

CONTRACT STANDING ORDERS

Constitution – Part H



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1. When do these standing orders apply?

- 1.1 These standing orders apply when the council expects to spend money or provide other value for goods, works or services. They do not apply to contracts of employment with the council. They apply to both capital and revenue and cover:
- contracts for goods, works or services
 - acquisitions and disposals of land or buildings
- 1.2 The officers named in Standing Order 11.1 have authority to waive the requirements of any of these rules (but they must always comply with national and EU law.)

2. Other relevant guidance, rules and law

- 2.1 All contracts entered into by the council must be to carry out the council's functions or be in connection with the council's functions. They must comply with:
- all relevant national law and EU procurement law
 - all relevant EU procurement rules and guidance
 - the Financial Regulations (see part H of the Constitution)
 - the budget and policy framework procedures (see part B of the Constitution)
 - the Constitution.
- 2.2 Officers must consider the requirements of the Constitution and legal issues when entering contracts and must ensure the risks are fully assessed.

3. Responsibility to follow these standing orders and relevant law

- 3.1 These standing orders apply to all officers. It is the responsibility of the relevant Assistant Director to make sure that their staff follow these standing orders.
- 3.2 The council may take disciplinary and/or legal action against anyone who breaks these rules or the relevant national or EU law.

4. Interests of Councillors and officers in contracts

- 4.1 Requirement to avoid conflicts of interest: Councillors, officers and anyone acting for the council in connection with the procurement, award and management of council contracts must act with the highest standards of probity and avoid conflicts of interest.
- 4.2 Councillors' interests: Councillors must follow the Councillors Code of Conduct (see Part G of the Constitution). In addition it is a criminal offence for a Councillor not to declare a financial interest in a contract.
- 4.3 Officer interests, reports and advice: Officers must declare interests in contracts. It is a criminal offence for an officer not to declare a financial interest in a contract. (This does not apply to an officer's own contract of employment or their tenancy of a council owned property).
- 4.4 Directors are responsible for recording officers' financial interests in a register that is kept in the department.
- 4.5 Officers should not write reports on something they have declared an interest in; or advise council or the cabinet or a committee on something they have declared an interest.

5. Gifts and hospitality

5.1 As a general rule councillors and officers must not accept:

- any gift (other than an inexpensive gift such as a calendar or diary for use in the office); or
- any hospitality

from suppliers or potential suppliers, or from any firm or organisation with whom the council has had, is having or may have any dealings of any kind - without the written authorisation of a Director.

5.2 'Hospitality' includes drinks, meals, entertainment, overnight accommodation, travel and holidays, but does not include a lift in a private or company car or a taxi or refreshments in the course of office duty (e.g. a working lunch).

5.3 All staff who accept gifts or hospitality must complete a receipt of gift or hospitality form. Once completed the form should be sent to the Monitoring Officer.

5.4 Directors must immediately enter in a register, particulars of:

- any gift (including how it has been returned to the giver or otherwise disposed of e.g. donated to the Lord Mayor for charitable purposes); and
- any hospitality.

6. Procurement advertisements

6.1 The council will publish all procurement opportunities and contract awards over £150,000.

6.2 Strategic Procurement will publish an advertisement:

- in OJEU (if required by the Regulations)
- on the council's procurement portal (www.supplyingthesouthwest.org.uk)
- on Contracts Finder

6.3 If the notice is published in OJEU, then the procurement documents for that particular procedure must be available for suppliers to download from the date of publication of the OJEU contract notice.

7. Before a contract is procured

Before undertaking a procurement the authorised officer must:

- identify the need for the services, goods or works in question and fully assess all options for meeting those needs (including recycling and re-use where appropriate)
- establish a business case for the procurement
- establish the council has the legal power to enter into the contract
- contact strategic procurement to discuss the available options
- if it is a capital project make sure the project has been accepted onto the capital programme. See capital programme governance.
- consider whether there is an appropriate framework agreement or Crown Commercial Services (CCS) contract that could be used
- consider the council's procurement business plan as appropriate

- choose a course of action which represents best value for money for the council
- for works procurements >£1,000,000 consider adoption of the employment and skills strategy, for further information contact strategic procurement.
- consider whether the Public Services (Social Value) Act 2012 applies to the procurement
- determine the contract type and the level of contract management resource required to manage the contract.

8. Estimating the total contract value

- 8.1 The total contract value is the total amount (minus VAT) that is expected to be paid to the supplier as a result of the contract award during the whole of the contract. If the value is £50,000 per annum for two years, then the total value of the contract is estimated at £100,000. It includes
- the value of any non-monetary consideration or benefit the council is giving to the supplier
 - the value of anything the council is getting for free as part of the contract
 - any amount that could be paid by extending the contract (if it is possible to extend it).
- 8.2 If the length of a contract is uncertain and the value cannot be reasonably estimated, its total value will be its estimated monthly value times 48.
- 8.3 A single contract must not be split into smaller contracts to get around these contract standing orders or the law, and goods, services or works must not be split to get around these contract standing orders or the law.
- 8.4 Where the proposed procurement for goods, works or services may result in the requirement being split into lots, the value shall be based upon the value of all lots.
- 8.5 The contract must be treated as a high value procurement where there is a transfer of staff.

9. Format of contracts

- 9.1 Contracts must be in writing.
- 9.2 Contracts must be executed as a deed (sealed) if they are for property building and construction, nil consideration, probate, or if the Head of Legal Services advises they must be executed as a deed.
- 9.3 Contracts must be in a form approved by the Head of Legal Services.
- 9.4 Contracts must be signed by the Head of Service (or their designee) and witnessed. Where contracts are required to be sealed or executed as a deed please contact legal services.
- 9.5 Contracts over the EU threshold must comply with relevant EU procurement law.
- 9.6 Electronic signatures may be used in accordance with the Electronic Signature Regulations 2002 if the strategic procurement manager is satisfied that the arrangements are secure.

10. Contract terms and conditions

- 10.1 Contracts must be entered into on the council's terms and conditions, which will be referenced on each purchase order and included with each Invitation to tender (ITT). Exceptions to this rule must be approved by the Head of Legal Services.

- 10.2 Where contracts are subject to the Regulations, the rules relating to technical specifications will be followed and any reference to a technical standard, make or type will be prefaced with the words “or equivalent”.
- 10.3 The standard terms and conditions of the council are available on the document library and the council’s website.

11. When is there no need to seek quotes or tenders?

- 11.1 Emergencies: If there is an unforeseen emergency or a disaster involving immediate risk to persons, property or serious disruption to council services or significant financial loss any Director can approve waiving these rules after consulting the Head of Legal Services where practicable. They must prepare a report for the next Cabinet to support the action taken.
- 11.2 Exempt contracts: The following contracts are exempt from the requirements to obtain tenders provided that quotations are sought.
- contracts relating solely to disposal or acquisition of an interest in land, provided that the contract is not deemed to be a works contract in which case the contract shall be procured in accordance with these rules as a works contract;
 - contracts for individual personal care services;
 - transactions conducted by the Chief Finance Officer in respect of dealing in the money market or obtaining finance for the council;
 - contracts offered by the Head of Legal Services for the appointment of counsel;
 - contracts where a sole supplier has exclusive rights (e.g. alterations to statutory undertakers apparatus).
- 11.3 Where there is a written waiver: In cases where the EU regulations do not apply, the relevant Director and the heads of strategic procurement and legal services can waive the requirements of any of the contract rules. All waivers and the reasons for them must be recorded using the designated form which can be found on the document library. The waiver form must be signed by the Director and agreed by the heads of strategic procurement, legal services and the head of the relevant service area.

12. Purchasing Card Procurement

- 12.1 Purchasing cards are badged charge cards, issued to an individual for the express function of purchasing one off requirements or low value, low risk goods and services for the authority which are not available as a catalogue item on the CIVICA purchasing system.
- 12.2 Only the person whose name appears on the card is authorised to use the card up to the maximum transaction value as detailed in table 13
- 12.3 They work in a similar way to personal credit cards, however they do not offer extended credit and the balance on the cards is automatically paid off monthly. Cash cannot be withdrawn except by nominated Emergency Response Officers.
- 12.4 Purchasing cards shall only be used in accordance with the Purchasing Card Cardholder User Guide which is available on the document library.
- 12.5 The application form to apply for a Purchase Card is available on the document library.

13. Table of purchase card limits

Officer	Maximum Transaction Limit	Maximum Authorised Card Limit
Chief Officers	£10,000	£50,000
Buyer/Procurement Officer	£5,000	£50,000
Emergency Planning Officer	£20,000	£100,000
Standard PCC Employee	£500	£2000

14. Lodge Cards

- 14.1 Lodge cards are a type of credit card which are badged and “lodged” with the supplier so the card number does not need to be quoted on each order. They provide a cost effective and simple means of managing and allocating spend, ensuring the availability of electronic management information without the need for placing purchase orders.
- 14.2 Lodge cards should be used with suppliers whose service is provided centrally to a service area such as schools catering, travel, stationery etc. Agreement for the use of a lodge card will only be given by the Strategic Procurement Manager.

15. Fuel Cards

- 15.1 Fuel cards are a type of credit card used solely to purchase fuel; they can be used in all of the major UK filling stations.
- 15.2 There are three different types of cards:
- Person Card: This card is assigned to a specific person and can only be utilised by that person when using a hire car or a fleet vehicle which is utilised by a number of people. This card cannot be used for casual and essential users.
 - Vehicle Card: This card is utilised for our fleet vehicles and is allocated to a specific registration
 - Bearer Card: Bearer cards are not assigned to either an individual or specific vehicle they are assigned to a department for all to use. These cards offer a high risk of fraudulent use, therefore, the issuing and management of the card has to be done in a controlled manner as detailed in the instructions for use (available on the document library).
- 15.3 Application forms for any of the above fuel cards are available from strategic procurement.
- 15.4 Fuel cards shall only be used in accordance with the Fuel Card Cardholder User Guide (available on the document library).

16. Contract Procurement – existing and corporate contracts

- 16.1 Competitive quotations and tenders are not required if there is a contract already in place. The contract register detailing the list of contracts is available on the document library.
- 16.2 Many of the corporate contracts are set up as catalogue items available to purchase using the CIVICA purchasing system. Anyone with access to the system can place a purchase order for catalogued goods and services by [Finding a Product](#) in the Civica Purchasing system.

17. Low Value/Low Risk Procurements

- 17.1 For goods and services procurements valued below £100,000 and for non-technical works procurements valued below £200,000 a purchase requisition (available on the document library) will need to be completed detailing the full specification including manufacturers part number (if applicable), quantity, delivery date and charge codes and sent to the procurement mailbox. The operational procurement team will source at least three written quotations, two of which shall be from local supplier's where possible, utilising the chosen portal, Sell 2 Plymouth, before a formal purchase order is issued specifying the goods or services to be provided and setting out the price and terms of purchase. Faxed or e-mailed quotations are acceptable for these purposes.
- 17.2 For technical procurements or those valued above £100,000 and below £150,000 for goods and services and above £2,00,000 but below £2,000,000 for works a detailed specification will need to be completed including evaluation criteria, plus for works the chosen terms and conditions and sent to the procurement mailbox. The strategic procurement department will support this procurement by seeking at least five written quotations, four of which shall be from local suppliers where possible, utilising the chosen portal, Sell 2 Plymouth.
- 17.3 To avoid unnecessary risk, only council approved purchasing suppliers should be used.
- 17.4 Approved suppliers are those who have registered and have been green flagged on the Sell 2 Plymouth vendor management portal. <http://www.sell2plymouth.co.uk>

18. Below Threshold Procurements

- 18.1 Below threshold procurements applies to procurements valued above £150,000 for goods and services and £2,000,000 for works but below the EU threshold. See section 22 or contact Strategic Procurement for the current EU threshold values.
- 18.2 For tenders below the threshold the open procedure must be used as deselection is not allowed. However, suppliers may still be disqualified if they do not meet the minimum requirements of the council.

19. High Value/High Risk Procurements

- 19.1 For all procurements of goods and services valued above £150,000 or above £2,000,000 for works procurements or those where staff will transfer, a tender and contract award procedure must be conducted in accordance with these contract rules. The outcome of the contract award procedure must be recorded in the contracts register, which is maintained by the strategic procurement department.
- 19.2 For all procurements above £150,000, approval must be obtained for both the evaluation criteria and award of contract in accordance with the table in section 21.
- 19.3 In the event of a re-tender due to legal obligations under procurement law, authorisation to re-tender is not required. In all other circumstances (i.e. new procurements) Business case approval must be sought in accordance with the table of authorisation detailed in 19.
- 19.4 Any contract that is funded by capital funds can only be approved if it is on the capital programme.

20. Summary table of procurement routes dependent upon value

Value range	Department	Documents required	Activity	To be sent to:
<£100K (goods / services) and <£200K (works)	Operational procurement (buying team)	Purchasing requisition, specification	Request for Quotation (3 suppliers)	Purchasing.requisition@plymouth.gov.uk
>£100K but <£150K (goods / services) and >£200K but <£2m (works)	Strategic procurement	Specification, evaluation criteria, terms and conditions	Request for Quotation (5 suppliers)	procurement@plymouth.gov.uk
>£150K and below EU threshold (goods/services) and >£2m and below EU threshold (works)	Strategic procurement	Tender docs, specification, evaluation criteria, terms and conditions	Tender (advertised on portals)	procurement@plymouth.gov.uk
>EU thresholds	Strategic procurement	Tender docs, specification, evaluation criteria, terms and conditions	Tender (advertised on portals)	procurement@plymouth.gov.uk

21. Who can authorise contracts?

Contract Value	Who can authorise the outline business case or tender?	Who can agree the evaluation criteria?	To be placed on the Forward Plan?	Approval documents required	Who can award the contract?
Over £150,000 and less than £500,000	Assistant Director	Assistant Director	N/A (unless it constitutes a key decision)	Contract Award Report	Assistant Director
Over £500,000 and less than £2,000,000	Cabinet Member	Assistant Director	N/A (unless it constitutes a key decision)	Contract Award Report and Executive Decision Report	Cabinet Member
Over £2,000,000 or a key decision	Cabinet	Assistant Director	Yes	Contract Award Report and Cabinet Report	Cabinet

22. High value/high risk procurement process

22.1 Prior to the commencement of procurement the authorised officer will develop the procurement approach.

22.2 One of four procurement procedures must be used as appropriate for the particular procurement i.e. open, restricted, competitive dialogue or competitive procedure with negotiation. Information on these procedures are detailed below (see sections 22 to 26).

22.3 For procurements valued above £150,000 but falling below the EU threshold tender timescales and procedures can be adjusted accordingly but only after consultation with strategic procurement.

22.4 For procurements that constitute a key decision or are above £500,000, decisions to approve the business case must be taken by either the cabinet member or cabinet as detailed in table 19 above and the head of service needs to arrange for notice of the earliest date on which the decision could be taken to be placed on the forward plan. The head of service will also need to provide appropriate reports to the Cabinet Member or Cabinet using the standard forms that are available on the document library or from Democratic Support.

23. Application of the Regulations

23.1 Where an estimated value of a contract exceeds the current EU threshold then the contract must be procured in accordance with the Regulations, unless there is a suitable framework available.

23.2 The current EU thresholds effective from 1st January 2014 that will apply to the 31st December 2015 are:

Value at which a contract/order must be put through the EU process

Supplies	Services	Works
£172,514*	£172,514*	£4,322,012*

*Contact Strategic Procurement for updates on the EU threshold values

23.3 For procurements subject to EU thresholds a contract notice or prior information notice in the prescribed form will be published in the Official Journal of the European Union (OJEU) in order to invite tenders or expressions of interest.

23.4 This requirement to advertise includes procurements for Social and Other Specific Services (as defined in the Regulations).

23.5 The rules relating to technical specifications and the publication of contract award notices will be observed for all contracts as must the EU Treaty and the general principles of EU law including non-discrimination, equal treatment, proportionality, transparency and mutual recognition.

23.6 The Regulations set out the minimum timescales for receipt of expressions of interest and tenders. Where the council has published a Prior Information Notice announcing its forthcoming contracts for the year ahead, then the council may rely on reduced timescales as set out in the regulations if appropriate.

23.7 When using any procedure under OJEU, the contract award is subject to a mandatory 10 calendar day standstill period. The 10 day standstill period starts on the day that all the suppliers are formally notified via either fax letters or e-mail of the decision to award the contract or conclude the framework agreement. This notice must also give details of the criteria for the award, the reasons for the decision, including the characteristics and relative advantages of the successful tender, their respective score against the evaluation criteria (as set down in the ITT) and the score and name of the winning tenderer, and the date before which the council will not

enter the contract or conclude the framework agreement. (This standstill period cannot conclude on a non-working day, therefore if the 10th day falls on the weekend, then the standstill period will conclude at midnight on the following Monday). Once the 10 days have expired then on the next working day the council is able to place the contract with the successful tenderer (days to be added for bank holidays), if no valid challenge is received.

23.8 The regulations allow contracting authorities to reserve contracts for sheltered workshops and sheltered employment programmes, Public Sector Procurement Directive Article 20 (Regulation 20 of the Regulations) applies. This directive is committed to ensuring equality of employment opportunity for everyone.

24. Restricted Procedure

24.1 This is a two stage procedure. Stage 1 is a pre-qualification stage and is used to de-select suppliers. Stage 2 is the tender stage and is used to determine a successful supplier to whom a contract will be awarded.

24.2 The opportunity must be advertised (see section 6).

24.3 Only those suppliers selected by the council may be invited to tender. Suppliers will be selected on the basis of published pre-qualification criteria.

24.4 If the Regulations apply, a minimum of five suppliers must be invited to tender and in all other cases a minimum of three must be invited to tender.

24.4 The Restricted Procedure is the council's chosen standard process for procurements above the £150,000. Any other process can only be used if the relevant officers have agreed to waive this rule and have signed the necessary forms – see section 11.3.

24.6 If the regulations do not apply, tender timescales can be amended accordingly.

25. Open Procedure

25.1 This is a one stage procedure and is used where there are a limited number of suppliers and where timescales will not allow for use of the restricted procedure.

25.2 The opportunity must be advertised (see section 6).

25.3 Any supplier expressing an interest in tendering for the contract will be able to download the ITT documents.

25.4 A minimum requirement threshold score may be determined for the tender questionnaire and this will be published in the advert (or OJEU Contract Notice if applicable) and in the ITT documentation. Any supplier that scores below this minimum threshold is considered unsuitable and will be disqualified. There is no short listing step in the open procedure and all suppliers that score above the minimum requirement threshold must be evaluated.

26. Competitive Procedure with Negotiation

26.1 This procedure may only be used after consultation with the strategic procurement manager and having obtained the agreement of the Head of Legal Services. It may only be used in very limited circumstances and is rarely used by local authorities.

The opportunity must be advertised (see section 6).

26.2 Only those suppliers selected by the council are invited to tender. Suppliers shall be selected on the basis of published pre-qualification criteria. Any notice will state that a negotiated procedure is being used.

26.3 A minimum of three suppliers should be invited to negotiate following publication of a notice.

26.4 A minimum of two officers, at least one of whom must be a strategic procurement representative or their delegate, must be present at all times during the negotiations.

26.5 The authorised officer must keep proper records of all negotiations and these will be signed as such by all participants.

26.6 At all times during the negotiations, the council will consider and implement the principles of non-discrimination, equal treatment and transparency.

27. Competitive Dialogue Procedure

27.1 The competitive dialogue procedure is for use where the strategic procurement manager considers that the open or restricted procedure will not allow the award of the contract due to the fact that it is a particularly complex procurement. It can only be used with the most economically advantageous award criteria and this must be stated in the contract notice or accompanying descriptive document.

27.2 The council envisages the competitive dialogue procedure being used for many private public partnerships where contracts are complex and the technical means and/or the legal and financial structure cannot be determined without dialogue with suppliers.

27.3 In the case of a particularly complex contract, you may be aware of your needs but not know in advance what the best technical, and/or legal and/or financial solution is. A competitive dialogue procedure between buyers and suppliers is therefore necessary to identify the solution or solutions that best meet their needs. Such a dialogue is not allowed under the current open and restricted procedures. However, the process is time-consuming and the most expensive method of procurement.

27.4

The opportunity must be advertised (see section 6).

27.5 The Regulations set out further rules which apply to Competitive Dialogue Procurements. Competitive Dialogue procurements should be referred to the council's strategic procurement and legal services teams.

28. Predetermined Framework Agreements

28.1 Framework agreements set up by third party organisations may be used after consultation with the strategic procurement manager and head of legal services.

28.2 Framework agreements established by the council will be procured in accordance with the regulations.

28.3 When awarding call-offs (individual contracts), under framework agreements, the authority does not have to go through the full procedural steps in the Regulations again so long as the rules were followed appropriately in the setting up of the framework agreements themselves.

28.4 Call-offs under the framework agreement should be awarded within the terms laid down in the agreement.

28.5 Arrangements to enter into a contract through a call-off agreement will still require appropriate authorisations as shown in the table of authorisation in section 19.

29. Pre-qualification

29.1 The council will only enter into a contract with a supplier if it is satisfied as to the supplier's:

- eligibility in accordance with regulation 57 of the regulations and
- economic and financial standing and
- technical or professional ability.

29.2 Technical ability includes the supplier's quality management systems including human resources, health and safety, equality and diversity provisions and environmental management systems where relevant to the performance of the contract.

29.3 The council's standard pre-qualification questionnaire template document is available on the document library.

29.4 Pre-qualification shall not be used for procurements under the EU threshold. Instead, a number of suitability assessment questions may be used if they are relevant to the procurement and proportionate. These questions may relate to information or evidence which the council requires for the purpose of assessing whether suppliers meet minimum standards of suitability, capability, legal status or financial standing.

30. The Invitation to Tender

30.1 The invitation to tender (ITT) will include details of the council's requirements for the particular contract including:

- i. a description of the goods, services or works being procured;
- ii. the procurement timetable including the tender return date and time, which will allow a reasonable period for the applicants to prepare their tenders;
- iii. a specification and instructions on whether any variants are permissible (this must be stated in any OJEU notice);
- iv. the council's terms and conditions of contract;
- v. the evaluation criteria including scoring methodology and any weightings as considered appropriate;
- vi. pricing mechanism and instructions for completion;
- vii. whether the council is of the view that the Transfer of Undertakings Protection of Employment (TUPE) regulations may apply;
- viii. form and content of method statements to be provided;
- ix. a requirement for tenderers to declare that the tender content, price, or any other particulars concerning the tender have not been unnecessarily disclosed to any other party;
- x. any further information which will inform or assist tenderers in preparing tenders;
- xi. a statement that the council is not obliged to accept the lowest or any tender and that the tenderers are responsible for their own costs with regard to the tender;
- xii. the address for the return of a hard copy tender must be:

Plymouth City Council
Strategic Procurement Department
Ballard House
Plymouth
PL1 3BJ

Electronic tenders should be uploaded onto www.supplyingthesouthwest.org.uk

30.2 The council's standard tender template document is available on the document library.

30.3 The requirements of 29.1 may be varied as appropriate for procurements falling under section 26 (competitive procedure with negotiation), 27 (competitive dialogue procedure) and 28 (predetermined frameworks).

31. Submission and Opening of Tenders

31.1 Tenders must be submitted in accordance with requirements set out in the ITT. Hard copy tenders must be kept in a safe place by the strategic procurement department and remain unopened until the time and date specified for its opening. Tenders received after the specified date and time will not be considered or accepted by the council unless the strategic procurement manager is satisfied that there is sufficient evidence for the tender having been despatched in sufficient time for it to have arrived before the closing date and time.

31.2 Tenders must be opened by an officer of the strategic procurement department and one or more officers of the project team. An immediate record will be made of the tenders received including names, addresses and the date and time of opening.

31.3 Prior to the tender evaluation all officers of the tender evaluation team are required to sign a declaration of direct or indirect interest, canvassing and confidentiality form. The completed form should be returned to the strategic procurement department.

32. Electronic Tendering

32.1 Requests for quotations (RFQs) and ITTs may be transmitted by electronic means. Quotations and tenders may be submitted by electronic means provided that:

- i. evidence that the transmission was successfully completed is obtained and recorded;
- ii. electronic tenders are kept in a separate secure folder under the control of the strategic procurement department, which is not opened until the deadline has passed for receipt of tenders.

33. Tender Evaluation

33.1 Tenders will be evaluated in accordance with the weighted evaluation criteria which must be detailed in the ITT.

33.2 All contracts will be awarded on the basis of the most economically advantageous offer which represents 'Best Value for Money' to the council.

33.3 The evaluation criteria must be predetermined, given weightings, and listed in the ITT documentation, in order of importance if applicable. The criteria must be strictly observed at all times throughout the contract award procedure by any officer involved in the tender evaluation.

34. Evaluation Team

34.1 An evaluation team will need to be formed for each procurement subject to the Regulations or for goods and services valued above £150,000, or for works procurements valued above £2,000,000.

34.2 The project lead will determine the evaluation team appropriate to the procurement which may include but not be limited to the authorised officer, strategic procurement, legal & finance.

34.3 It is the responsibility of strategic procurement to ensure fairness and transparency in the evaluation of the tender.

35. Bonds, Guarantees and Insurance

35.1 For high value procurements, the evaluation team will consider as part of its pre-qualification assessment and evaluation process whether a performance bond and/or a parent company guarantee (if applicable) will be required from the preferred supplier.

35.2 The evaluation team must also consider the appropriate type and level of insurance requirements for each contract (e.g. employer liability, public liability, professional indemnity, etc.).

36. Award of Contract

36.1 A contract may only be awarded by an officer with the requisite delegated authority to award contracts. The authorised officer should make sure that the budget holder responsible for the contract has sufficient funds in place to sustain the contract prior to award. For all procurements valued at above £500,000 the decision to award a contract must be made by the cabinet member for the relevant portfolio. (See the table in section 21 which demonstrates the decision levels within the council).

36.2 In the event that the council does not wish to award a contract after evaluating a tender response the authorised officer should advise all suppliers in writing detailing the reason for the decision and the way forward.

37. Debriefing

37.1 The authorised officer responsible for the procurement will provide feedback to all unsuccessful tenderers, detailing the reasons for the decision, including characteristics and relative advantages of the successful tenderer. Scores of the unsuccessful bidder and the winning bidder must also be issued with the award decision.

37.2 Should the unsuccessful tenderer request a further debrief after receipt of the feedback detailed in section 37.1 it is the responsibility of the authorised officer to do so. The standard agenda for the debriefing is available on the document library.

38. Contract Award Notice

38.1 Where a contract has been tendered pursuant to the regulations, the council will publish a contract award notice in OJEU no later than 30 days after the date of award of the contract.

38.2 Strategic procurement will publish the contract award notice:

- in OJEU (if required by the Regulations)
- on the council's procurement portal (www.supplyingthesouthwest.org.uk)
- on Contracts Finder

39. Contract Management

39.1 Head of Service in sponsoring departments are to name Contract Managers for all new contracts. All contracts must have a named Contract Manager for the entirety of the contract.

39.2 Contract Managers must follow the council's contract management standards at all times.

39.3 Contract Managers must follow the contract management procedures set out on the document library

40. Copies of tenders and contracts and register of contracts

Keeping copies of old tenders and contracts

40.1 Strategic procurement must maintain a list of all tenders received.

40.2 For every individual contract above £100,000, a contracts file must be maintained by Strategic Procurement, a copy of the contract must be kept for at least six years from their end date if they were signed; and for at least 12 years from their end date if they were sealed.

41. Keeping a register of contracts

41.1 The strategic procurement unit will allocate a contract number to each individual contract and will maintain a register of all contracts awarded.

41.2 The contract register will be published in accordance with the Local Transparency – A Practitioners Guide to Publishing New Contracts and Tenders Data, November 2010.

42. What will the register record?

42.1 For each contract, the register will record:

- what the contract is for;
- the total contract value;
- contract reference number;
- OJEU details (if applicable);
- The council officer name & contact details;
- the name, address & contact details of the contractor;
- the start and end dates;
- the procurement method used;
- whether the contract can be extended and how;
- Type of contract;
- Name of contract manager;
- whether a certificate was issued under the Local Government (Contracts) Act;
- For the full list, the contract register is available in the document library.

43. Joint Procurement

43.1 Any joint procurement arrangements with other bodies including membership or use of purchasing consortia must be approved by the strategic procurement manager and the head of legal services prior to the commencement of any procurement on behalf of the council.

43.2 Approval will only be given where the joint procurement arrangement assures compliance with the regulations.

44. Consultants

- 44.1 Any consultants used by the council must be appointed in accordance with these contract rules. The authorised officer must ensure that the consultant's performance is monitored.
- 44.2 Where the council uses consultants to act on its behalf in relation to any procurement, then the authorised officer must ensure that the consultants carry out any procurement in accordance with these rules.
- 44.3 No consultant may make any decision on whether to award a contract or who a contract should be awarded to.

45. Statistical Returns

- 45.1 Each year the council will make a statistical return to the government for onward transmission to the European Commission concerning the contracts awarded during the year under the regulations.
- 45.2 The strategic procurement manager is responsible for this statistical return and will make the necessary arrangements for information to be collected annually. Directors will comply with these arrangements.

46. Contract Extension and Variation

- 46.1 Any contract may be extended or varied in accordance with its terms. Where the terms do not expressly provide for extension an exemption must be sought, contracts subject to the regulations may be extended, if an exemption is approved, by negotiation in accordance with the rules set out in the regulations. Such extension must be notified to the individual cabinet councillor for the relevant portfolio and EU rules taken into consideration.
- 46.2 Other contracts may be extended only where authorisation has been agreed and a suitable contract extension/exemption form has been completed and duly authorised. The authorised officer must always be satisfied that extension will achieve best value for money and is reasonable in all the relevant circumstances.

47. Termination of Contracts

- 47.1 Contracts may only be terminated after seeking advice from the strategic procurement manager and the Head of Legal Services. For any contract exceeding £500,000 in value, termination must be approved by the cabinet member for the relevant portfolio. For any contract that is a key decision or is valued above £2,000,000 termination must be approved by cabinet.

48. Review and Amendment of Contract Standing Orders

- 48.1 These contract rules will be reviewed and updated on a regular basis by the strategic procurement manager.
- 48.2 The strategic procurement manager will produce guidance to the use of contract rules.

49. Interpreting Contract Standing Orders

Questions about the contract standing orders and any related guidance will be dealt with by the Strategic Procurement Manager or Head of Legal Services. Their interpretation will be final.

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