

STANDING ORDERS RELATING TO CONTRACTS

1. Introduction

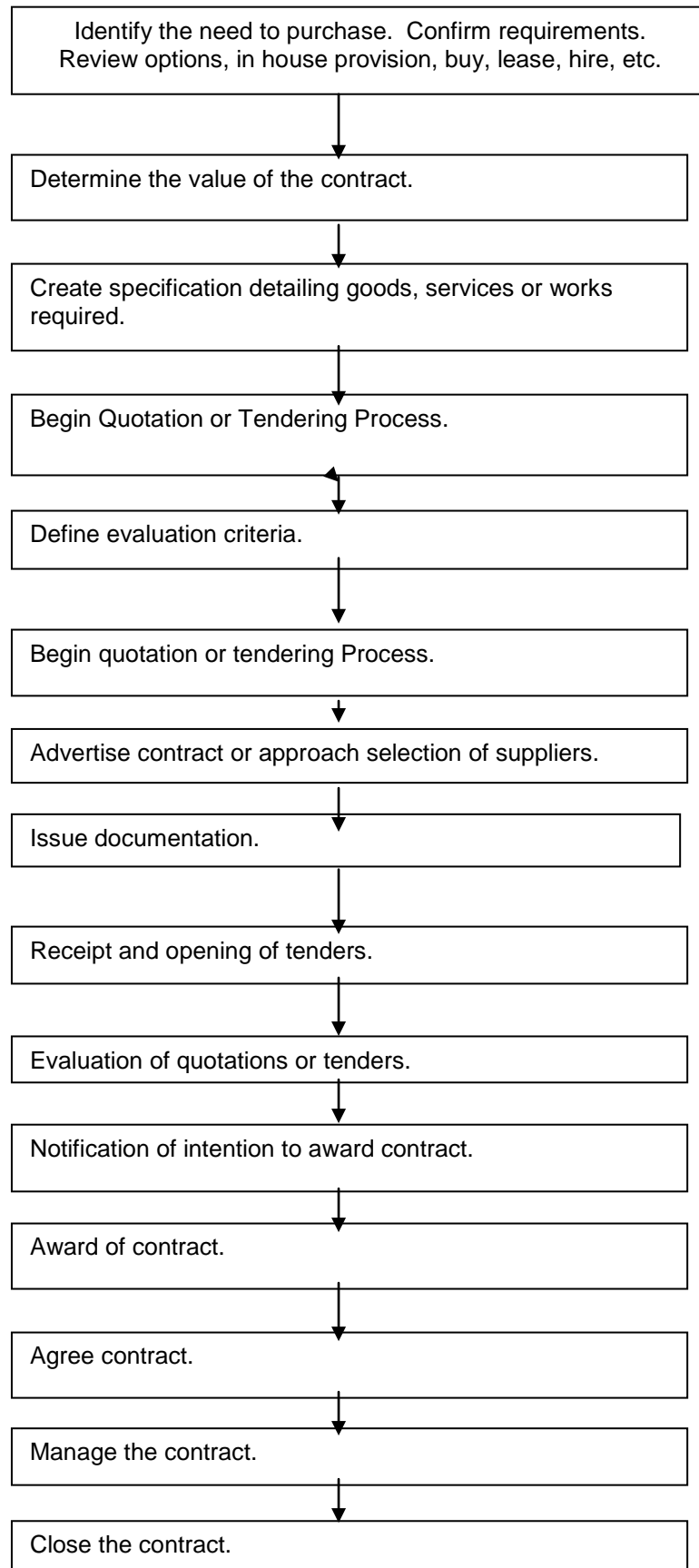
1.1 These Standing Orders for Contracts exist to:

- (a) ensure value for money is obtained through the Council's procurement activity;
- (b) provide a framework for officers and members to ensure open fair and transparent processes;
- (c) protect officers and members from any allegations of acting unlawfully or unfairly in the procurement of goods, services and works;
- (d) ensure compliance with relevant legislation on the procurement of goods, services and works.

1.2. Further guidance on the interpretation and application of these Contract Standing Orders and procurement in general can be obtained from the Head of Procurement and Service Improvement.

2. Overview of the Procurement Process

2.1. The following diagram illustrates the procurement process:-



3. Definitions and interpretation

- 3.1. 'Consultants' includes the use of professional help to support deliverables whether the rate charged is on an hourly, daily, weekly or monthly basis or a fixed fee.
- 3.2. 'Public Procurement Threshold' means a value defined in the Regulations, below which the full regime set out in the Regulations does not apply. The value of the current Public Procurement Thresholds can be obtained from the Head of Procurement and Service Improvement.
- 3.3. 'ESPO' means the Eastern Shires Purchasing Organisation.
- 3.4. 'Head of Service' means the Head of Service responsible for the function to which the contract relates or where more than one Head of Service is responsible, the Head of Service who is nominated to lead on behalf of the other Heads of Service.
- 3.5. 'Most economically advantageous tender' means the tender that offers the best combination of price, quality, technical merit, aesthetic and functional characteristics, environmental characteristics, running costs, cost effectiveness, after sales service, technical assistance, delivery date and delivery period and period of completion.
- 3.6. 'OGC' means the Office of Government Commerce
- 3.7. 'OJEU' means the Official Journal of the European Union
- 3.8. 'The Council' means Norwich City Council
- 3.9. 'The Regulations' means The Public Contracts Regulations 2006:

4. Application of these Standing Orders

- 4.1. These Standing Orders apply to all contracts within the Budget and Policy Framework.

5. Exemptions

- 5.1. These Standing Orders do not apply to:
 - (a) the acquisition or disposal of land or interests in land;
 - (b) employment of individual members of staff ;
 - (c) the provision of goods, services or works in the event of an emergency where there is no existing contract in place covering the provision of those goods, services or works. These being reported as soon as is reasonably practicable to the Head of Procurement and Service Improvement. In any event these contracts should last no more than 6 months.

- 5.2. The Head of Procurement and Service Improvement may grant an exemption from these Contract Standing Orders. All requests for exemptions that are approved must be confirmed in writing and the Head of Procurement and Service Improvement will maintain a register of approved exemptions. The Head of Procurement and Service Improvement will have regard to Compliance with the Law and how value for money will be obtained and must consult with the Head of Finance where the value of the contract is over £50, 000. The Head of Procurement and Service Improvement will complete the register to show how these have been considered and the rationale behind the approval of an exemption.
- 5.3. These standing orders apply to all contracts for all works, goods and services including consultancy.
- 5.4. Nothing in these Contract Standing Orders shall prevent the use of electronic procurement. Electronic procurement systems must ensure the principles of openness, honesty and fairness are maintained and that tenders are received and kept in a secure manner until the opening of the tender submissions.
- 5.5. The Monitoring Officer will regularly review the register of agreed exemptions.

6. Estimating the value of the Contract

- 6.1. Before procuring goods, services or works the value of the contract will be estimated as follows:
- 6.2. Where the contract duration is of an indeterminate length by multiplying the monthly value by 48 or by multiplying the annual value by 4;
- 6.3. Where there are recurring purchases of the same type by taking the value over the previous 12 months or the forecast for the next 12 months;
- 6.4. Where the contract is for a fixed term the value that will or may be paid during that period, whichever is the greater; or
- 6.5. Where the contract is for a one off requirement the value will be the total value for that requirement.
- 6.6. Periodic purchases of the same type of items should be aggregated together when estimating the value of the contract regardless of which part of the Council is making these purchases.
- 6.7. The total value is the total consideration paid to the contractor regardless of any third party contribution, grant, subsidy or award to the Council which would be used to make such payments.

7. Specification

- 7.1. Once a need has been identified a detailed specification must be drawn up. The specification must identify the goods services or works to be supplied in sufficient detail to allow suppliers to respond on an equal basis.
- 7.2. The specification must detail which elements are considered essential and which elements are considered desirable.

8. Contracts under £50,000

- 8.1. For contracts under £50,000 officers should apply the general principles of these standing orders. However, the procedures used to obtain quotations will be:
 - (a) for contracts under £10,000, quotations should be obtained. Three quotations should be obtained in writing wherever possible.
 - (b) for contracts between £10,000 and £50,000 at least 3 quotations must be obtained in writing.
 - (c) further guidance is available from the Head of Procurement and Service Improvement.

9. Contracts over the Public Procurement Thresholds

- 9.1. Where the value of the contract exceeds the Public Procurement Threshold, the requirements of the Regulations must be followed.
- 9.2. Sufficient time must be allowed in the planning process to comply with the time requirements laid down in the Regulations.
- 9.3. All notices (Prior Indicative Notices, Contract Notices and Award Notices) must be placed in accordance with the Regulations.
- 9.4. Guidance is available from the Head of Procurement and Service Improvement

10. Framework Arrangements

- 10.1. A framework arrangement is where a tender has been accepted and a contract awarded that sets out the terms and conditions under which purchases can be made throughout the term of the contract. The purchases are made in unpredicted quantities at varying times during the contract period.

- 10.2. When a framework arrangement is the preferred contracting method, this must be made clear in the advertising of the tender and must include details of:
- (a) the term of the contract;
 - (b) the anticipated number of suppliers;
 - (c) the estimated value of the purchases that will be made using the framework arrangement;
 - (d) the award criteria for choosing the suppliers;
 - (e) the subsequent criteria for placing orders.
- 10.3. Where prices are agreed during the tender process, there is no need for further competition and orders may be placed using those process
- 10.4. Where the prices have not been agreed during the tender process, then all suppliers on the framework arrangement capable of fulfilling the requirement must be given the opportunity to quote for the requirement

11. Conflict of Interest of Officers

- 11.1. The Council's Code of Conduct for Local Government Employees lays down the standards that are expected of Officers of the Council and includes specific details for Officers involved in placing orders and awarding contracts.

12. Tendering options below the Public Procurement Thresholds

- 12.1. Where the value of the contract is £50,000 or over, tenders may be invited using "open" tendering, "restricted" tendering (also called a one off list) or by use of a standing list. Open tendering allows the suppliers ability as well as their offer and price to be evaluated in a single stage process. Restricted tendering consists of two stages, the first to evaluate the suppliers ability such as technical ability/capacity and financial standing and the second stage is to then to evaluate bids detailing how the contract will be fulfilled and the price. Finally, a standing list allows suppliers to be evaluated for their ability and to be placed on a list and each time a requirement arises, a selection of those suppliers is asked to submit a tender without the need to evaluate their ability each time. These options are explained below.

13. Open Tendering

- 13.1. For contracts over £50,000 but less than the Public Procurement Threshold, a public notice should be placed inviting tenders for the contract. The notice must allow at least 15 days from the publication of the advert for the return of completed tenders. The notice must state the nature and purpose of the contract and contact details of where further information and tender documents can be obtained.
- 13.2. The public notice should be placed to encourage competition, but also to ensure local suppliers are made aware of the opportunity. The local newspaper should be used where there are local suppliers who could

fulfil the requirement. The Small Business Service (SBS) New Opportunities Portal: supply2.gov.uk should also be used to advertise requirements more widely. Local trade or other groups may also be notified.

- 13.3. For contracts over the Public Procurement Threshold, the procedures in the Public Contracts Regulations must be followed.
- 13.4. Anyone who responds to the notice and requests a tender must be sent the tender documents.
- 13.5. The award criteria will either be:
 - (a) the most economically advantageous tender; or
 - (b) the lowest price.

Wherever possible, the most economically advantageous tender should be used as the award criteria.

- 13.6. The tender documents must state the award criteria that will be used. Where the award criteria is the most economically advantageous tender the tender documents must list the evaluation criteria along with the score or importance that is attached to each of them.

14. Restricted Tendering (Using a One-Off List)

- 14.1. This section deals with using a restricted tender for contracts below the Public Procurement threshold. For contracts over the Public Procurement Threshold, advice should be sought from the Head of Procurement and Service Improvement.
- 14.2. For contracts over £50,000 but less than the Public Procurement Threshold, a public notice should be placed inviting expressions of interest for the contract. The notice must allow at least 10 days from the publication of the advert for the return of completed expressions of interest. The notice must state the nature and purpose of the contract and contact details of where further information and expression of interest documents can be obtained.
- 14.3. The public notice should be placed to encourage competition, but also to ensure local suppliers are made aware of the opportunity. The local newspaper should be used where there are local suppliers who could fulfil the requirement. The Small Business Service (SBS) New Opportunities Portal: supply2.gov.uk should also be used to advertise requirements more widely. Local trade or other groups may also be notified.
- 14.4. Any supplier who responds to the notice must be given details of how suppliers will be short listed and selected to submit a tender.
- 14.5. Once the date in the advert has passed, invitations to tender must be sent to short listed suppliers with a return date of at least 15 days from the despatch of the tender documents.

- 14.6. At least four suppliers should be sent invitations to tender
- 14.7. Where less than 4 suppliers are deemed suitable after short listing, all suitable suppliers will be invited to tender
- 14.8. The tender documents must state the award criteria that will be used. Where the award criteria is the most economically advantageous tender the tender documents must list the evaluation criteria along with the score or importance that is attached to each of them.

15. Creating Standing Lists

- 15.1. Standing lists may only be used where the value of the contract does not exceed the Public Procurement Threshold.
- 15.2. When creating a standing list it must contain:
 - (a) the names of all suppliers who have been approved to be on the list;
 - (b) the categories of contracts they are approved for; and
 - (c) the value of contracts the supplier is approved for
- 15.3. At least one month before a standing list is compiled, a public notice should be placed inviting applications by a specified date for inclusion on the standing list. The notice must contain the minimum criteria to be considered for inclusion on the standing list.
- 15.4. The public notice should be placed to encourage competition, but also to ensure local suppliers are made aware of the opportunity. The local newspaper should be used where there are local suppliers who could fulfil the requirement. The Small Business Service (SBS) New Opportunities Portal: supply2.gov.uk should also be used to advertise requirements more widely. Local trade or other groups may also be notified.
- 15.5. Once a list is compiled it must be submitted for approval by the Head of Procurement and Service Improvement along with the names of suppliers who requested inclusion on the list but were not included.
- 15.6. The list must be reviewed at least every 2 years. At least one month before the list is reviewed, all suppliers on the list must be asked if they wish to remain on the list. A new notice must also be published at least one month before the review date in accordance with paragraph 13.2. above.
- 15.7. Once the review is completed, the new list must be submitted to the Head of Procurement and Service Improvement in accordance with paragraph 13.4 above.

16. Tendering from Standing Lists

- 16.1. Invitations to tender using suppliers on a standing list must be sent to at least 3 suppliers on the standing list. Where there are less than 3 suppliers on the standing list who could fulfil the requirement either a public advertisement should be placed or an exemption should be sought.
- 16.2. The tender documents must state the award criteria that will be used. Where the award criteria are the most economically advantageous tender the tender documents must list the evaluation criteria along with the score or importance that is attached to each of them.
- 16.3. The selection of suppliers from standing lists who are invited to tender must be fair and objective. A system of fair rotation should be used to ensure that everybody on the list is given a fair opportunity to bid for business and the same contractors are not selected to bid time and time again.

17. Invalid tenders

- 17.1. A tender will be invalid if:
 - (a) it is received after the closing time and date specified in the tender documents; or
 - (b) it is not received in the Norwich City Council Tender envelope;
 - (c) not sealed with the Norwich City Council Tender seal.

18. Receipt of tenders

- 18.1. When a tender envelope is received, the date and time received boxes must be completed.
- 18.2. Unopened tenders will then be kept in the General Administration Services Team safe until after the closing date/time has passed for the receipt of tenders.
- 18.3. The General Administration Services Team will maintain a register of all tenders received.

19. Opening Tenders

- 19.1 Tenders shall be opened with not less than 2 officers of the Council and a representative of Internal Audit present. The Head of Service or their nominated representative must be present during the Tender opening.
- 19.2. Each tender will be initialled by the officers present at the opening.
- 19.3. Details of the tenders opened must be recorded on a form. The officers present must sign and date the form as a true record of the tenders opened.

- 19.4. Where a tender has been recorded as received in anything other than the Norwich City Council tender envelope or without the appropriate seal, the supplier shall be notified that their tender was invalid and will not be considered.
- 19.5. Where a tender has been recorded as received after the closing date/time specified the supplier shall be notified by the quickest possible means that their tender was invalid. The supplier must be invited to explain how their tender was delivered to ensure that the cause of the lateness was not any fault of the Council. Further advice is available for the Head of Procurement and Service Improvement.
- 19.6. If there is any evidence that tender envelopes have been tampered with, this must be reported to the Head of Procurement and Service Improvement who will advise on the course of action to be taken.

20. Errors and Discrepancies in Tenders

- 20.1. Where an error is discovered in tender documents before the closing date/time, all suppliers who have been sent tender documents must be contacted and advised of the error. If a supplier has already submitted their tender they must be allowed an opportunity to submit a new tender before the closing date/time.
- 20.2. After the opening of tenders, if there is an obvious error in a tender submitted (for example the result of a calculation is incorrect or there is a typing error in a value), the Head of Service may allow the supplier to be contacted and afforded the opportunity to correct the error or withdraw their submission. All communication must be in writing.

21. Tender Evaluation

- 21.1. Where the evaluation criteria specified was the lowest price, tenders must be evaluated and if the Council decides to accept a tender, then the tender of the lowest price must be accepted.
- 21.2. Where the evaluation criteria were specified as the Most Economically Advantageous Tender, the tender must be evaluated against the evaluation criteria published in the tender documents. Where a scoring model is used, the individual scores and total scores must be recorded. If the Council decides to accept a tender then the record of the evaluation must clearly show how the decision was reached.
- 21.3. The results of the tender evaluation must be recorded and retained on the tender file.

22. Post Tender Clarification and Negotiation

- 22.1. This section applies to tenders where the value of the contract is below the Public Procurement Threshold. For tenders above the Public Procurement Threshold advice is available from the Head of Procurement and Service Improvement.

- 22.2. Post tender negotiations may only take place if the tender documents stated and reserved the right to do so.
- 22.3. Negotiations must be conducted by a team of at least two officers of the Council.
- 22.4. Negotiations must be conducted with all suppliers unless there are clear reasons for excluding one or more suppliers.
- 22.5. Written records must be retained of all negotiations.

23. Acceptance of Tenders and Award of Contracts

- 23.1. The Head of Service may accept tenders based on the award criteria.
- 23.2. When a contract is awarded, notification must be given to the successful supplier and the unsuccessful suppliers. The notification must state the basis of the acceptance of the winning. Unsuccessful suppliers must be given the reason why their individual tender was unsuccessful and be offered feedback on their tender submission. A 10-day standstill period must then be observed between notification of award and entering in to a contract.
- 23.3. The notification of award must make clear that it is subject to a formal contract and that any challenge may negate the ability of the Council to enter in to such a contract.
- 23.4. All contracts over £5,000 must be notified to the Head of Procurement and Service Improvement to allow a central database of contracts to be maintained.

24. Contract Documentation

- 24.1. All contracts must be in writing. For purchases up to £50,000 a Purchase Order referring to the terms and conditions may be used where the contract is of a non-complex nature. In all other cases the form of contract must be agreed with the Head of Procurement and Service Improvement.
- 24.2. The contract must, as a minimum, contain the following terms:
 - (a) that the supplier may not sub-let, assign or transfer to any person all or part of the contract without the written permission of the council;
 - (b) the goods, services or works to be supplied;
 - (c) the price to be paid including any discounts;
 - (d) the period for compliance/term of the contract;
 - (e) any insurance requirements; and

- (f) termination rights.

25. Collaborative arrangements

- 25.1. Where a requirement can be fulfilled through an existing arrangement already in place through another authority and the requirements of the Regulations have been satisfied, purchasing through that arrangement will be in compliance with these standing orders. This includes purchasing through arrangements that have been entered in to for example with purchasing consortiums such as, but not limited to ESPO and the OGC
- 25.2. When contracting with other public sector bodies to put in place a contract that all parties can enter in to, these Contract Standing Orders will be deemed to have been satisfied if the Contract Standing Orders of the body leading the procurement have been satisfied. Nothing in this section removes the requirement for compliance with the Regulations.