approval is being considered (“the current agreement”); and
- (b) the current agreement and the previous agreement are with the same person.

PART 5

Agreements with Tenant Management Organisations

14. A management agreement complies with this Part where it is entered into with a Tenant Management Organisation in accordance with any regulations made and in force under section 27AB of the Housing Act 1985, and is in the form approved by the Secretary of State for those purposes.



PETER RUBACK

DEPUTY DIRECTOR

16TH FEBRUARY 2009