

**Audit Committee - 29th June 2010**

**Report of the Treasurer**

**Amendment of Standing Orders**

**Purpose of the Report**

1. This report proposes amendments to Standing Orders.

**Background**

2. As part of the work covered by the Procurement Steering Group a review of the Council's Standing Orders has been undertaken by Officers on the Group who represent all Directorates.
3. The Audit Committee Terms of Reference include "Determination of any amendments to Financial Regulations and Contract Standing Orders, including those relating to Schools".
4. Standing Orders assist in ensuring good procurement management by providing rules and guidance to Members and Officers on the operation of financial and management controls in all aspects of the Council's procurement activities.
5. The current set of Standing Orders were approved by Council in 2006 and following consultation with relevant parties, it is now proposed that Standing Orders are amended (see Appendix A) to reflect the appointment of the Director of Corporate Resources & Treasurer and :-
  - a. Amend the upper limit of £140,000 to £155,000 to reflect new EU procurement limits
  - b. Introduce a requirement that any contracts procured using other public sector procurement organisations are cleared by Legal Services [Para 4.4]
  - c. Introduce flexibility in allowing Officers to benefit from contracts awarded by other public sector procurement organisations [para 8.3]
  - d. Reword section on insurance to provide greater clarity [para 13]
  - e. Introduce guidance on Health & Safety on contracts [para 17.3]
  - f. Reword section to cover sustainability issues [para 18.2]

A number of minor amendments have been included to clarify existing rules in both the main body of Standing Orders and in linked guidance.

6. All amendments to the Council's Standing Orders would also be replicated in the version for Schools.

## **Finance**

7. This report has no direct financial effect.

## **Law**

8. Each local Authority is required to have a Constitution which details the governance arrangements and responsibilities of Members, Governors and Officers.

## **Equality Impact**

9. This report does not raise any equal opportunities issues.
10. Children and young people were not consulted on, or involved, with the preparation of this report.

## **Recommendations**

11. That the Committee approve the proposed amendments to Council and School Standing Orders and authorise the Treasurer to approve guidance documents linked to Standing Orders.



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**Iain Newman**  
**Treasurer**

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**Appendix A**

**STANDING ORDERS RELATING TO CONTRACTS**

**REVISED - JUNE 2010**

## STANDING ORDERS RELATING TO CONTRACTS

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## **PART I**

### **STANDING ORDERS RELATING TO CONTRACTS**

#### **GENERAL - ALL CONTRACTS**

#### **PROVISIONS APPLICABLE TO ALL CONTRACTS FOR THE SUPPLY OR DISPOSAL OF GOODS AND MATERIALS, THE PROVISION OF SERVICES AND THE EXECUTION OF WORKS**

##### **1. APPLICATION**

1.1 The provisions in this part of these Standing Orders apply to all Contracts to be entered into by the Council for the supply and disposal of goods and materials, the provision of services and the execution of works.

1.2 All values referred to in these Standing Orders shall be exclusive of VAT

##### **2. DEFINITIONS**

2.1 "Approved Available Resources" means the budget for any scheme as contained in the approved Capital Programme or approved Revenue Budget which shall include the budget for fees, furniture and equipment and other incidental costs.

2.2 "Corporate Contract" means an agreement for the supply and disposal of goods and materials the provision of services and the execution of works arranged by the Director of Corporate Resources which is based on the aggregate expenditure by one or more directorates of the Council.

2.3 "Director" means the Director of any Directorate of the Council, the Chief Executive of the Council, or their duly authorised representative. Any delegations should be recorded in writing.

2.4 "Other Close Relative" shall include but shall not be limited to a person cohabiting on a similar basis to a spouse, a parent, grandparent, uncle, aunt, son, daughter, grandson, grand-daughter, brother, sister, niece or nephew of the employee or member or their spouse or cohabitee.

2.5 "Partnerships" feature close collaborative working relationships between the Council and third parties using an approved form of contract.

2.6 "Partnering" is a partnership characterised by a formal contract that includes some transfer of risk from a traditional contractual basis; performance incentives for the contractor; open book accounting and the joint delivery of the project by both the Council's workforce (maybe at managerial level) and the contractor's staff so that there is one integrated team delivering the project.

- 2.7 "Contract" means any agreement between the Council and any other party for the supply or disposal of goods and materials, the provision of services, or the execution of works and shall where the context so admits include sub-Contracts.
- 2.8 'Service Level Agreement' (SLA) is an agreement between the Council and a third party in which the Council agrees to make funding available to voluntary or community organisations to provide services but do not specify precisely how the service will be delivered. Where the Council prepares a specification for the service and invites bids or tenders a formal contract rather than a SLA shall be used.
- 2.9 "Contractor" means any individual or organisation which supplies to the Council or purchases from the Council goods and materials or provides services or executes work for the Council. For the avoidance of doubt "Contractor" includes Provider, Service Provider, Consultant, Supplier and Purchaser.
- 2.10 "Council" means the Council and where the context allows is deemed to include reference to the Cabinet, a Committee or person acting with delegated authority on behalf of the Council.
- 2.11 "Estimate" and "Estimated Contract Value" (ECV) means a pre-determined figure representing the probable cost of works, goods, services or materials calculated for tender comparison purposes by a suitably qualified employee of or consultant to the Council which shall be recorded in writing.
- 2.12 "Negotiation" means discussion on the terms of a Contract including prices (other than competitors' prices) with either an existing or potential contractor with a view to agreeing the most economically advantageous offer.
- 2.13 "Post Tender Negotiation" means instances where discussions are held with tenderers with the objective of changing something in their offer (price, terms and conditions, contract delivery methodology etc).
- 2.14 "Quotation" means an offer made by a prospective contractor to the Council.
- 2.15 "Tender" means an offer made by a prospective contractor to the Council on a Council's Form of Tender in accordance with the procedure set out in Contract Standing Order 33.
- 2.16 "Personal and Prejudicial" interest shall have the meaning applicable to members set out in the Members Code of Conduct [See Constitution].

### 3. COMPLIANCE WITH STANDING ORDERS

- 3.1 No waiver of any of the provisions of these Standing Orders shall be made otherwise than with the approval of the Director of Corporate Resources in consultation with the Lead Member. Where any statutory provision, European Union (EU) Directive, or Decision of the Council of European

Communities requires procedures to be followed in the letting of contracts which are inconsistent with the procedures set out in these Standing Orders the requirements of the statutory provisions, EU Directive, or Decision shall prevail (insofar as they are inconsistent) and shall be fully complied with. Directors shall notify the Director of Corporate resources of all contracts awarded within European Union procurement directives no later than one month after the award of the contract.

- 3.2. For all contracts over £155,000 in respect of tenders referred to in 3.2.1, 3.2.2 and 3.2.3 and for all contracts of any value in respect of 3.2.4, at 6 monthly intervals each Director shall submit a report to the Audit Committee setting out details of,
  - 3.2.1 A successful tender which is other than the lowest valid tender if payment is to be made by the Council, or the highest valid tender if payment is to be made to the Council, or
  - 3.2.2 A successful tender where the appropriate Director has determined that a Contract shall be let based upon criteria of which the tendered price is only a part of the evaluation and the tender is awarded to other than the Contractor evaluated as making the most advantageous offer in accordance with the pre-determined criteria, or
  - 3.2.3 A successful tender which is not within the amount of the Estimated Contract Value plus 10% or £50,000 whichever is the greater, or
  - 3.2.4. Any waiver of Standing Orders.
- 3.3 Any failure to comply with any of the requirements of these Standing Orders shall be reported to the Chief Executive as soon as such failure is discovered. The Chief Executive shall consult with the Leader and the Chairman of the Audit Committee before determining such action as he may deem necessary in the circumstances.
- 3.4 The appropriate Director shall ensure that action taken at all stages of the procurement or disposal process shall be with a view to the Council obtaining the most economically advantageous outcome.
- 3.5 Where consultants are appointed to act on behalf of the Council in any part of a procurement exercise they shall be provided with a copy of these Standing Orders and, the Council's Financial Regulations by the appropriate Director and it shall be a condition of the engagement that these Standing Orders and the Financial Regulations are strictly observed.
- 3.6 The appropriate Director shall ensure that a manual of procurement procedures is maintained and applied to the letting of all contracts within his directorate.



- 3.7 Contracts shall not be packaged in such a way that results in the Estimated Contract Value falling into a lower value band except for sound operational reasons which shall be approved by the appropriate Director and recorded in writing. The Director would need to ensure that EU Rules are followed.
- 3.8 For the avoidance of doubt these Standing Orders apply to any monies expended by the Council irrespective of the source of those monies e.g. grant aid.

#### 4. TERMS AND CONDITIONS OF CONTRACTS

- 4.1 All contracts for the supply or disposal of goods and materials and the provision of services and execution of work shall be in writing and shall contain appropriate terms and conditions as agreed by the Director of Corporate Resources or external legal advisers of the Council. For the avoidance of doubt this standing order shall include terms and conditions proposed by contractors provided they are approved by the Director of Corporate Resources. Master terms and conditions are shown in Procurement, Contract Management and Creditor Services Intranet site, and they can be used to model each contract situation.

##### [Master Contract Documentation](#)

- 4.2 Where applicable an appropriate standard form of contract such as but not limited to those published by the Joint Contracts Tribunal, the Institution of Civil Engineers or the Institution of Electrical Engineers must be used. Any amendments to a standard form of contract which have not been approved by the appropriate body, must be approved in writing, in advance, by the Director of Corporate Resources or external legal advisers of the Council.
- 4.3 There shall be inserted in every Contract entered into under these Standing Orders a clause empowering the Council to cancel a Contract and recover from the contractor the amount of any loss resulting from such cancellation if the contractor or his/her employees or persons acting on his/her behalf has committed an offence under current legislation affecting bribery, corruption, cartels, etc.
- 4.4 If a contract is procured via the provisions of paragraph 8.3 or 19.1.2 then Directors must ensure that the wording of any contract is cleared with Legal Services.

#### 5. RESTRICTIONS ON CONTRACTS WITH CERTAIN PERSONS

- 5.1 No member of the Council or officer nor any company, partnership, or firm in which any member of the Council or officer has an interest nor any employer, nominee, spouse or other close relative of a member of the Council or officer, shall undertake the execution of works on behalf of the Council or shall accept an order for the supply or disposal of goods or materials from the Council or shall provide services for the Council unless such works or order for goods or

materials or services have been offered or secured or provided by competitive Tender or Quotation. Officers and members shall refer to the relevant code of conduct in the Constitution. The Employee Code of Conduct can be found at

### [Code of Conduct for Employees](#)

## 6. WORK BY COUNCIL DIRECTORATES

- 6.1 Where legislation allows the Council to undertake work using its own work force such work shall be awarded to the Council's work force provided that the Director awarding the work is satisfied that the offer submitted by the Council's work force represents value for money and the Council's work force has sufficient resources to undertake the work.

## 7. FORWARD PROCUREMENT PLAN

- 7.1 Each Director shall produce a Forward Procurement Plan (FPP) in the approved format that shall include all contracts where the Estimated Contract Value is likely to exceed £155,000 in value. Each Director shall provide a copy of the FPP to the Head of Procurement [HoP], who shall ensure that the FPP is published on the internet and updated regularly to reflect changes notified to the HoP.

## 8. CORPORATE CONTRACTS

- 8.1 Before inviting Quotations or Tenders or entering into Negotiations in respect of any Contract, it must be established whether a Corporate Contract exists covering the proposals. If one does exist then the Corporate Contract must be used unless the appropriate Director is satisfied that there are special factors justifying a different course of action. Such special factors shall be recorded in writing and copied to the HOP.

### [Corporate Contracts](#)

- 8.2 Where a Corporate Contract is used the Director placing the order shall be responsible for ensuring that the Contractor complies with the General and Special terms and conditions.
- 8.3 Officers may utilise the benefits of any other public sector contract, or framework procured for the benefit of the public sector, which have been procured in accordance with that organisations procurement rules. This does not apply where a Corporate Contract is in place.

## 9. NEGOTIATION

The following procedures shall be adopted in all Negotiations:-

- 9.1 A contractor shall not be employed by the Council on the basis of a negotiated Contract or series of negotiated Contracts for more than 3 consecutive years.

- 9.2 Officers conducting negotiations shall be designated in writing in respect of individual contracts by their Director.
- 9.3 There must be at least 2 officers present on at least Principal Officer Grade A or equivalent in respect of contracts over £155,000 and one officer on at least Principal Officer Grade A or equivalent in respect of contracts under £155,000. The Treasurer must be invited to attend or be represented at all negotiations over £1,000,000 and be given not less than 10 working days notice of the commencement of such negotiations.
- 9.4 All officers involved in negotiations under this Standing Order shall make a declaration in writing as to any personal or prejudicial interest they may have prior to commencement of negotiations to their Director and no officer with any such interest in any prospective contractor involved in the negotiations under this part shall be involved, at any stage, in the negotiations, unless the interest declared is a financial interest which falls below the level set out in paragraph 2.3 of the Guidelines. New link = Ensuring Quality and Price in Procurement
- 9.5 No information concerning a prospective contractor's offer shall be disclosed to third parties without the written permission of the appropriate contractor.
- 9.6 A record of the discussions held with prospective contractors and terms agreed shall be kept and shall be signed by all officers present at the negotiations.
- 9.7 Before any Contract is entered into the appropriate Director must satisfy himself that the result of negotiations represents good value for money.
- 9.8 All negotiations with tenderers which take place following the receipt of tenders but prior to entering into a contract must be undertaken in accordance with the guidance for post tender negotiations.

#### [Post Tender Negotiations](#)

### 10. VALUE FOR MONEY IN RESPECT OF ALL CONTRACTS

- 10.1 The appropriate Director shall in respect of all contracts be obliged to demonstrate if so requested that value for money was obtained. Notwithstanding the procedures set out in these Standing Orders in respect of contracts where the estimated contract value is less than £155,000 the appropriate Director may let such contracts in accordance with the procedures contained in Part IV of these Standing Orders.
- 10.2 The appropriate Director shall ensure that before any Quotations are sought, tenders invited or negotiations conducted an Estimated Contract Value shall be determined which shall not be disclosed to third parties save that an indicative range may be disclosed to contractors who request an indication of the scale of the contract. The Estimated Contract Value shall be recorded in writing and such record shall be attributable to the person who has made the

estimated contract value and retained on the scheme file or on the tender evaluation record. The Estimated Contract Value relates to the value of the contract during the total period of the contract.

- 10.3 Where the relevant Director considers it to be appropriate, he may let the contract using the Council's Corporate Guidelines for Maintaining Quality. When the contract is for the provision of consultancy services for the Council the appropriate Director shall follow the Corporate Guidelines for Maintaining Quality on Appointing Consultants.

#### [Recruitment of Consultants](#)

- 10.4 Where appropriate a Tender evaluation shall be carried out, such Tender evaluation shall follow the procedure contained in the relevant guidance on evaluations and shall include a comparison with the Estimated Contract Value and a recommendation as to which Tender is considered the most economically advantageous.

#### [Ensuring Quality and Price in Procurement](#)

### 11. ALTERNATIVE CONTRACTORS

- 11.1 Where a Director elects to let a contract to more than one contractor in order to maintain services they shall be ranked in order of preference and the reason why the alternative contractor was used shall be recorded in writing

### 12. ARRANGEMENTS FOR PARTNERSHIPS/PARTNERING AND SERVICE LEVEL AGREEMENTS

- 12.1 Partnerships shall only be entered into, if all parties to the partnership execute an appropriate partnership agreement, the form and conditions of which have been agreed in advance by the Director of Corporate Resources or external legal advisors of the Council. Partners shall be evaluated to ensure that their policies, practices, performance and corporate governance procedures are in accordance with the Council's requirements before the Partnership is entered into.
- 12.2 Partnering Contracts can be considered for any value of contract. Partnering Contracts shall only be let when contractor selection is undertaken using the Guidelines. New link = Ensuring Quality and Price in Procurement
- 12.3 Where the relevant Director elects to deliver services particularly those designed to address needs in the social care/inclusivity objective areas of the Council's activities by engaging with charities and other voluntary organisations one of the following methods shall be adopted:-
- 12.3.1 Where the Council makes a contribution to a service already operated by another organisation (the organisation must apply for funding and describe the service they provide along with the needs they will meet) and the Council does not seek to specify the detail of

how the service will be delivered the contribution shall be subject to a Service Level Agreement in the format agreed as part of the local Compact with the voluntary and community sector and shall be monitored in accordance with the Council's Code of Practice for Grants to Voluntary Bodies (even if the organisation receiving the support is not strictly a voluntary body). Relevant guidance on Service Level Agreements can be found at [Service Level Agreement](#)

- 12.3.2 Where the Council seeks to specify the detail of the service to be provided irrespective of the legal status of the service provider an appropriate formal contract shall be entered into and performance against the contract shall be monitored.

### 13. PUBLIC AND EMPLOYER LIABILITY INSURANCE

#### 13.1 Employers Liability

All contractors will comply with the *Employers' Liability (Compulsory Insurance) Act 1969*. This Act dictates a minimum of £5m is required but contractors will arrange a level of indemnity commensurate with the size and exposure of its workforce. The contractor shall provide a copy of this insurance upon request.

#### 13.2 Public Liability & or Product Liability

All contractors shall be required to maintain *Public* and or *Products Liability insurance* cover that is commensurate with the risk and exposure of the said contract. Generally this cover will be a minimum of £5M but in certain circumstances lower levels may be acceptable. The appropriate Director will specify appropriate insurance levels dependent upon the nature of the contract.

#### 13.3 Other Insurances

Certain types of contracts may require additional insurances, common examples might be *Professional Indemnity* (usually associated with design or consultancy contracts), *Contractors All Risks* and some others might be applicable. If necessary, officers letting contracts should consult the Risk Management & Insurance about appropriate insurances to ensure they are correctly specified in conjunction with any tender.

### 14. LIQUIDATED AND ASCERTAINED DAMAGES

- 14.1 In all appropriate contracts for works over £40,000 a clause shall be included specifying that liquidated and ascertained damages will be payable by the contractor if the Contract is not completed by the completion date or as amended by any duly authorised extensions.

- 14.2 Any sum assessed for the purpose of paragraph 14.1 shall be calculated by the appropriate Director in a reasonable and justifiable manner to represent a

reasonable pre-estimate of all pecuniary losses that shall be incurred by the Council if the Contract is not completed by the Contract completion date.

- 14.3 The recovery of liquidated and ascertained damages may only be waived with the approval of the relevant Director which must be recorded in writing.

15. SPECIFICATIONS

- 15.1 To accord with the requirements of European Directives, and the desire to obtain the best value for money for the Council, when specifications are given in negotiations, invitations for Quotations or Tenders they are to be technical or performance specifications unless, in the view of the appropriate Director, it is impractical, in which case a proprietary name or description may be used provided it is made clear that equivalents may be permitted

16. RISK MANAGEMENT CONSIDERATIONS IN THE PROCUREMENT OF CONTRACTS

- 16.1 Before a contract is let the relevant Director shall ensure that the guidance relating to risk management in procurement is complied with.

[Risk Management in Procurement](#)

17. LISTS OF APPROVED CONTRACTORS AND EVALUATION OF CONTRACTORS

- 17.1 This Standing Order shall have effect where the appropriate Director has determined that lists shall be kept of contractors to be invited to tender for certain specified contracts in accordance with the Directorate's Procurement Manual and that the Contract shall be let by way of this procedure. The appropriate Director shall ensure that the guidance for use of Constructionline and that for the use of Approved Contractors is followed in relevant cases.

[Constructionline](#)

[Use of Approved Contractors](#)

- 17.2 The appropriate Director shall ensure that Council appraisal of tenderers is undertaken in accordance with the Corporate Guidelines for Financial Appraisals in Procurement.

[Financial Appraisals in Procurement](#)

- 17.3 Officers must ensure that the health & safety policies & practice of any company or organisation used by the Authority are appraised and deemed suitable prior to the signing of contracts. This appraisal will comply with the Council's published Corporate policies and procedures.

## 18. EQUALITY AND SUSTAINABILITY

- 18.1 All procurement must be undertaken in accordance with the Council's equality, work force and sustainability policies. In particular attention shall be given to compliance by the Council and potential contractors with legislation relating to discrimination on grounds of gender, sexual orientation, religion, disability and race. With regard to race equality issues it is essential that prior to commencement of procurement it shall be determined whether equality issues are deemed core to the contract or not. Relevant guidance issued by the Council's equality group and the duties in relation to race equality in the procurement process, as issued by the Commission for Race Equality must be complied with.

[Ian Clarke combined document covering Equalities, Environment and Sustainability](#)

- 18.2 Sustainability should generally be considered for all procurement activities to ensure that all environmental, social and economic issues are assessed, understood and managed. For all contracts over £250,000 a sustainability impact assessment must be carried out.

## 19. CIRCUMSTANCES WHERE QUOTATIONS OR TENDERS NEED NOT BE OBTAINED

- 19.1 Quotations or Tenders need not be invited where:-

- 19.1.1 The purchase is to be made at or sales effected at an auction;
- 19.1.2 Tenders have been invited on behalf of any public sector organisation, consortium, association, or similar body provided that the Tenders are invited in accordance with the method prescribed by such body.
- 19.1.3 The appropriate Director is satisfied that emergency works are necessary provided that the appropriate Director records in writing the reasons for this decision.

## 20. SEALING/SIGNING OF CONTRACTS

- 20.1 The appropriate Director shall ensure that an appropriate form of contract shall be completed before work is commenced or goods and/or services provided in respect of all contracts
- 20.2 Where a limitation period of 12 years is considered appropriate for commencement of legal proceedings in the event of breach of contract the contract shall be executed under seal.
- 20.3 Where a limitation period of 6 years is considered appropriate for the commencement of legal proceedings in the event of breach of contract the contract shall be signed by the appropriate Director.



20.4 For the avoidance of doubt, nothing in these Standing Orders shall be read or construed as permitting a Director to accept a Tender and/or enter into a contract which is not within approved available resources without the approval of the Council (see also Standing Order 34)

20.5 Tenders or quotations which reasonably reflect the value of goods and materials, services or the execution of work shall fall to be accepted by the appropriate Director who shall accept the Tender which, in his opinion, is in the best interests of the Council (after carrying out a Tender evaluation) subject to the Tender being within approved available resources. Where:

20.5.1 A tender which is other than the lowest valid tender if payment is to be made by the Council, or the highest valid tender if payment is to be made to the Council, or

20.5.2 A tender where the appropriate Director has determined that a Contract shall be let based upon criteria of which the tendered price is only a part of the evaluation and the tender is awarded to other than the Contractor evaluated as making the most advantageous offer in accordance with the pre-determined criteria,

The Director shall make a written record of the reason why the Tender was accepted and report them to the Audit Committee in line with Paragraph 3.2 above.

## 21. EXTENSION OF CONTRACTS

21.1 The appropriate Director may extend an existing Contract, provided the tendered prices are not amended [except for inflationary increases allowed in the contract], the expenditure is already included in the Council's approved capital programme or approved revenue budgets provided that the extension would not result in an infringement of European Union Procurement Rules or exceed a period of 3 years. For the avoidance of doubt, if changes to the terms and conditions including prices of the contract are required, an extension of the Contract must be treated in accordance with Standing Order 9.



## **PART II**

### **STANDING ORDERS APPLICABLE TO CONTRACTS FOR THE SUPPLY OR DISPOSAL OF GOODS OR MATERIALS THE PROVISION OF SERVICES AND THE EXECUTION OF WORKS UP TO £40,000**

#### **22. APPLICATION**

- 22.1 This part of Standing Orders applies to contracts for the supply or disposal of goods or materials, the provision of services, and the execution of works where the Estimated Contract Value is less than £40,000.

#### **23. TENDERS, QUOTATIONS AND NEGOTIATIONS**

- 23.1 Contracts shall be let by way of

- 23.1.1 Receipt of Quotation(s) or Tenders; or
- 23.1.2 Negotiation

as determined by the appropriate Director and in accordance with the Directorate Procurement Manual prepared to comply with Standing Order 3.6.

#### **24. VALUE FOR MONEY**

- 24.1 Accepting the lowest of more than one verbal quotation (which shall be recorded in writing) shall be deemed to represent value for money in respect of contracts up to £1,500. Directors may designate alternative rules within their procurement manuals for the number of quotations below £500.
- 24.2 Accepting the lowest of three verbal quotations (which shall be recorded in writing) shall be deemed to represent value for money in respect of contracts between £1,501 and £5,000.
- 24.3 Accepting the lowest of three written quotations or formal tenders returned to the Directorate and opened in accordance with the Directorate Procurement Manual required under Standing Order 3.6 shall be deemed to represent value for money in respect of contracts between £5,001 and £40,000.
- 24.4 Where the Contract has not been let in accordance with SO 23 and 24 [e.g insufficient quotes/tenders] , the Director shall record his reasons in writing.

### **PART III**

#### **STANDING ORDERS APPLICABLE TO CONTRACTS FOR THE SUPPLY OR DISPOSAL OF GOODS OR MATERIALS THE PROVISION OF SERVICES AND THE EXECUTION OF WORKS BETWEEN £40,000 AND £155,000 IN VALUE**

##### **25. APPLICATION**

- 25.1 This part of Standing Orders applies to contracts for the supply or disposal of goods or materials, the provision of services, and the execution of works where the Estimated Contract Value exceeds £40,000 but does not exceed £155,000.

##### **26. TENDERS AND NEGOTIATIONS**

- 26.1 Contracts shall be let by way of

26.1.1 Invitation to submit Tenders or

26.1.2 Negotiation

as determined by the appropriate Director and in accordance with the Directorate Procurement Manual prepared to comply with Standing Order 3.6 subject to the requirements of Standing Order 26.2 and 26.3.

- 26.2 Where the appropriate Director has determined to let the Contract by way of invitation to submit Tenders he shall invite at least four Tenders unless this is not possible owing to the lack of suitable persons or firms prepared to Tender. Where fewer than four Tenders are invited, the appropriate Director shall record the reasons why four Tenders were not invited.
- 26.3 Where the appropriate Director has elected to let the Contract by way of Negotiation the procedure contained in Standing Order 9 shall be strictly followed.
- 26.4 Tenders shall be submitted and opened in accordance with Standing Orders 33 and 34. The appropriate Director or an Assistant Director designated by the Director shall sign the tender evaluation form (on which is indicated the particulars of all the tenders opened and those proposed for acceptance). No tenders shall be accepted until the evaluation form is signed in accordance with this Standing Order 10.4

## **PART IV**

### **STANDING ORDERS APPLICABLE TO CONTRACTS FOR THE SUPPLY OR DISPOSAL OF GOODS OR MATERIALS THE PROVISION OF SERVICES AND THE EXECUTION OF WORKS OVER £155,000**

#### **27. APPLICATION**

- 27.1 This part of Standing Orders applies to contracts for the supply or disposal of goods or materials, the provision of services and the execution of works where the Estimated Contract Value is over £155,000.

#### **28. PROCUREMENT PROCEDURE**

- 28.1 Before a decision to procure is made a detailed project appraisal including consideration of relevant service delivery options for the total scheme shall have been undertaken by the appropriate Director in accordance with the Corporate Guidance. The Director must approve the appraisal in writing before any further work in the project is undertaken.

[Capital Investment & Disposal Guide](#)  
[Guide to Option Appraisal](#)

- 28.2 Contracts shall be let by way of:-

- 28.2.1 A Select List following Public Advertisement in accordance with Standing Order 29; or
- 28.2.2 A List of Approved Contractors in accordance with Standing Order 17; or
- 28.2.3 Open Tender in accordance with Standing Order 30; or
- 28.2.4 Negotiation in accordance with Standing Order 31.

at the option of the appropriate Director.

- 28.3 The appropriate Director shall approve the letting of all individual contracts prior to the commencement of the procurement process.

#### **29. SELECT LIST FOLLOWING PUBLIC ADVERTISEMENT**

- 29.1 This Standing Order shall have effect where:-

- 29.1.1 A Contract is to be let by way of a select list following public advertisement and
- 29.1.2 The Estimated Contract Value is within available resources.

- 29.2 Public notice must be given by the appropriate Director in one or more newspapers or journals circulating amongst such persons that undertake such contracts expressing the nature and purpose of it and indicating that the Council will appraise the applications received and invite Tenders from those selected to tender. The contract shall also be advertised on the Internet in appropriate cases
- 29.3 The appropriate Director shall appraise all applications received and shall send an invitation to tender to those contractors selected to Tender and shall record in writing the reasons why those contractors not invited to Tender were rejected. A minimum of five contractors should be invited to submit tenders but this may be amended if the relevant Director determines that this is not appropriate under the circumstances. The reasons for the Director's decision shall be documented.

30. OPEN TENDER

- 30.1 This Standing Order shall have effect where:-

30.1.1 A Contract is to be let by way of open tender and

30.1.2 The Estimated Contract Value is within available resources.

- 30.2 Public notice must be given by the appropriate Director in one or more newspapers or journals circulating amongst such prospective tenderers as undertake such contracts expressing the nature and purpose of it inviting tenders for its execution and stating the last date on which tenders will be received. The contract shall also be advertised on the Internet . In appropriate cases the EU Journal will be used.  
Invitation to tender shall be sent to all contractors applying.

31. NEGOTIATION

- 31.1 This Standing Order shall have effect where:-

31.1.1 A Contract is to be let by way of Negotiation and

31.1.2 The Estimated Contract Value is within available resources.

- 31.2 In such cases Negotiations shall be conducted by the appropriate officers of the Council strictly in accordance with Standing Order 9.

32. SUBMISSION OF TENDERS

- 32.1 Where in pursuance of these Standing Orders invitation to tender is required, every notice of such invitation shall state that no tender will be received except in a sealed envelope/package supplied by the Council shall be submitted to the Chief Executive at the Council House, Priory Road, Dudley, DY1 1HF on or before the date and time specified in the invitation to tender as being the last time and date for the receipt of tenders. The appropriate Director shall first consult with the Chief Executive to obtain a date for return of tenders. Alternatively, the Council's approved electronic tendering system can be used.

- 32.2 Envelopes/packages submitted in accordance with the provisions of Standing Order 33 shall remain in the secure custody of the Chief Executive or an officer designated by him until the time appointed for their opening.
- 32.3 An officer receiving tenders shall indicate on the envelope the date and time of its receipt by him and shall issue a written receipt if so requested.
- 32.4 Tenders submitted to the Chief Executive or submitted by way of the Council's electronic tendering system after the date and time specified in the invitation to tender shall not be considered.

#### [InTend Guidelines](#)

### 33. OPENING AND REGISTRATION OF TENDERS

- 33.1 Tenders submitted in accordance with Standing Order 32.1 shall be opened at one time by the Chief Executive or an officer designated by him at his offices in the presence of the appropriate Director or an officer designated by him. The Council's approved electronic tendering system also provides an equivalent facility and electronic tenders submitted may only be "opened" by the Chief Executive or an officer designated by him in the presence of the appropriate Director or an officer designated by him.
- 33.2 The tenders (other than those received electronically) shall be initialled and dated immediately by the Chief Executive or his designated officer present when the tenders are opened, and countersigned by the officer from the appropriate Directorate.
- 33.3 The occasion for the opening of tenders shall take place normally within 48 hours of the date and time specified for return of tenders, to be determined by the Chief Executive in consultation with the appropriate director.
- 33.4 The Chief Executive or an officer designated by him/her shall, except for tenders received electronically, at the time the tenders are opened record in a book kept for the purpose:-
- 33.4.1 The nature of the goods or materials to be supplied or disposed of or the works to be executed or the services to be supplied;
  - 33.4.2 The name of each person by or on whose behalf the tender was submitted;
  - 33.4.3 The date and time of receipt of each tender as recorded on the envelope;
  - 33.4.4 The date and time of the opening of the tenders;
  - 33.4.5 The names of all persons present at the opening of the tenders; and
  - 33.4.6 The tender figures (except where some other method is provided for in these standing orders).

- 33.5 Where in the opinion of the Chief Executive the recording of the amount of the tender in a book would be impracticable (e.g. tender of rates and tenders where the tender total calculated by the contractor is based upon notional quantities) the appropriate tender documents shall be either:-
- 33.5.1 Copied by a person authorised by the Chief Executive immediately;  
or
- 33.5.2 Where immediate copying is in the opinion of the Chief Executive impracticable, retained in a safe place by the Chief Executive until such time as the documents are photocopied.
- 33.6 The photocopies shall thereafter be kept in a safe place by the Chief Executive.

#### 34. CHECKING AND ACCEPTANCE OF TENDERS

- 34.1. The treatment of errors identified in Tenders shall be in accordance with the relevant Corporate Guidelines.

##### [Guidelines for the Treatment of Errors in Tenders](#)

- 34.2 Tenders shall be evaluated in accordance with relevant corporate guidelines.

##### [Ensuring Quality and Price in Procurement](#)

- 34.3 The appropriate Director or an Assistant Director designated by the Director shall sign the tender evaluation form (on which is indicated the particulars of all the tenders opened and those proposed for acceptance). No tenders shall be accepted until the evaluation form is signed in accordance with Standing Order 10.4.

#### 35 POST COMPLETION REVIEW OF CAPITAL SCHEMES

- 35.1 A post completion review of each capital scheme shall be undertaken by the appropriate Director when total out-turn costs have been determined. Such review shall comply with approved guidelines.

##### [Guidance for Officers Undertaking Post Completion Reviews.](#)

A summary of the review [ as per Capital Investment & Disposal Guide] which shall include at least a comparison of the out-turn costs with the Approved Available Resources and consideration of whether the scheme met its objectives shall be reported to the Cabinet within 6 months of practical or substantial completion.