

STANDING ORDERS RELATING TO CONTRACTS

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CONTRACT STANDING ORDERS

1. INTRODUCTION

- 1.1 These Contract Standing Orders apply to the procurement and commissioning of all goods, works, and services for the Council in the interests of openness, integrity, and accountability in the spending of public monies.

2. COMPLIANCE

- 2.1 All employees of the Council, agents, consultants, and contractual partners acting on behalf of the Council, the Governing Body of a Local Authority Maintained School, and organisations for which the Council is the accountable body, shall comply with these Contract Standing Orders, the Financial Regulations, and the Corporate Procurement Strategy. Directors shall ensure compliance within their area of responsibility. Failure to comply may result in disciplinary action. Cases of legal non-compliance can result in substantial losses to the Council and may involve reputational risk and will therefore be treated seriously.
- 2.2 Where reference is made within these Contract Standing Orders to the Responsible Director, it refers to the individual who is accountable for the relevant service area. Within the Council this will ordinarily be the Director and within Local Authority Maintained Schools the Headteacher. Responsible Directors are required to comply with all guidance, procedures, strategies, and governance arrangements put in place by the Director of Digital, Customer and Commercial Services.
- 2.3 The decision of the Lead for Law and Governance will be final in any matter concerning the interpretation of these Contract Standing Orders.
- 2.4 Officers undertaking procurement activity shall ensure that:
- 2.4.1 Any contract made by or on behalf of the Council for works, goods, or services complies with these Contract Standing Orders, the Council's Financial Regulations, and the Corporate Procurement Strategy.
- 2.4.2 All contracts ~~above £25,000 are~~ tendered are to be done so using an electronic tender system and are processed as approved by the Director of Digital, Customer and Commercial Services.
- 2.4.3 The procurement by the Council of any works, goods, or services must comply with Public Contracts Regulations (2015) (PCR) and applicable international public procurement legislation. Where conflict with these Contract Standing Orders arises, the legislation shall take precedence over these Contract Standing Orders. In estimating values for the purposes of the legislation, contracts shall not be disaggregated to avoid the application of the legislation or these Contract Standing Orders.
- 2.4.4 In applying these Contract Standing Orders, officers must have regard to the duty to secure Best Value under the Local Government Act 1999 and guidance issued thereunder. Guidance is that "authorities should consider overall value, including economic, environmental and social value, when reviewing service provision.

Social value is about seeking to maximise the additional benefit that can be created by procuring or commissioning goods and services, beyond the benefit of merely the goods and services themselves.” (Social Value Act 2012)

2.4.5 In the case of large-scale procurement there may be a need to undertake consultation in accordance with s3 of the Local Government Act 1999. Officers should seek advice from the Director of Digital, Customer and Commercial Services if the procurement is high value (more than £5 million) or will make a significant difference to the way in which the authority carries out its functions.

2.4.6 In applying these Contract Standing Orders any Officer undertaking a procurement must consider the potential to make contracts accessible to small and medium contractors, in accordance with the Corporate Procurement Policy.

3. RESPONSIBILITIES OF RESPONSIBLE DIRECTORS

3.1 In procuring works, goods, and/or services Responsible Directors shall: -

~~3.1.1~~ ~~Maintain an up-to-date schedule of authorised positions for procurement activity;~~

~~3.1.23.1.1~~ Achieve Best Value for public money spent;

~~3.1.33.1.2~~ Show no undue favour to any Contractor, nor discriminate against any Contractor;

~~3.1.43.1.3~~ Conduct tendering and price-testing in accordance with the highest standards of propriety and proper practice (including respecting the confidentiality of commercial information);

~~3.1.53.1.4~~ Do nothing that contravenes the law;

~~3.1.63.1.5~~ Ensure that before entering any Contract: -

- (a) there is approved budgetary provision;
- (b) an authority from the Cabinet or Committee or officer exercising delegated powers is in place in a form specified by the Director of Digital, Customer and Commercial Services.

~~3.1.73.1.6~~ Ensure that a purchase order on approved standard terms, or such other terms as may be approved by the Lead for Law and Governance, is issued by the Budget Manager for any contract;

~~3.1.83.1.7~~ Ensure that there are effective mechanisms in place for the submission of invoices in relation to contracts which they are responsible for letting;

~~3.1.93.1.8~~ Ensure that all contracts are procured in accordance with procedures set by the Director of Digital, Customer and Commercial Services and stored in accordance with the approved contract storage policies and retained in an electronic form and location approved by the Director of Digital, Customer and Commercial Services.

3.2 Responsible Directors will ensure that prior to procuring goods or services their staff complete documentation in a form specified by the Director of Digital, Customer and Commercial Services which will:

- 3.2.1 Consider the requirements of Best Value including the potential for the contract to deliver social value;
- 3.2.2 Ascertain whether the subject matter of the contract falls within the scope of an in-house service or contractual arrangement that is already in place;
- 3.2.3 Define the objectives of the procurement;
- 3.2.4 Estimate the contract value and record how the estimate was arrived at;
- 3.2.5 Consider the human resources implications of the procurement, in particular the implications of the Transfer of Undertakings (Protection of Employment) Regulations;
- 3.2.6 Ensure that any Waiver from compliance with these Contract Standing Orders is properly approved in accordance with the Scheme of Delegation and that this is recorded on CMIS and the Corporate Contract Register;
- 3.2.7 Assess the risks associated with the procurement and determine how they will be managed;
- 3.2.8 Reflect on advice from Procurement Officers regarding the procurement process and procurement route most likely to achieve the purchasing objectives given the value/risk of the project;
- 3.2.9 Prepare a draft specification considering any international or British Standards that may need to be referred to.
- 3.2.10 Identify and obtain any approvals that may be required.
- 3.3 For the purposes of these Contract Standing Orders, the estimated value of a contract shall include all extensions and include VAT.
- 3.4 Contracts must not be artificially divided to keep them below any threshold which may apply.
- 3.5 The estimated value of a Contract shall not be disaggregated on the basis that the expenditure is to be incurred in more than one financial year.

4. RESPONSIBILITIES

- 4.1 **The Cabinet** is responsible for ensuring that procurement activity and contracts follow the requirements set out within these Contract Standing Orders.
- 4.2 The **Audit and Standards Committee** is responsible for overseeing the effective management of these Contract Standing Orders and such procedures and guidance as may be introduced to support these Contract Standing Orders from time to time.
- 4.3 The **Director of Digital, Customer and Commercial Services in conjunction with the Lead for Law and Governance** is responsible for ensuring that there are in place effective procedures for the management, storage, and retention of contractual documentation.
- 4.4 **Budget Managers** are responsible for ensuring that the requirements set out in paragraph 3.2 of these Contract Standing Orders have been met in relation to contracts funded from within their budget and that the appropriate authority for the procurement activity is in place.

- 4.5 The **Director of Digital, Customer and Commercial Services** is responsible for:
- 4.5.1 Ensuring that the procurement of all contracts for public works, goods and services complies with these Contract Standing Orders, the Council's Financial Regulations, the Officer Code of Conduct, and with all UK and international binding legal requirements relating to procurement.
 - ~~4.5.2 Ensuring the publication of a Forward Plan of procurement activity with a value of more than £25,000.~~
 - ~~4.5.3~~ 4.5.2 Ensuring that there is adequate and appropriate governance and guidance available upon the process of procurement.
 - ~~4.5.4~~ 4.5.3 Ensuring that an electronic Contract File is retained centrally by the Procurement Team on an electronic procurement or contract systems for each contract with a value exceeding £5,000 which includes that as set out in Regulation 109. Clause 2(C)(ii) of the Public Contract Regulations (2015) or any Procurement Policy Note set by Central Government that supersedes this.
 - 4.5.4.1 The identity of the Procurement Officer ~~relevant~~ managing the procurement process
 - 4.5.4.2 The rationale for the procurement route taken
 - 4.5.4.3 A copy of the specification
 - 4.5.4.4 Where required, the risk register relating to the procurement
 - 4.5.4.5 A record in written form of any Exemption from these Contract Standing Orders and the reason for it.
 - 4.5.4.6 Copies of all tenders or quotations
 - 4.5.4.7 A copy of the evaluation process and reasons for the decisions as to acceptance or rejection of every tender or quotation
 - 4.5.4.8 A copy of any debrief request and the response thereto
 - 4.5.4.9 The award letter
 - 4.5.4.10 The copy of the final contract. (This may be electronic if stored in pdf format in the contract register.)
 - 4.5.4.11 The monitoring arrangements for management of the contract including the details of the Contract Manager responsible for on-going contract management
 - 4.5.4.12 A copy of any extension or variation to the contract granted in accordance with these Contract Standing Orders.
- 4.6 Ensuring the service areas produce a forward plan of procurement activity for each category and planning the procurement activity for all categories of supply/spend.
- 4.7 The relevant Officer undertaking the procurement (~~the Procurement Officer~~) is responsible in respect of any procurement for managing the procurement process and complying with any statutory time limits in relation to each procurement process and complying with all guidance set by the Director of Digital, Customer and Commercial Services.

5. CORPORATE PURCHASING ARRANGEMENTS

- 5.1 Where a recurring pattern of purchases for works, supplies or services is identified, Procurement Officers are expected to consider:
- 5.1.1 If there is an existing Corporate Contract
 - 5.1.2 Whether a nationally or regionally negotiated framework/ contract exists which is appropriate to use for the procurement activity, and offers best value;
 - 5.1.3 Whether letting one or more Corporate Framework Contracts or arrangements will provide Best Value considering among other things invoicing and other administration costs.
 - 5.1.4 Whether letting such a contract through a consortium of which the Council is a member (or could become a member) will achieve procurement efficiencies.
 - 5.1.5 Whether to request the Director of Digital, Customer and Commercial Services to establish an Approved List for a category of work.
 - 5.1.6 Where aggregate annual spend in each category of supply or service exceeds the PCR threshold levels, the approved form of contract and term shall be selected. ~~If a Framework Contract is appropriate, it must be for a maximum duration of four years.~~ Variances must be approved by the Director of Digital, Customer and Commercial Services who will liaise with the Lead for Law and Governance as required.
- 5.2 Approval to not use a corporate contract should be sought from the [Procurement Team who will liaise with Director of Digital, Customer and Commercial Services the Lead for Law & Governance as appropriate.](#)

6. DECLARATIONS OF INTEREST

- 6.1 Directors shall ensure that officers involved in the procurement process are familiar with the Code of Conduct for officers.
- 6.2 Any officer involved in the procurement process who has any financial or non-financial interests which could conflict with the Council's interests in relation to a procurement process or contract shall complete an annual declaration of interests and provide a copy to his/her Director annually in compliance with the Code of Conduct Procedure which will be retained on the individual's personnel file. The Lead for Law and Governance shall approve arrangements for a central register of completed staff declarations of interest which will be available for inspection.
- 6.3 In any procurement process where a potential conflict of interests exists, an officer with a potential conflict, shall bring that conflict to the attention of the responsible Director who shall either certify the interest as acceptable or take any necessary action.

7. REPRESENTATIVES OF THE COMMUNITY

- 7.1 In compliance with Best Value Guidance, before initiating a procurement process and drawing up a specification for a procurement process, the Budget Manager and Procurement Officer must consider the need to consult those who use or are likely to use services provided by the authority, and those appearing to the authority to have an

interest in any area within which the authority carries out functions, including local voluntary and community organisations and small businesses.

- 7.2 Service users may offer advice to the Commissioner and/or Procurement Officer where appropriate, however, they will have no decision-making role. All decisions shall be taken strictly within the scheme of delegation.
- 7.3 Where confidential information is shared with a service user, the Procurement Officer shall ensure that a written undertaking is given by the service user to treat such information as confidential.

8. COUNCIL APPROVED LIST

~~8.1 The Director of Digital, Customer and Commercial Services may maintain an Approved List of suppliers under Regulation 10 of PCR. The List may be used for selection as an alternative to advertisement where the Total Value is less than the PCR threshold. The Director of Digital, Customer and Commercial Services will ensure that the List:~~

~~8.1.1 Relates to categories of work where there is an expected future demand.~~

~~8.1.2 Contains the names and addresses of all contractors who meet the List criteria.~~

~~8.1.3 Is reviewed annually through the Council's electronic tendering system in respect of all matters recorded to ensure approval criteria standards are met.~~

9.8. PRE-TENDER / QUOTATION ENQUIRIES / MARKET ENGAGEMENT

~~9.18.1~~ Enquiries of potential contractors in advance of the initiation of a procurement exercise may be undertaken to prepare the marketplace for a tender, and/or to assist the Council to better understand what the market is able to provide to meet the outcome that the Council is trying to achieve.

~~9.28.2~~ However, when making enquiries of contractors before tender or quotation:

~~9.2.18.2.1~~ No information shall be disclosed to one contractor which is not then disclosed to all those of which enquiries are made or which are subsequently invited to tender or submit a quotation.

~~9.2.28.2.2~~ No contractor shall be led to believe that the information they offer will necessarily lead to them being invited to tender or submit a quotation or be awarded the contract.

~~9.2.38.2.3~~ Taking detailed technical advice on the preparation of the Specification, Invitation to Tender or Quotation from a potential supplier, must be avoided as this may prejudice the equal treatment of all potential Bidders or distort competition.

~~9.2.48.2.4~~ A written record, including notes of any substantive telephone conversations and/or meetings held, and the responses and the names of all individuals spoken to, or present shall be kept on the Contract File.

40.9. PRE-TENDER AND QUOTATION

40.19.1 The Procurement Officer, prior to submitting a notice to the Find A Tender Service or Contracts Finder, inviting expressions of interest or any other form of bid, shall:

40.1.49.1.1 Ensure there is a formal approval for the acquisition or purchase of goods, services or works and for the evaluation criteria.

40.1.29.1.2 Ensure that there is an estimate of the whole life cost of the Contract, including maintenance and on-going costs;

40.1.39.1.3 Liaise with the Budget Manager to ensure that there is finance in the budget to cover the likely expenditure on the Contract.

40.1.49.1.4 Ensure that there is clarity upon the desired outcomes or outputs from the Contract and ensure that an appropriate specification for the Contract has been prepared.

40.1.59.1.5 Assess the risks associated with the Contract and how to manage them.

40.1.69.1.6 Consult with ~~consult~~ Legal Services as required, on the appropriate form of agreement for the Contract.

40.29.2 The Procurement Officer shall liaise with the Director of Digital, Customer and Commercial Services if appropriate to:

40.2.19.2.1 Ensure that the market position has been established and prior information notices, where required and if appropriate for PCR procedures, have been published.

40.2.29.2.2 Consider what procurement route is most likely to achieve the contracting objectives.

40.2.39.2.3 Clarify the Award Criteria, including social value and a price/quality split as appropriate, considering such policies (including social value) as the Council may adopt from time to time.

40.2.49.2.4 Check whether there is an appropriate framework contract for the goods, services or works and check that these provide Best Value.

40.2.59.2.5 Prepare tender documentation, and contracts.

44.10. EXEMPTIONS FROM THE REQUIREMENT FOR A COMPETITIVE PROCUREMENT PROCESS

44.110.1 No Exemptions may be granted:

44.1.110.1.1 Where it would be in breach of any legal requirement and/or provision;

44.1.210.1.2 From any requirement to declare an interest under rule 6 or the provisions concerning representatives of the community under rule 7 of these Contract Standing Orders.

44.210.2 If an Exemption is required to relax the requirements in relation to seeking Quotations or tendering, the Procurement Officer shall seek approval from Procurement Management Group and Director for all contracts ~~over £25,000 and from Head of Service for lower value contracts (including VAT)~~. For each Exemption the Procurement Officer shall submit a file record in a form specified by the Director of Digital, Customer

and Commercial Services. This will include market testing and any declined Quotations (which will be stored within the electronic tendering system by the Procurement Team).

~~11.3~~10.3 If approval is not granted, the Procurement Officer must not issue any formal order or contract. The Director of Digital, Customer and Commercial Services, in consultation with the Lead for Law and Governance shall be consulted as to the most appropriate procurement process.

10.4 Subject to the grant of an Exemption being in compliance with all applicable legal requirements, Exemptions from the need for a competitive procurement process may be granted where:

10.5 An unforeseeable emergency involving danger to life or health or serious damage to property, in which the work, goods or services are required more urgently than would be possible if a procurement procedure was followed;

10.6 For justifiable technical reasons, the works, goods or services can be obtained from only one supplier;

10.7 Acquiring goods or services from a different supplier would result in incompatibility with existing goods or services or disproportionate technical difficulties;

10.8 Additional works or services are required which, through unforeseen circumstances, 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 and the original contract was let in compliance with Public Contracts Regulations (2015). Such additional works or services must not exceed 50 per cent of the value of the original contract;

10.9 Additional works or services are required which, through unforeseen circumstances, 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 and the original contract fell below the relevant thresholds to fall in scope of the Public Contract regulations (2015). In this case the revised total value of the contract must not exceed the relevant threshold.

10.10 The purchase of used vehicles, plant or materials that does not exceed the relevant threshold;

10.11 Where no tenders, no suitable tenders, no requests to participate or no suitable requests to participate have been submitted in response to an open procedure or a restricted procedure, provided that the initial conditions of the contract are not substantially altered.

~~11.4~~

~~11.4.1~~ ~~Only one contractor can carry out the work or service or to supply the goods for technical or artistic reasons or because of exclusive rights or that goods are required as a partial replacement for or addition to existing goods or installations and obtaining them from another contractor would result in incompatibility or disproportionate technical difficulties in operation or maintenance provided that continued use represents Best Value for the Council.~~

~~11.4.2~~ ~~The time limits required for tendering cannot be met for reasons of extreme urgency and the reasons were unforeseen and unattributable to the Council, subject to the method adopted for the letting of the contract, representing Best Value for the Council. In the case of contracts above the PCR threshold, advice~~

should be sought from the Director of Digital, Customer and Commercial Services, who will consult with legal services as required, before this ground is used.

~~11.4.3 Additional works or services are required which, through unforeseen circumstances, 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 and where the original contract was not let in accordance with the procurement Contract Standing Orders the revised value of the contract does not exceed the relevant thresholds. Where the original contract was let in compliance with Public Contracts Regulations (2015), such additional works or services must not exceed 50 per cent of the value of the original contract.~~

~~11.4.4 New works or services are required which are an exact repetition of works or services carried out under the original contract provided they are required within 3 years of the conclusion of the original contract and the contract notice stated that a new contract might be awarded by negotiation.~~

~~11.4.5 Goods are required as a partial replacement for or an addition to existing goods or installations and obtaining them from another contractor would result in incompatibility or disproportionate technical difficulties in operation or maintenance provided that continued use represents Best Value for the Council.~~

44.510.12 The following forms of contract are not required to be let in accordance with the formal procurement procedures set out within these Contract Standing Orders but remain subject to the requirement to deliver Best Value:

44.5.110.12.1 Contracts for the engagement of counsel.

44.5.210.12.2 Contracts for the employment of staff, excluding agency or consultancy staff.

44.5.310.12.3 Money market transactions.

10.12.4 Contracts for theatrical productions.

44.5.410.12.5 Contracts for the commissioning and acquisition of artefacts, paintings, photographs, or sculptures.

44.5.510.12.6 Contracts for the sale or other disposal of land or the acquisition of land and buildings unless such transaction involves the engagement of a person to procure by any means the carrying out for the contracting authority of a Public Works Contract or to deliver output requirements of the Council by way of services.

44.5.610.12.7 Contracts entered by the Council to form a "Teckal" company i.e. one which the Council controls within the meaning of regulation 12 of the Public Contracts Regulations 2015.

44.610.13 Exemptions must not be automatically extended or renewed without undertaking an Options Appraisal or Business Case and seeking approval from the Director of Digital, Customer and Commercial Services.

44.710.14 If a contract is to be extended under an exemption this must be undertaken prior to the expiry of the contract term and must not be for longer than 3 years unless approved by the Director of Digital, Customer and Commercial Services.

44-810.15 If a contract is to be extended under an exemption and the additional value will exceed the PCR thresholds then approval must be sought from the Director of Digital, Customer and Commercial Services.

11. Exemptions for Residential Social Care Contracts

11.1 It is recognised that either because of service user choice or the nature of the market for specialist placements that for some types of social care contracts competitive procurement processes cannot be undertaken and Sections 13-26 of the CSO do not apply.

11.2 Contracts awarded under this exemption may not surpass the Light Touch Regime Threshold.

11.3 Only contracts for the above have specific exclusions from these CSOs all other elements are covered by Procurement Legislation.

11.4 The Council will contract with Residential Social Care Providers using a standard contract. The contract will set out a breakdown of the price. Any deviations from this standard contract must be approved in advance by the relevant Director.

11.5 If an annual fee for a placement is higher than in the table below then approval must be gained from the relevant Director prior to agreeing the placement with the Provider and the Primary Care Need Fee per annum.

Type of placement	Fee per annum
Disability (Adults)	£74,999
Adults	£74,999

11.6 For out of area placements the fee per week must be either the Council standard rate as set out in 11.5 or the standard rate for the relevant local authority area. For out of area placements with a fee per week above this approval must be gained from the relevant Director.

12. GROUNDS FOR EXCLUSION

12.1 A tenderer will be excluded from inclusion in a tender process where one of the mandatory grounds for exclusion of a tenderers applies (terrorism, financing of terrorism, people trafficking, and non-payment of tax or social security following a final and binding decision of a court or tribunal).

12.2 A tenderer may be excluded from inclusion in a tender process following consultation with the Director of Digital, Customer and Commercial Services who will consult with the Lead for Law and Governance if necessary, if one of the discretionary grounds for exclusion apply (violation of environmental, social or labour law, unresolvable conflict of interest, unresolvable distortion of competition due to suppliers prior involvement in preparation of procurement process, sufficiently plausible indications of collusion, non-payment of tax or social security, significant or persistent deficiencies in performance of a prior public contract or seeking undue influence or confidential information or negligently providing misleading information).

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12.3 Tenderers to which one of the mandatory or discretionary grounds for exclusion apply have the right to provide evidence to show that they are reliable despite the existence of a relevant ground for exclusion. Any such evidence shall be provided to the Lead for Law and Governance who shall decide on behalf of the Council whether the evidence is sufficient. If it is, the tenderer shall not be excluded from the tender process.

13. SELECTION OF COMPANIES TO TENDER

13.1 The selection of which companies are invited to tender is subject to the value and risk of the contract:

13.1.1 Where the value of the contract is below the PCR threshold, the Procurement Officer will obtain several technically competent companies to provide Quotations (the number of Quotations being in accordance with guidance produced by the Director of Digital, Customer and Commercial Services).

13.1.2 Where the tender value will exceed the PCR threshold – selection of tenders must be in accordance with the Public Contract Regulations in force at the time.

14. QUOTATION / TENDER INVITATION – GENERAL PRINCIPLES

14.1 The invitation to tender or submit a Quotation must include a specification and where appropriate a bill of quantities or schedule of rates. In preparing specifications, the Procurement Officer must have regard to any guidance from the Director of Digital, Customer and Commercial Services.

14.2 The invitation to tender or submit a Quotation must state that the Council is not bound to accept any quote or tender and can discontinue the process at any time.

14.3 All Bidders invited to tender, or quote must be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis.

14.4 The invitation to tender or quote must specify the evaluation criteria.

14.5 The invitation to tender or quote must be submitted electronically through the e-procurement portal (unless there are special circumstances which will be decided by the Director of Director of Digital, Customer and Commercial Services).

14.6 The invitation to tender or quote must include instructions to tenderers.

14.7 The invitation to tender or quote must include the appropriate Contract terms and conditions which have the approval of the Lead for Law and Governance.

15. PROCEDURES FOR CONTRACT ABOVE PUBLIC CONTRACT REGULATION THRESHOLDS

15.1 The PCR thresholds are set every two years by Cabinet Office and available [here](#).

Thresholds include Value Added Tax.

15.2 PCR Procedures

15.2.1 All contracts with a value more than the thresholds in the PCR shall be let in accordance with a procurement method which is acceptable within the legislation. An explanation of the procedures is set out [here](#) and these should be applied under the guidance of the Director of Digital, Customer and Commercial Services and the Lead for Law and Governance. An existing contract which has terminated cannot be extended where the effect of such extension would be to take its value above the relevant threshold.

15.2.2 Consideration shall be given to breaking down a contract into lots in any tender for a contract with a value more than the thresholds to ensure accessibility to SMEs and shall be let broken down into lots unless there is a justification for not so doing. Where a contract is not let in lots, the notice in the Find a Tender service shall include the reasons for not so doing.

15.3 Standards

If an international standard has issued a relevant standard, all the goods and materials used or supplied, and all the work done under the contract, must be in line with that standard.

15.4 Common Currency

A provision should be included in any contractual documentation requiring the contractor to quote prices in GB sterling.

15.5 Number of Tenderers

If the contract is expected to exceed the thresholds in the Public Contracts Regulations (2015), the following number of tenders must be obtained:

Procedure	Minimum number of Bidders or Suppliers invited to tender
Open – One Stage procedure	No minimum requirement
Restricted Procedure – Two Stage Procedure	Five Bidders or suppliers must be invited to tender. If fewer than five Bidders apply and are shortlisted, all Bidders must be invited to tender.
Competitive Procedure with Negotiation	Three Bidders or Suppliers must be invited to tender.
Competitive Dialogue	Three Bidders or Suppliers must be invited to tender
Innovation Partnership	Three Bidders or Suppliers must be invited to tender.

15.6 If during a competitive tendering exercise, an officer becomes aware that the value of bids received exceeds the Thresholds but bid invitations have not been invited through the Find A Tender Service notice procedure, advice must be sought from the Director of

Digital, Customer and Commercial Services who will, if necessary, consult with the Lead for Law and Governance upon how to proceed.

15.7 Accelerated Procedure

15.7.1 Where urgency makes the normal timescales for procurement using the Restricted Procedure or Negotiated Procedure impractical, subject to:

15.7.1.1 The agreement of the Director of Digital, Customer and Commercial Services (who will liaise with the Lead for Law and Governance as required); and

15.7.1.2 Publication of the reasons for use of the procedure in the Find a Tender notice.

15.7.1.3 The accelerated procedure may be used and the timescales for the required Public Contracts Regulations (2015) processes reduced as set out in Table 2 below.

16. PROCEDURES FOR CONTRACTS VALUED AT LESS THAN THE PUBLIC CONTRACTS REGULATIONS (2015) PROCUREMENT THRESHOLDS

16.1 For a contract or purchase made where the estimated value is less than the PCR thresholds, the Budget Manager or Procurement Officer must comply with guidance set by the Director of Digital, Customer and Commercial Services in respect of:

16.1.1 The procurement route and governance.

16.1.2 Advertising.

16.1.3 Award criteria.

16.1.4 Number of tenders, quotations, or bids.

16.1.5 Use of the appropriate standard Terms and Conditions.

16.1.6 Measurement and delivery of social value.

16.1.7 Entry to the corporate contract register.

16.1.8 Sealing of contract.

16.2 The Budget Manager shall be satisfied that the tender or quotation accepted represents value for money. If it is not possible to obtain the requisite number of Quotations, then the Budget Manager may seek approval as specified by the Director of Digital, Customer and Commercial Services to dispense with the requirement to obtain a number of Quotations. Approval should be sought in a form specified by the Director of Digital, Customer and Commercial Services.

16.3 In all cases the Procurement Officer shall record, in a form specified by the Director of Digital, Customer and Commercial Services:

16.3.1 Contractors approached.

16.3.2 Contractor responses (including a willingness to quote).

16.3.3 Details of any Quotations provided.

16.3.4 The subject matter of the Quotation.

- 16.3.5 The name of the contractor.
 - 16.3.6 The date and time of the quote.
 - 16.3.7 The price offered and other relevant trading items.
 - 16.3.8 The name of the Budget Manager.
 - 16.3.9 The contractor offering the most favourable Quotation and the reasons why that Quotation was accepted.
 - 16.3.10 The risks associated with taking or omitting to take a particular course of action.
- 16.4 Contracts must not be artificially divided to reduce their value below the relevant thresholds.

17. CONCESSION CONTRACTS

- 17.1 The contract must involve the transfer to the concessionaire of an operating risk in exploiting the works or services encompassing demand or supply risk or both. The part of the risk transferred to the concessionaire must involve real exposure to the vagaries of the market such that any estimated potential loss incurred by the concessionaire must not be merely nominal or negligible.
- 17.2 A Concession Contract above the PCR threshold must be advertised by way of a concession notice in the Find a Tender Service. The Director of Digital, Customer and Commercial Services shall be consulted about any proposal to let a Concession Contract.
- 17.3 The principles of procurement law, namely transparency, non-discrimination and equal treatment must be followed in the letting of any Concession Contract.

18. PUBLIC ADVERTISEMENT OF TENDERS

- 18.1 Where the value of the contract is below the PCR threshold, the method of advertising shall be in accordance with guidance produced by the Director of Digital, Customer and Commercial Services.
- 18.2 In the case of contracts which require tendering in accordance with the Public Contracts Regulations (2015), the Council is required to place a Contract Notice in the Find a Tender service and the timescale for expressions of interest in response to such notices is prescribed.
Advertisement is subject to the following constraints:
 - 18.2.1 Legal advice may be required upon the applicable timescales
 - 18.2.2 Unrestricted full direct access, free of charge to all procurement documents must be provided from the date of publication of the Find a Tender notice on the electronic procurement system
 - 18.2.3 The accelerated procedure can only be used with the consent of the Director of Digital, Customer and Commercial Services who will consult with the Lead for Law and Governance if appropriate.

Table 2 sets out the ordinary timescales.

Table 2: Notice of contract compiled and submitted electronically and unrestricted electronic access to all contract documentation provided at tender receipt stage

Minimum no. of calendar days after sending the Contract Notice to Find a Tender	Open Procedure	Restricted Procedure	Competitive Procedure with Negotiation	Accelerated Procedure	Innovation Partnership & Competitive Dialogue Procedure
(i) to the closing date for receipt of registrations of interest from electronic contract notice		30 days (or 15 days in case of urgency)	30 days	10 days	30 days
(ii) to the closing date for receipt of tenders	30 days	25 days	25 days, (initial tenders) Final tender submission date agreed with tenderers	10 days	Agreed with tenderers
as (ii) above, but where a PIN is published between 35 and 365 days prior to the Contract Notice	15 days	15 days	10 days	N/A	
Minimum no. of days following contract award before formalising contract	10 days	10 days	10 days	10 days	10 days
Max. no. of days after contract award in which to send Contract Award Notice	30 days	30 days	30 days	30 days	30 days

19. SUBMISSION, RECEIPT AND OPENING OF TENDERS

- 19.1 All tenders should be administered through the Council's electronic tendering system. All tender submissions should be made electronically through the electronic system unless, for technical reasons, hard copies are required. In that case, hard copies should be returned to a location specified by the Director of Digital, Customer and Commercial Services, who is responsible for their safekeeping. Procurement Officers will ensure that all tenders are opened at the same time when the period of submission has ended and will record receipt of the tenders.
- 19.2 If there appears to be an error in a bid or supporting information, the Bidder must be invited to clarify the supporting information and/or confirm or withdraw the bid.

20. CLARIFICATION

- 20.1 Clarification must take place through the procurement portal only with support from the Procurement Officers.

21. CONTRACT AWARD

- 21.1 The Budget Manager shall ensure that sufficient budget is available to fund the winning bid and that all necessary approvals have been obtained to authorise the expenditure on the contract. The Budget Manager or the Procurement Officer shall ensure that evidence of authority to spend, and the budget code to be used, is recorded on the Contract File.
- 21.2 Contracts must be evaluated and awarded in accordance with the Award Criteria set out in the original tender or Quotation documents and advertisement.
- 21.3 Every contract shall be in writing and bear the signature or other mark of all the parties and will be subject to an official order number.
- 21.4 In relation to any contract requiring compliance with the Public Contracts Regulations (2015), a notification of intent to award a contract shall be issued to each supplier who has participated in the award procedure unless that supplier has already been lawfully excluded from the procedure. No contract shall be concluded with the successful supplier prior to expiry of the mandatory standstill period. In the event of a challenge being made by an unsuccessful supplier within the mandatory standstill period, advice from Legal Services must be taken prior to the contract being awarded.

Form of communication:	Mandatory Standstill Period
Where notification is by facsimile or electronic means:	10 calendar days from the date following the date on which the notification was sent.
Where the notification is by other means:	15 calendar days with effect from the date following the date on which the notification was sent or of a period of 10 calendar days with effect from the date following the date on which the notification was received.

- 21.5 Contracts shall be awarded by the Responsible Director following endorsement from Procurement Management Group. For contracts with a value of more than £1m or where the contract exposes the Council to significant risk, a contract manager will be nominated to monitor the contract performance.
- 21.6 The Form of Contract shall be selected based on value and risk in accordance with guidance set out by the Director of Digital, Customer and Commercial Services.
- 21.7 Each Responsible Director shall ensure that an electronic copy of every contract entered by them shall be entered onto the Council's Contract Register.

22. DEBRIEFING/PROCUREMENT REPORT

- 22.1 The Procurement Officer shall inform all bidders of the characteristics and relative advantages of the successful tender. This should normally include:
 - 22.1.1 How the Award Criteria were applied.
 - 22.1.2 The prices or range of prices submitted, without disclosing the individual Bidder names or identities
 - 22.1.3 The scores awarded, without disclosing the individual Bidder names or identities.
 - 22.1.4 The name of the successful Bidder.
- 22.2 During the debriefing process the confidentiality of Quotations, tenders and the identity of bidders must be always protected.
- 22.3 An offer of a debriefing must be given to unsuccessful Bidders if a request is received. A debrief shall be provided in writing within 15 clear working days of receipt of a request. An aim of the debrief shall be to assist Bidders to understand the reasons that their bid was unsuccessful to inform future tender submissions.
- 22.4 At the conclusion of every procurement, the Procurement Officer shall record the outcome in a form specified by the Director of Digital, Customer and Commercial Services and submit this to the Director of Digital, Customer and Commercial Services with a copy to the Responsible Director.

23. CONTRACT CONDITIONS

- 23.1 The form of contract used will depend on the subject matter of the contract. For contracts for works it will be necessary to use one of the standard forms of construction contract, normally either Joint Contracts Tribunal (JCT) or New Engineering Contract (NEC). The Lead for Law and Governance can advise on the appropriate form of contract.
- 23.2 Subject to 24.1 above, Procurement Officers shall, unless instructed otherwise by the Lead for Law and Governance, use the Council's Standard Terms and Conditions and shall ensure that each contract contains the following details:
 - 23.2.1 The works or services (including Concessions) to be performed and/or the goods to be supplied.
 - 23.2.2 The parties to the contract, including any guarantor.

- 23.2.3 The price and any discounts, or the method by which prices and discounts are to be calculated, and the method and timing of payments.
- 23.2.4 The start and end dates together with any extensions.
- 23.2.5 That the contractor shall not assign the contract without written consent of the Council.
- 23.2.6 That the contractor may pay liquidated damages (where these can be assessed and ascertained) as a pre-estimate of the potential loss sustained by the Council or other damages to the Council should the terms of the contract not be properly carried out, including the method by which such damages will be calculated and the circumstances in which they will be payable.
- 23.2.7 The performance of every contract over £100,000 (except a supply contract) may be required to be secured by either a guarantee or a Bond or a deposit of money if the Responsible Director so decides.
- 23.2.8 Any requirements of the Council regarding equalities and diversities.
- 23.2.9 That the contractor shall adopt safe methods of work and comply with all other requirements of the Health and Safety at Work etc. Act 1974 to protect the health and safety of its personnel, the personnel of the Council and all other persons.
- 23.2.10 That appropriate procedures are in place to ensure that children and vulnerable clients are safeguarded.
- 23.2.11 That the contractor shall comply with data protection and freedom of information requirements if appropriate.
- 23.2.12 That the Council may cancel the contract and recover any loss if the contractor, its employees, agents, and sub-contractors offer any reward relating to the contract, commit any offence under the Prevention from Corruption Acts 1889 to 1916, the Bribery Act 2010, the Employment Relations Act 1999 (Blacklists) Regulations 2010 or improperly influence or make any attempt to influence the award or administration of the contract.
- 23.2.13 That all requirements relating to social value are included
- 23.2.14 Any other terms and conditions specified by the Lead for Law and Governance who has a general authority to set standard and particular contract conditions.

24. CONTRACT SPECIFICATIONS

- 24.1 The Procurement Officer shall ensure the contract specifies as necessary:
 - 24.1.1 Whether it is input, output or outcome focussed, or a combination
 - 24.1.2 The inputs or outputs required, their volume and frequency and/or the outcomes to be delivered, their volume and frequency
 - 24.1.3 The quality required, testing and inspection methods, standards of performance expected, performance monitoring arrangements, and the identification and allocation of roles and responsibilities
 - 24.1.4 The facilities on-site, health and safety and access arrangements, if applicable
 - 24.1.5 Any other details not included elsewhere

24.1.6 The quality of materials

24.1.7 Reference to relevant Council policies

24.2 Technical specifications shall be defined by reference to relevant international specifications or, where they do not exist, in the following order; to British technical specifications, British standards implementing international standards, other British standards and technical approvals or any other standards. Where an appropriate standard is current at the date of tender, all works, services, and supplies shall be at least of equal quality.

24.3 Specifications shall not refer to supplies of a particular make or source unless:

24.3.1 This is justified by the contract requirements.

24.3.2 The contract requirements cannot otherwise be described precisely and intelligibly, provided references are accompanied by the words "or equivalent."

25. POST CONTRACT MONITORING AND EVALUATION

25.1 During the life of qualifying contracts, the Procurement Officer must, in accordance with any Council approved guidance, ensure that there are in place, arrangements that will ensure:

25.1.1 Monitoring of contract performance and risk management.

25.1.2 Compliance with specification and contract, including any key performance indicators.

25.1.3 Costs are controlled.

25.1.4 Any Best Value requirements are delivered.

25.1.5 User satisfaction, if appropriate

25.2 The Budget Manager in consultation with the Procurement Officer shall maintain under review the extent to which the purchasing need and the contract objectives are being met by a tendered contract. Where the contract is to be re-let, a report on contract performance should be prepared to inform the approach to re-letting the subsequent contract.

26. CONTRACT VARIATION

26.1 Contract variation of the original terms and conditions or contract sum (if more than 10 % for goods and services and 15% for works) shall be reported to the Director of Digital, Customer and Commercial Services who will consult with the Lead for Law and Governance if appropriate.

26.2 No variation may be made unless allowed for in the contract documentation unless approved by the Director of Digital, Customer and Commercial Services who will consult with the Lead for Law and Governance if appropriate.

26.3 If a request is made to vary a contract which increases the cost to the Council, the Budget Manager shall not agree such variation unless finance is available and within the budget

to cover the cost of the variation. Such increases must be reported to the Director of Director of Digital, Customer and Commercial Services for approval and reporting.

- 26.4 No variation, notwithstanding the application of clauses in conditions of contract, shall be made until the Responsible Director has identified and approved any additional funding required to the Director of Digital, Customer and Commercial Services.
- 26.5 Any negotiations about contract variations or extensions shall be undertaken in a timely manner to allow sufficient time to retender (if necessary) and should always seek to manage costs.

27. NOMINATING PRODUCTS, CONTRACTORS, OR SUPPLIERS

- 27.1 These Contract Standing Orders apply where the Council nominates a sub-contractor or supplier for carrying out works or services or supplying goods or materials that form part of a tender. Sub-contractors or suppliers shall send with the tender an undertaking to work for the main contractor and indemnify them for the subcontracted works or materials.
- 27.2 Lead Contractors must agree to delegate the same payment terms to their subcontractors and supply chain.

28. TECHNICAL AMENDMENT

- 28.1 The Lead for Law and Governance has authority to make technical amendments from time to time to make these Contract Standing Orders consistent with legal requirements, changes in Council structures and personnel and best practice.

29. BREACHES TO THE CONTRACT STANDING ORDERS

- 28.1 No Waiver or Exemption can be granted where the result would result in a breach of Public Procurement Law.

- 29.1 Where a suspected Breach of the Procurement Governance has taken place, or an individual has become aware that they themselves have breached the Rules, initial referral is made to the Head of Procurement with immediate effect from a suspected Breach.

- 29.2 The Head of Procurement will then arrange an initial investigation into the suspected Breach in order to determine an opinion around the seriousness of the Breach and a decision taken as to the actions which shall be taken. The intent, the individual circumstances and the impact of the alleged Breach shall be considered with the investigation proportionate to the nature of the Breach.

29.30. DEFINITIONS

- 29.130.1 The following terms in these Contract Standing Orders have the meaning indicated and shall be interpreted accordingly:

‘Approved List’ is a list drawn up in accordance with rule 8.

‘Award Criteria’ are the criteria by which the successful Quotation or tender is selected.

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'Best Value' means the duty placed on local authorities to secure continuous improvement in the way in which services are provided, having regard to a combination of economy, efficiency and effectiveness, and as implemented by the Council.

'Bidder' means a person or company participating or applying to participate in a procurement undertaken by the Council

'Bond' has a similar effect to an insurance policy where a contractor does not do what it has promised under a contract, the Council can claim the sum of money specified in the bond, often 10 per cent of the contract value. A bond is intended to protect the Council against a level of cost arising from a contractor's failure.

"Budget Manager" means the officer with delegated responsibility for management of the budget from which it is anticipated that the costs arising from a contract will be funded.

'Director of Digital, Customer and Commercial Services' means the officer with overall responsibility for procurement within the Council or a relevant officer to whom they have delegated the relevant authority

"CMIS" means the Council's committee management information system

'Concession' means a contract whereby a payment is received to permit a service to be provided to the public for a charge.

'Contract' or 'sub-contract' means any agreement for the supply of goods, materials or services, the execution of works and the awarding of concessions. This list is not exhaustive and this section refers to the supply of anything to the Council.

'Contract Manager' means the officer responsible for management of the performance/delivery of a Contract.

'Contractor' is a supplier to the Council.

'Contract File' comprises a record of all matters relating to a contract whether in paper or electronic form.

'Contract Register' means the register of the Contracts entered into by the Council maintained by the Director of Digital, Customer and Commercial Services.

'Crown Commercial Services or CCS' is the Government Agency responsible for leading and providing guidance upon Central Government Procurement activity.

"Exemption" means an exemption from a process of competitive tendering in accordance with rule 11.

'Lead for Law and Governance' means the officer with responsibility for the Council's legal function.

'PCR' means the Public Contracts Regulations 2015 [or any relevant Procurement Legislation](#)

'Procurement Officer' means the officer responsible for the procurement of a Contract

'Quotation' means any written response to an invitation to quote which includes the price of goods or services to be supplied other than a tender

'Responsible Director' in these Contract Standing Orders means the Chief Executive, Deputy Chief Executive or Directors with delegated responsibility for the contract in question and within Local Authority Maintained Schools the Head teacher.

'Total Value' is the whole of the value or estimated value (in money or equivalent value) of the whole life of the contract including all extensions whether or not it comprises several lots or stages to be paid or received by the Council and calculated as follows:

- (e) Where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period.
- (f) Where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months.

- (g) Where the contract is for an uncertain duration by multiplying the monthly payment by 48.
 - (h) In the case of feasibility studies, it is the value of the scheme or contracts which may be awarded as a result.
 - (i) In the case of nominated suppliers and sub-contractors it is the value of that part of the main contract to be fulfilled by the nominated supplier or sub-contractor.
- “Waiver”** means a waiver from compliance with Standing Orders