

G Contracts Standing Orders

General	1	Purpose
	2	Compliance
	3	Approved list
Delegation to Chief Officers	4	Delegation
	5	Annual Plan
	6	Key decisions
Exemptions	7	Exemptions
Pre-contract requirements	8	Contract value and evaluation criteria
	9	Consultation
	10	Pre-tender/quotation enquiries
Competition requirements	11	Contracts not requiring competition
	12	Contracts valued below £100,000
	13	Contracts valued at £100,000 or more
Tendering	14	Tendering from the Approved List
	15	Open tendering
	16	Restricted tendering
	17	Negotiated tendering (1)
	18	Negotiated tendering (2)
	19	Selecting tenderers
	20	Inviting tenders
	21	Opening tenders
	22	Evaluating tenders
	23	Accepting tenders
Contracts	24	Contracts signature
	25	Contract conditions
	26	Contract specifications
	27	Contract performance
	28	Contract variation
	29	Nominating products, contractors and suppliers

General

1. Purpose

1.1 These Standing Orders set out how the Council procures works, services and supplies. They are designed to ensure:

- best value for the Council
- non-discrimination and equal treatment of contractors
- transparency and accountability
- propriety
- compliance with the law
- furtherance of the Council's corporate policies and procurement strategy.

1.2 The Council's procurement strategy provides guidance on the matters to be taken into account before any procurement exercise. These Standing Orders regulate the process when a decision has been made to procure externally.

1.3 The schedule contains supplementary information, guidance and definitions.

2. Compliance

2.1 Every contract made by or on behalf of the Council must comply with EU and national law, these Standing Orders and the Council's Financial Regulations.

2.2 Every person who lets, manages or supervises a contract will:

- comply with EU and national law, these Standing Orders and the Council's Financial Regulations
- seek to obtain best value and to promote relevant corporate policies, in particular those relating to equalities, environmental sustainability and health and safety
- act in accordance with the highest standards of propriety and proper practice
- ensure that adequate records are kept.

3. Approved List

- 3.1 The Chief Finance Officer will maintain, and set criteria for, an Approved List of firms providing works or services, and establish a procedure to admit, suspend and exclude firms from the Approved List. The Approved List will contain the names of firms who meet the criteria, and will indicate the type and value of contract for which each firm may be used.
- 3.2 The criteria must relate to a firm's economic and financial standing, technical ability and capacity, insurance arrangements, quality systems, health and safety record and compliance with race relations and other relevant legislation.
- 3.3 At least 28 days before the Approved List is compiled or updated, the Chief Executive will invite applications for inclusion in at least one local newspaper and one trade journal.
- 3.4 The Chief Finance Officer will amend the Approved List as required and carry out an overall review at regular intervals.

Delegation to Chief Officers

4. Delegation

- 4.1 Chief Officers may accept quotations and tenders and enter into contracts as set out in these Standing Orders, subject to the provisions of:

Standing Order 5	annual plan and list of contracts
Standing Order 6	key decisions
Standing Order 11.2 and 11.3	negotiating contracts
Standing Order 9.4 and 17	negotiating tenders
Standing Order 23	accepting tenders

- 4.2 Each Chief Officer will maintain a scheme of management, showing the names and posts of staff who may seek quotations and tenders, enter into contracts, place orders and authorise payments on their behalf. The scheme will set out the maximum contract value allocated to each member of staff for these purposes. The scheme may not include the granting of exemptions under Standing Order 7.
- 4.3 Each Chief Officer will send their scheme of management to the Chief Executive before the start of each financial year.

5. Annual Plan and list of contracts

- 5.1 Before the start of the financial year, each Chief Officer will provide the Chief Executive with a summary of planned procurement expenditure for that year. The Chief Executive will collate the information into an Annual Plan, and will submit the Annual Plan to Cabinet.
- 5.2 Each month, the Chief Executive will provide Cabinet Committee with a list of those contracts which are shown in the Forward Plan to be let or renewed over the following 4 months.
- 5.3 In respect of procurement or contracts listed in Standing Orders 5.1 and 5.2, Cabinet or Cabinet Committee may direct that they, and not the Chief Officer, will determine:
- the evaluation criteria, as provided by Standing Orders 8.2 and 8.3, and
 - appropriate quality, performance, safety and other characteristics required of the procurement, as provided by Standing Order 26.1.

6. Key decisions

- 6.1 Before the 15th of each month, each Chief Officer will provide the Chief Executive with details of contracts which will be key decisions and which he or she intends to let or renew during the next 4 months. The Chief Executive will include the contract in the Forward Plan.
- 6.2 Cabinet, and not the Chief Officer, will accept a quotation or tender in respect of a contract if:
- it is a key decision and has not been subject to a 28 day notice, or
 - the Chief Executive directs.

Exemptions

7. Exemptions

- 7.1 Cabinet, the Chief Executive or any Chief Officer may authorise an exemption from these Standing Orders.
- 7.2 A report seeking an exemption must include the comments of the Chief Finance and Legal Officers. If the comments recommend that an exemption should not be made, an exemption may only be authorised by Cabinet.
- 7.3 No exemption may be authorised from Standing Orders 1 and 2.
- 7.4 Only Cabinet may authorise an exemption from Standing Orders 4, 5, 6 and 23.
- 7.5 The Chief Executive and Chief Officers must keep a register of exemptions and the reasons they were granted, and must summarise these in a report every 3 months to Cabinet and to Overview and Scrutiny Committee.

Pre-contract requirements

8. Contract value and evaluation criteria

- 8.1 Before starting any procurement, the Chief Officer will:
- estimate and record the value of a proposed contract - the Schedule explains how to estimate the value of separate or renewable contracts;
 - ensure the expenditure has been included in approved estimates or in capital or revenue accounts, or has been otherwise approved by the Council.
- 8.2 Before starting any procurement which requires competition, the Chief Officer will determine whether the contract will be awarded to the tender which offers the lowest price, or to the most economically advantageous.
- 8.3 Where the contract will be awarded to the most economically advantageous tender, the Chief Officer will determine the evaluation criteria, where possible in descending order of importance.

9. Consultation

- 9.1 Before purchasing supplies, the Chief Officer will consult the Head of Corporate Procurement, who may require the purchase to be made through a corporate contract.
- 9.2 Before purchasing services which are also provided in house, the Chief Officer will consult the relevant Head of Service to ensure the Council obtains best value.
- 9.3 Before engaging consultants for training or development purposes, the Chief Officer will consult the Head of Corporate Personnel.
- 9.4 Before negotiating tenders in the circumstances set out in Standing Order 17, the Chief Officer will consult the Chief Executive and the Chief Finance and Legal Officers. The Chief Executive may determine how negotiations should be carried out so as to achieve the purposes set out in Standing Order 1.
- 9.5 The Chief Officer will record the outcome of each consultation.

10. Pre-tender/quotation enquiries

- 10.1 Chief Officers may make enquiries of firms before tenders or quotations are invited:
- to establish whether goods, works or services the Council wishes to purchase are available, and within what price range;
 - to prepare tender documents, price estimates and contracts;
 - to establish whether particular firms wish to be invited to tender or quote.
- 10.2 In making enquiries:
- no information may be disclosed to one firm which is not disclosed to all those which may be invited to tender or quote;
 - no firm may be led to believe that the information they offer will necessarily lead to them being invited to tender or quote, or awarded the contract;
 - the Chief Officer will keep a written record, including notes of any telephone calls and meetings and the responses received.

Competition requirements

11. Contracts not requiring competition

11.1 Competition is not required

- for contracts valued at less than £10,000, provided the Chief Officer keeps a record of why competition is inappropriate;
- where an exemption from competition is granted under Standing Order 7;
- for procurements made through a consortium, provided the consortium invited tenders and placed contracts in accordance with procedures equivalent to these Contract Standing Orders and in accordance with national or EU legislation;
- for contracts with registered providers of social services for individual clients or groups of clients;
- for contracts with registered providers of education for individual pupils with special educational needs
- to engage counsel.

11.2 With the agreement of the Chief Executive, in consultation with the Chief Finance and Legal Officers, competition is not required:

- where only one firm can provide the work, service or supplies because of exclusive rights or for technical or artistic reasons;
- where extreme urgency means the time limits for tendering cannot be met. For EU contracts, the urgency must be unforeseen and unattributable to the Council;
- where additional works or services are required which were not included in the original contract and which either are strictly necessary for the completion of the contract or, for technical or economic reasons, cannot be carried out separately without great inconvenience. For EU contracts, the additional works or services must be unforeseen and must not exceed 50% of the value of the original contract;
- where new works or services are required which are a repetition of works or services carried out under the original contract. For EU contracts, the new works or services must be required within 3 years of the original contract, and the contract notice must have stated that a new contract might be awarded by negotiation;
- where goods are required to partially replace or add to existing goods or installations, and obtaining them from another contractor would

result in incompatibility or disproportionate technical difficulties in operation or maintenance.

11.3 The Chief Executive may determine how negotiations should be carried out for a procurement under Standing Order 11.2, so as to achieve the purposes set out in Standing Order 1.

12 Contracts valued below £100,000

12.1 Chief Officers may enter into contracts where the estimated value is:

- less than £10,000, without seeking quotations;
- £10,000 but less than £25,000, after obtaining at least 2 written quotations
- £25,000 but less than £100,000, after obtaining at least 3 written quotations.

12.2 Where there is an Approved List, Chief Officers will use it to provide the names of firms from which quotations are sought. Where there is no Approved List, Chief Officers will seek quotations from firms which are competent and financially stable.

12.3 The Chief Officer may open quotations as they are received, and will record the following details:

- the closing date and time for the receipt of quotations;
- the date and time each quotation was received and opened;
- the names of firms approached and of those offering quotations ;
- the amount of each quotation and the reason why a quotation was accepted.

13. Contracts valued at £100,000 or more

13.1 Where the estimated value of a contract is £100,000 or more, Chief Officers will invite tenders in accordance with Standing Orders 14, 15, 16 or 17 and will record their reasons for deciding which procedure to use.

Tendering

14. Tendering from the Approved List

- 14.1 This Standing Order does not apply where the contract is an EU contract, or where the Chief Officer considers that using the Approved List is inappropriate.
- 14.2 Where there is an Approved List, Chief Officers will invite at least four tenders from firms from within the appropriate category. If there are fewer than 4 firms, Chief Officers will invite tenders from all of them.
- 14.3 Chief Officers will invite firms to tender in rotation. However, 1 firm may be nominated where it is the existing contractor or has carried out similar work for the Council.
- 14.4 Chief Officers will record how they compiled the tender invitation list and, if fewer than 4 firms are invited to tender, the reasons for this.

15. Open tendering

- 15.1 Where Standing Order 14 does not apply, then unless the Chief Officer considers that using this procedure is inappropriate, tenders will be invited as follows.
- 15.2 For EU works contracts, the Chief Officer will publish a prior information notice in OJEC as soon as possible after deciding to proceed with the work.
- 15.3 The Chief Officer will place a notice in 1 trade journal and, where appropriate, in 1 local newspaper or on the Council's website. The notice will give details of the contract, say how tender documents may be obtained or inspected and state the last date for receipt of tenders. For EU contracts, the Chief Officer will place a notice in OJEC at the same time.
- 15.4 The Chief Officer will send contract documents to firms within 6 days of request, provided they are requested in good time and any fee specified has been paid.
- 15.5 For EU contracts, the last date for receipt of tenders will be at least 52 days from the date of the notice, or at least 36 days where a prior information notice was published. For other contracts, the last date will be at least 15 days from the date of the notice.

16. Restricted tendering

- 16.1 Where Standing Orders 14 or 15 do not apply, then unless the Chief Officer considers that using this procedure is inappropriate, tenders will be invited as follows.
- 16.2 For EU works contracts, the Chief Officer will publish a prior information notice in OJEC as soon as possible after approving the work.
- 16.3 For all contracts, the Chief Officer will place a notice in 1 trade journal and, where appropriate, in 1 local newspaper or on the Council's website. The notice will invite expressions of interest and state the last date for receipt of expressions of interest. For EU contracts, the Chief Officer will place a notice in OJEC at the same time.
- 16.4 For EU contracts, the last date for receipt of expressions of interest will be at least 37 days from the date of the notice, or at least 15 days in case of urgency. For other contracts, the last date will be at least 15 days from the date of the notice.
- 16.5 The Chief Officer will select at least 5 firms to tender. If fewer than 5 firms express an interest, the Chief Officer will invite tenders from all of them.
- 16.6 Firms will be given at least 40 days to return tenders, or at least 10 days in case of urgency. These periods will be extended if necessary:
- to allow for extra time to be given to firms to inspect the premises on which the works or services are to be carried out, or
 - to inspect documents relating to the contract documents. Reasonable requests for further information relating to the contract documents will be granted, provided the request enables the Council to supply the information not less than 6 days (or 4 days in case of urgency) before the date specified for receipt of tenders.
- 16.7 The Chief Officer will record how he/she compiled the tender invitation list and, if fewer than 5 firms are invited to tender, the reasons for this.

17. Negotiated tendering (1)

- 17.1 Chief Officers may negotiate tenders:
- where the nature of the procurement or the risk does not permit prior overall pricing;

- where the nature of the procurement is such that a precise specification cannot be drawn up to permit tendering under Standing Orders 14, 15 or 16;
- where the rules of a design contest require the contract to be awarded to one of the successful candidates, provided all successful candidates are invited to negotiate.

17.2 Before negotiating tenders, the Chief Officer will consult the Chief Executive and the Chief Finance and Legal Officers. The Chief Executive may determine how negotiations should be carried out so as to achieve the purposes set out in Standing Order 1.

17.3 Where the contract is not an EU contract, and there is an Approved List, the Chief Officer may invite requests to negotiate from at least 4 firms from within the appropriate category on the Approved List.

17.4 Where the contract is an EU contract, or where the Chief Officer considers that using the Approved List is inappropriate, the Chief Officer will place a notice in 1 trade journal and, where appropriate, in 1 local newspaper or on the Council's website. The notice will invite requests to be selected to negotiate and state the last date for receipt of requests. For EU contracts, the Chief Officer will place a notice in OJEC at the same time.

17.5 Where the contract is an EU contract, the last date for receipt of requests to be selected to negotiate will be at least 37 days from the date of the notice, or at least 15 days in case of urgency. For other contracts, the last date will be at least 15 days from the date of the notice.

17.6 The Chief Officer will select at least 3 firms to tender. If fewer than 3 firms express an interest, the Chief Officer will invite tenders from all of them.

17.7 The Chief Officer will record how they compiled the tender invitation list and, if fewer than 3 firms are invited to tender, the reasons for this.

18. Negotiated tendering (2)

18.1 Chief Officers may negotiate tenders:

- where tendering under Standing Orders 14, 15 or 16 produced no tenders or inappropriate tenders; or
- where tendering under Standing Orders 14, 15 or 16 was discontinued because of irregular tenders.

18.2 The terms of the contract must remain substantially unaltered. All tenderers will be invited to amend their tenders, in writing, in such matters as the Chief Officer specifies. All negotiations will be conducted by at least two officers, one of whom is not involved in the contract award. The Chief Officer will keep a written record of all negotiations, including notes of all meetings and the names of all individuals present.

19. Selecting tenderers

19.1 A firm may not be invited to tender or negotiate if:

- it is bankrupt, or is being wound up, or is having its affairs administered by a court, or has entered into an arrangement with creditors, or has suspended its business activities, or is subject to court proceedings regarding any of these matters;
- it or any of its current directors have been convicted of an offence concerning professional conduct, or have been guilty of grave professional misconduct;
- it has not fulfilled obligations relating to the payment of taxes or social security contributions;
- it has seriously misrepresented information supplied to the Council;
- it is not registered in the professional or trade register of the state in which it is established.

19.2 Firms will be invited to tender by applying criteria of financial and economic standing and of technical ability. Firms may not be invited to tender on the basis of non-commercial considerations, except where permissible. The criteria and non-commercial considerations are listed in the Schedule.

19.3 The Chief Officer will record which firms were invited to tender or negotiate, the reasons they were invited and the reasons unsuccessful firms were not invited.

19.4 For EU contracts, the Chief Officer will, within 15 days of being asked to do so, notify unsuccessful firms why they were not invited to tender or negotiate.

20. Inviting tenders

20.1 Every invitation to tender will state that no tender will be considered unless contained in a plain sealed envelope with the word "Tender" and the name of the contract written on it, and that the sender's name or any other identifying mark on the envelope will invalidate the tender.

- 20.2 Where the contract will be awarded to the most economically advantageous tender, the Chief Officer will state the evaluation criteria in the tender documents, where possible in descending order of importance
- 20.3 All tenders will be submitted on a form approved by the Chief Executive, and addressed to the appropriate Chief Officer.
- 20.4 The Chief Officer will endorse all tender envelopes with the time and date of receipt, and will keep them secure until the time specified for tender opening. Any tender received after the closing date and time for tenders will not be considered for evaluation and will be returned promptly to the tenderer. This will not apply if no eligible tenders have been opened and the Chief Officer is satisfied that there is evidence of posting or hand delivery in time for receipt by the closing date and time in the normal course of events. A late tender may be opened to ascertain the name of the tenderer but no details of the tender may be disclosed.
- 20.5 No-one may communicate with any firm proposing to tender once the invitation to tender has been posted to, or collected by the tenderer. No information relating to that tender process may be disclosed to anyone not involved directly in arranging the contract, except where it is necessary:
- for an officer and/or tenderer to carry out an inspection of works, in which case all tenderers must be offered an equal opportunity to carry out an inspection; or
 - to inform tenderers of a change in the tendering arrangements, including the supply of additional or changed information, in which case all tenderers will be sent the same information at the same time.

21. Opening tenders

- 21.1 All tenders will be opened at the same time and place in the presence of the Chief Officer and one other officer designated by him or her.
- 21.2 The Chief Officer will record the following details of each tender in a register of tenders:
- the closing date and time for the receipt of tenders;
 - the date and time each tender was received;
 - the name of each tenderer and the amount of each tender;
 - the date and time the tenders were opened

21.3 All persons present at the tender opening will initial each tender, and sign the register as evidence that they were present.

22. Evaluating tenders

22.1 Where a contract is to be awarded to the most economically advantageous tender, the criteria will be stated in the tender documents, where possible in descending order of importance, and tenders will be evaluated in accordance with them.

22.2 Where the lowest tender is for £500,000 or more, the Chief Officer will obtain the following information in respect of tenderers:

- the Council's internal financial appraisal;
- an independent financial appraisal supplied from a business information service;
- any internal references provided by the Chief Executive and any current external references available.

and the information will be considered by those involved in evaluating the tenders and kept by the Chief Officer.

22.3 Tenders may be amended to correct genuine arithmetic errors. Otherwise, where errors affect the tender figure in an otherwise successful tender, the tenderer will be given details of the errors and an opportunity of confirming or withdrawing its tender.

23. Accepting tenders

23.1 No tender may be accepted unless the expenditure has been included in approved estimates or on capital or revenue accounts, or has been otherwise approved by, or on behalf, of the Council.

23.2 Contracts may be awarded:

- by the Chief Officer to the tender which offers the lowest price;
- by the Chief Officer to the tender which is the most economically advantageous, but only if it differs by no more than 10% from the lowest tender and where the estimated value of the contract is less than the EU contract threshold;
- by Cabinet or Cabinet Committee in any other case.

23.3 Chief Officers will keep a register of all contracts awarded by them, and record the matters set out in the Schedule.

23.4 For EU contracts, Chief Officers will send a Contract Award Notice to OJEC within 48 days of the award and will, within 15 days of request, disclose the name of the successful tenderer to an unsuccessful tenderer.

Contracts

24. Contract signature

24.1 Every contract exceeding £50,000 will either be made under seal, or will be signed by two officers nominated by the Chief Legal Officer.

24.2 Every other contract will be in writing and be signed by or on behalf of a Chief Officer.

25. Contract conditions

25.1 Every contract exceeding £100,000 will include the conditions set out in the Schedule.

26. Contract specifications

26.1 Chief Officers will ensure contracts specify any appropriate quality, performance, safety and other characteristics required of the procurement.

26.2 Technical specifications will be defined by reference to relevant European specifications where they exist.

26.3 Specifications will not refer to supplies of a particular make or source unless:

- the contract requirement justifies it, or
- the contract requirement cannot otherwise be described precisely and intelligibly.

27. Contract performance

27.1 Where contracts are made with contractors on the Approved List, Chief Officers will send quality control reports quarterly to the Chief Executive. Before the quarterly report is despatched, Chief Officers will raise incidents of poor performance with the contractor in writing, or at a meeting where notes are made and sent to the contractor. In cases of particularly poor

performance, or persistent poor performance, the Chief Officer will consider whether to recommend suspension or exclusion from the Approved List.

28. Contract variation

28.1 No variation may be made until approved by the Chief Officer if it would:

- extend the contract period by 50% or by more than three calendar months, whichever is the greater;
- add more than 10% to the estimated value of the contract or increase it from below £100,000 to £100,000 or more; or
- mean the works, services or goods to be added to or deleted from the contract are substantially different in scope.

28.2 The value of a variation is calculated by taking the aggregate value of all variations made to the contract.

28.3 No variation may be made until funding has been identified in accordance with the Council's Financial Regulations.

28.4 Standing Order 28.1 does not apply in cases of urgency, where the Chief Officer may approve a variation.

28.5 Chief Officers will keep a record of all variations and summarise them in a report every 3 months to Cabinet and to Overview and Scrutiny Committee.

29. Nominating products/contractors/suppliers

29.1 These Standing Orders will be used where a sub-contractor or supplier is to be nominated to a main contractor. Sub-contractors or suppliers will send with their tender an undertaking to work for the main contractor and to indemnify them in respect of the sub-contracted works or supplies.