



## **STANDING ORDERS FOR THE REGULATION OF CONTRACTS**

Adopted 03 October 2017

## STANDING ORDERS FOR THE REGULATION OF CONTRACTS

### 1. Extent of Contract Standing Orders

- 1.1 Every contract entered into by the Authority shall comply with these Standing Orders and with European Procurement legislation and with any relevant EU Directives for the time being in force in the United Kingdom. These EU directives contain limits above which procedures for the advertising and awarding of public sector supplies, construction and service contracts must be followed.
- 1.2 The objective of these Standing Orders is to ensure that contracts for the supply and disposal of goods, materials and services or for the execution of works, are obtained on the most financially favourable terms, having due regard to quality, service, fitness for purpose and sustainability.
- 1.3 The Chief Executive is empowered to enter into contacts on behalf of the Authority, subject to these Standing Orders.
- 1.4 In applying these Standing Orders users are required to have regard to the provisions of
  - (i) Standing Orders for the regulation of the Authority's proceedings and business and the Scheme of Delegation
  - (ii) The Financial Regulations
- 1.5 Any contract exceeding £30,000 in value shall require the tenderer to be checked by the Head of Finance and Operations for financial viability and by the appropriate Head of Section for technical competence.
- 1.6 The Authority has approved and undertakes to follow a Sustainable Procurement Policy and the Sustainable Procurement checklist and the Sustainable Building checklist are attached at Appendices 1 and 2.
- 1.7 In these Standing Orders relating to contracts:

“A tender” means a written offer to supply goods, materials or services.

“A contract” means any contract in writing or otherwise for the supply or disposal of goods, materials or services or for the execution of works but shall exclude contracts of employment or for the sale or purchase of any interest in land.

“Consideration payable” means the total value of consideration payable by or to the Authority or in the requirements of the Authority under the contract or any series of contracts of which it forms a part.

“Most financially favourable” means the lowest if payment is made by the Authority and the highest if payment is made to the Authority.

“Negotiation” means any alteration in the terms of tender offered to the Authority or in the requirements of the Authority in relation to such tender and shall include any variation in the terms of a tender whether by deletion of any requirement or provision or the rectification of any error or omission or otherwise.

“The register” means the register containing records of action taken under Contract Standing Orders 2.4, 7.2, 7.3, 7.4, 7.5 and 7.6.

## **2. Tenders**

2.1 Except as specified in Contract Standing Order 2.4 below where the consideration payable under any contract over may reasonably be expected:

- (i) in the case of a contract for the execution of building or civil engineering works to exceed £50,000; and
- (ii) in the case of any other contract for the supply of goods, materials and services to exceed £25,000;

the contractors must be chosen by one of the following methods:-

- (i) Open competitive tendering under Standing Order 3;
- (ii) Selective tendering by advertisement under Standing Order 4;
- (iii) Selective tendering from approved contractors under Standing Order 5.

2.2 The provisions of this part of Standing Orders shall also apply for the supply of goods, materials or services where the consideration payable by the Authority may be reasonably expected to exceed £50,000 over a three year period. Such contracts shall be subject to retendering at not more than three-yearly intervals.

2.3 Where contracts below the figures referred to in Standing Orders 2.1 and 2.2 above are entered into, the spirit of Standing Orders shall be followed and

- i) at least three competitive quotations obtained for all contracts in excess of £5,000.
- ii) for contracts below £5,000 the option can still be taken to obtain quotations to seek competitive prices and demonstrate best value but the Chief Executive and any officer acting on their behalf shall have regard to the requirements of Standing Order 1.2 above

2.4 A contract may be entered into on behalf of the Authority other than in accordance with Standing Orders 2.1 or 2.2 above in the following circumstances:-

- (i) For the supply of goods or materials or specialist equipment where there appears to be only one supplier and no acceptable alternative or there appears to be a limited number of suppliers.
- (ii) For the supply of goods or materials where the Authority has decided to standardise by buying from only one supplier or where the Chief Executive is satisfied that specialised materials or plant are required for which there is only a single source of supply.
- (iii) For the extension, addition to or maintenance of existing goods, materials or services where this can only be done satisfactorily by the original contractor or supplier.

*(Before the Chief Executive enters into a contract as described in sub-clauses (i) – (iii) above they must certify on each occasion that the advantages and disadvantages of proceeding with a single supplier have been examined and recorded).*

- (iv) For the urgent supply of goods or materials where the Chief Executive is satisfied and has recorded that the tender process would prevent the supply of goods within the timescale required.
- (v) For the supply of used or second-hand goods or materials where the Chief Executive is satisfied that the market for such goods or materials is such that it would be unreasonable to tender or where the time required to complete the tender process is likely to lead to the loss of opportunity to purchase a used or secondhand item.
- (vi) For the supply of goods, materials or services in any other circumstances where the Chief Executive and the Head of Finance and Operations are satisfied that there are proper service reasons for not tendering for the supply of goods, materials or services and where they are satisfied that there will be no financial disadvantage to the Authority as a result of not so tendering.

2.5 All contracts let in accordance with Contract Standing Order 2.4 shall be recorded in the register which shall show the Contract Standing Order under which action has been taken and which in the case of Contract Standing Order 2.4(a) (iv) (v) & (vi) shall contain a statement of reasons of the Chief Executive.

2.6 A contract may also be entered into other than in accordance with Standing Orders 2.1 or 2.2 :-

- (i) where the contract is awarded through a Public Sector Consortium a local authority purchasing partnership, a purchase framework agreement or similar body created for the purpose of acquiring goods, materials or services. This would include another local authority, the Consortium and the Office of Government Commerce (OGC).
- (ii) where the Authority considers that there are special circumstances justifying the waiving of Standing Orders and authorises such waiver by resolution.

### **3. Open Competitive Tendering**

3.1 Tendering shall normally be invited by an advertisement on the Authority's website and in at least one local newspaper circulating in the area saying what the contract is for and specifying a reasonable closing date by which tenders must be received, unless in the opinion of the Chief Executive this is unlikely to be to the advantage of the Authority.

3.2 The advertisement can also appear in an appropriate trade journal where in the opinion of the Chief Executive this is likely to be to the advantage of the Authority.

3.3 After the closing date at least three contractors suitable to undertake the work to be invited to tender and if there are fewer than three suitable contractors then all those considered suitable to be asked to tender.

### **4. Selective Tendering by Advertisement**

4.1 An advertisement saying what the contract is for and asking for the names of contractors interested in tendering to be submitted by a specified date must appear on the Authority's website and in a local newspaper. The advertisement must also appear in a trade journal where appropriate and where in the opinion of the Chief Executive this is likely to be to the advantage of the Authority.

- 4.2 After the closing date, at least three contractors suitable to undertake the work to be invited to tender and if there are fewer than three suitable contractors then all those considered suitable to be asked to tender.

## **5. Selective Tendering from Approved Contractors**

- 5.1 The Chief Executive shall keep a Register of Contractors who have been listed by the Authority as suitable, competent and reliable. It shall show the type and value of contract for which each contractor is listed.
- 5.2 The Chief Executive can add to the Register of listed Contractors but every such addition shall be added to the Register of Contractors.
- 5.3 The Register of Contractors to be reviewed by the Chief Executive and admissions to the register shall be readvertised at not more than a five yearly interval.
- 5.4 The Chief Executive may suspend a contractor from the Register if the contractor proves unsatisfactory or cannot meet the terms of the contract. All such suspensions must be recorded in the Register of Contractors with reasons.

## **6. Submitting and Opening Tenders**

- 6.1 Every invitation to tender must state that the Authority do not bind themselves to accept the lowest or any tender sought pursuant to Contract Standing Orders 2.1 and 2.2 and must also state that a tender will only be considered if it is received by the due date and time:
- (i) in a sealed, plain envelope with the word "Tender" and the title of the contract written on it. There must be no mention of the sender's name or any other way of identifying the sender from the envelope. The Chief Executive must keep the envelope unopened and after the time for receipt has expired such tenders shall be opened and recorded by the officer authorised to do so by the Chief Executive with another officer in attendance; and/or
  - (ii) electronically to a specified mailbox which will be controlled by the Chief Executive which after the time for receipt has expired shall be opened and recorded by the officer authorised to do so by the Chief Executive with another officer in attendance.
- 6.2 The Chief Executive, after consultation with the Head of Finance and Operations, may at their absolute discretion permit consideration of a tender submitted other than in accordance with Standing Order 6.1 provided:
- (i) that they are satisfied that it is in the best financial interests of the Authority to do so;
  - (ii) that they are satisfied that the tenderer has not secured an advantage over the other tenders by failing to tender in accordance with Standing order 6.1; and
  - (iii) that the decision to admit the tender is taken before the remaining tenders are opened.

A record of these tenders must be kept which record shall be retained for a period of at least 3 years.

## **7. Accepting Tenders**

- 7.1 Except as detailed in the subsequent paragraphs of these Contract Standing Orders the Chief Executive can only accept the most financially favourable tender.
- 7.2 The Chief Executive may approve the amendment of a tender after it has been received and before it has been accepted only in the following circumstances:
- i) To enable the correction of a genuine error.
  - ii) To make an alteration to the advantage of the Authority provided that the alteration if made to all the tenders would not make any other tender the most financially favourable.

A record of any such alteration must be kept in the register.

- 7.3 Where the Chief Executive after consultation with the Head of Finance and Operations considers it is in the best interests of the Authority, they may negotiate with the lowest tenderer or the tenderer whose tender is being considered for acceptance under paragraph 7.4 below, with a view to reducing the tender, provided that particulars thereof and a statement of reasons thereof shall be entered in the register.
- 7.4 The Chief Executive after consultation with the Head of Finance and Operations may accept a tender other than the lowest tender where:-
- i) There is a material improvement in specification in contrast to the lowest tender and where either the spending section specifies the goods, materials or services with a higher specification or where the Chief Executive is of the opinion that by virtue of specification a tender other than the lowest tender represents the best value in pursuit of the Authority's objectives and therefore, should be deemed the most financially favourable.
  - ii) The goods, materials or services tendered for are not available for immediate supply and where in the opinion of the Chief Executive by reason of their non-availability another tender might reasonably be regarded as the most financially favourable tender.

All action taken under this Standing Order shall be recorded in the Register together with particulars and a statement of reasons therefore.

- 7.5 No negotiations with the tenderers after the receipt of tenders shall take place except as authorised by the preceding paragraphs of this Standing Order without the prior approval of the Authority and the fact that such negotiations have taken place shall be recorded in the register together with an indication of the reasons therefore.
- 7.6 A tender other than the most financially favourable as defined in this Standing Order may be accepted where the Chief Executive after consideration with the Head of Finance and Operations considers such acceptance to be in the best interests of the Authority or considers there are other special circumstances.

## **8. The Register**

- 8.1 The register shall be maintained by the Chief Executive and shall contain a record of any action under Contract Standing Orders 2.4, 7.2, 7.3, 7.4, 7.5 and 7.6.

## **9. Forms of Contract**

- 9.1 Every contract shall be made or confirmed in writing and shall specify the work materials or services to be provided and the time or times within which the contract is to be performed.
- 9.2 Where the Chief Executive, after consultation with the Head of Finance and Operations, considers it to be appropriate there shall be provision for liquidated damages or other sufficient security for due performance.

## **10. Corruption: Cancelling Contracts**

- 10.1 Every contract must state that the Authority can cancel the contract and recover any resulting losses if the contractor or their employees or agents with or without their knowledge:
- i) does anything improper to influence the Authority to award the contract. *(In this respect the attention of employees of the Authority is drawn to the nationally approved code of conduct in force at the time which must be observed).*
  - ii) commits an offence under Prevention of Corruption Act 1906 to 1916 or Section 117(2) of the Local Government Act 1972 or any other offence.
  - iii) does not disclose any potential conflict of interest with any member or officer of the Authority.

## **11. Compliance with Standing Orders**

- 11.1 It is an implied condition of employment of all staff of the Authority with responsibility for the administration of contracts that they should at all times observe the provisions of Contract Standing Orders. Failure by staff to observe Contract Standing Orders will be regarded as a disciplinary matter.
- 11.2 When outside consultants or technical officers are employed to supervise contracts they must similarly follow Contract Standing Orders. Their contract for services must include this requirement.

## **12. Financial Limits**

- 12.1 The Chief Executive in consultation with the Head of Finance and Operations shall review periodically the financial limits in these Standing Orders to reflect changes in the value of money. Any changes proposed to be reported to the next meeting of the Authority for consideration and adoption.

## SUSTAINABLE PROCUREMENT CHECKLIST

1. Procurement is to be carried out in an environmentally responsible manner by working to:

- Reduce the number of goods and services procured by cutting down on waste and repairing or reusing existing goods;
- Purchasing products and services that use fewer natural resources in production and distribution and promote Fairtrade products;
- Take account of whole-life costs, quality, environmental impacts and other benefits and not just the initial price;
- Purchasing products that can be recycled or disposed of with minimal environmental damage;
- Buy the most energy-efficient products where they give value for money, taking account of whole-life costs, using the European Commission's mandatory energy-labelling scheme;
- Purchasing locally where possible, to reduce the impact of transport, as long as the criteria above are met; and
- Promote equality and do not discriminate on the grounds of gender, disability and race.

while complying with the law, including presiding procurement rules/international agreements on trade.

2. Before procuring any goods or services, consideration will be given as to whether consumption can be reduced by reusing or repairing existing materials and goods or whether alternative procedures can be put in place to remove the need to buy goods and services.

3. Procurement decisions are to be based on environmental criteria along with other major factors such as value for money, quality and whole life costs. The Authority will assess whether goods and services:

- Are durable, reusable, refillable or recyclable;
- Contain reused, recycled or renewable raw materials;
- Are energy and resource efficient;
- Use minimum packaging and encourage waste reduction;
- Are non (or minimum) polluting;
- Are locally produced;
- Are free from ozone depleting substances, solvents, volatile organic compounds and other substances damaging to health and the environment;

- Are from certified sustainable sources;
  - Cause minimal damage to the environment in their production, distribution, use and disposal; and
  - Are on the most competitive terms having regard for Best Value.
4. The criteria by which environmental impact can be taken into account during tender evaluation to be included in tender documentation.

## SUSTAINABLE BUILDING CHECKLIST

- ✓ **Sustainable**
- ✗ **Less desirable**
- **Neutral**

### General

Repair or recycle if possible rather than buying new, but if you do have to buy something please check the list.

Other guides, such as the ENPA Design Guide give specific detailed advice for design aspects of building works.

#### 1. **Timber**

- ✓ Forest Stewardship Council Certified Timber or equivalent
- ✓ Recycled
- ✓ Known local source (check with Woodland Team)
- ✗ Tropical hardwoods
- ✗ Unknown source/non FSC

If possible use UK hardwoods rather than softwoods – this encourages planting and management of broadleaved woodland. Many hardwoods (notably oak and chestnut) do not need paints and stains to preserve them when used externally. *Most softwoods do.*

#### 2. **Roofing**

##### Slate

- ✓ - Recycled and local
- ✓ - Delabole
- ✓ - Welsh
- ✗ - Chinese / Brazilian / other non UK sources
- ✓ Thatch (also turf / bracken / heather)
- ✓ Timber shingles (FSC)
- ✓ Clay tiles
- ✗ Artificial tiles / concrete

#### 3. **Walls / Structure**

- ✓ Local stone, cob, brick (preferably recycled / local)
- ✓ Lime mortar and plaster
- ✓ Timber cladding (FSC)
- ✓ Green oak framing
- ✓ Straw (bales)
- Concrete blocks

4.           **Windows**
  - ✓ FSC Timber
  - ✗ UPVC
  
5.           **Paint / Finishes**
  - ✓ Lime wash
  - ✓ Lime plaster
  - ✓ Lime mortar
  - ✓ Natural/environmentally friendly paints (eg some of Farrow and Ball range)
  - ✓ Distemper (internal)
  - ✓ Natural oils / waxes such as linseed
  - ✗ Varnishes / chemical stains
  
6.           **Gutters / downpipes**

Direct rainwater into ground rather than drains if possible. Salvage and repair cast iron, copper or lead
  
7.           **Flooring**
  - ✓ Local / recycled / FSC timber
  - ✓ Wool carpet
  - Concrete
  
8.           **Insulation**
  - ✓ Wool
  - ✓ Recycled paper
  - ✓ Double / triple glazing
  - ✓ Shutters
  - ✓ Thick curtains
  
9.           **Energy Efficiency / Renewables**
  - ✓ Lights – low energy bulbs
  - Heating systems
  - ✓ Solar
  - ✓ Wood fuel
  - ✓ Hydropower
  - Energy Efficiency / Renewables *continued***
  - ✓ Windpower
  - ✓ Combined heat and power
  - ✓ Photo-voltaics
  - ✓ Condensing boilers
  - ✗ Electric (unless supplied by renewables)
  - ✗ Oil
  - ✗ Gas
  
10.          **Electrical / Plumbing**
  - ✗ PVC
  - Non PVC wire, copper or PE piping
  - ✓ Water saving taps / flush systems

11. **Landscape Works**

Paving

- ✓ FSC Timber
- ✓ Local stone
- ✓ Woodchip bark
- ✓ Local river aggregate/cobbles (if approved source)
- ✓ Hoggin
- ✓ Grass
- Concrete, tarmac, block paving

External Structures (as above)

Soft landscape

- ✓ Locally sourced
- ✓ Natives
- ✓ Edible fruits

Weed Control

- \* Herbicides
- ✓ Biodegradable mulch mats
- ✓ Organic mulches

Soil Ameliorants

- \* Peat
- ✓ Farmyard manure
- ✓ Compost

Fencing

- ✓ FSC hardwood timber