

PART 3G Contracts Standing Orders 2016/17

Definitions

- 'Aggregation' is the combining together of the total contract value from separate contracts where they meet a single requirement for works, goods or services or where a series of contracts within a twelve month period are for the same type of goods or services.
- 'Appropriate Officer' is the Chief Executive, Strategic Directors, Director, City Solicitor or any other officer designated by resolution of the Executive.
- 'Authorised Officer' is any officer permitted by an ~~an Chief Officer~~ Appropriate Officer to authorise orders and contracts as per clause 2.4.
- 'Best Value for Money' is the optimum combination of whole life costs, quality and benefits, including economic, environmental and social value to meet the customer's requirement.
- 'Bradford District' is the geographical area administered by the Council.
- 'Call Off' is a separate purchase from an existing framework agreement that creates a binding contract. The framework agreement sets out: terms and conditions, standards and prices although further competition may be permitted. The full EU procurement rules do not apply provided the rules were followed in the setting up of the framework agreement and the contractor(s) on the framework have already met the required technical capability and financial standing to perform the contract.
- ~~'Chief Officer' is the Chief Executive, Strategic Directors, Director, City Solicitor or any other officer designated by resolution of the Executive.~~
- 'Contract' means a formal agreement between the Council and any Contractor made by issue of a letter of acceptance or official order for:
 - the supply of works, goods or services including consultants
 - a call-off from a framework agreement
 - an arrangement where no payment is made but there is financial value to the Contractor e.g. a catering concession

It does not include employment and property contracts or grant agreements.

- 'Contracts Finder' is the government a portal for information on public sector contracts contracts over £10,000 with the government and its agencies <https://online.contractsfinder.businesslink.gov.uk/>
- 'Contract Value' is the total monetary value over its full duration, including any extension options (not the annual value).
- ~~'Contract and Grant Register' a record of all grants and contracts except one-off purchases under £5,000.~~ the Council's database of all contracts, commissioned activity,

purchase orders, framework agreements, and other legally enforceable agreements with a value exceeding £5,000 and grants of any value.

- 'Contractor' an individual or organisation that contracts with the Council to provide works, goods or services.
- 'Controlled Entities' a subsidiary company of the Council where the Council exercises control similar to that over its own departments, the subsidiary carries out at least 80% of its activity for the Council and there is no direct participation of private capital.
- 'Corporate Contract' is an agreement procured in consultation and for the benefit of more than one Council department. More details can be found on Bradnet <http://intranet.bradford.gov.uk/working-day/corporate-contracts>.
- 'Council' means the ~~local authority or~~ City of Bradford Metropolitan District Council.
- 'DPS or Dynamic Purchasing System' is an electronic process for commonly used purchases that are generally available and is open throughout the contract period to any new supplier that meets the selection criteria.
- 'Electronic Auction' is a process whereby suppliers who have submitted admissible tenders can revise their original prices or values during the period of the auction.
- 'EU Procurement Rules' are the Directions and Regulations implemented by the UK to set out the law on public procurement.
- 'EU Thresholds' the financial threshold at which the EU Procurement rules are applicable.
 - As of 1st January 2016 these are: Works (maintenance and construction) €5,186,000 (£4,104,394) and Services and Supplies €207,000 (£164,176).
 - Social, Health and some other services will have a threshold of €750,000 (£589,148) and a new light touch regime has been introduced.
- 'Exception to Competition Log' a record held by the Assistant Director Finance and Procurement of all contracts awarded without competition because the contract meets one or more of the requirements listed in CSO 9.1~~a record of all contracts awarded without competition as a result of the contract meeting one of the requirements listed in CSO 10.1 now incorporated as separate fields in the Contract and Grant Register.~~
- 'Framework Agreement' an agreement which sets out the terms and conditions under which the Council can make specific purchases ("call-off") from a Contractor(s) to provide services, goods or works at agreed standards and prices. If the Council calls off services, goods or works from the Contractor then a binding contract comes into place.
- 'Grant' for the purposes of these contract standing orders means a formal agreement giving financial assistance to an individual or organisation to assist in meeting its general purpose or objectives but where the specific supply of goods, works or services is not required in return. There may be award criteria, performance targets

and conditions on how the money is spent and Officers should monitor these in accordance with the terms of the grant agreement.

- 'Light touch regime' applies to social, health and some other services as listed in Schedule 3 of the Public Contracts Regulations where a higher threshold applies below which the Council has more freedom on the procurement procedures to apply providing they are sufficient to comply with the principles of transparency and equal treatment of suppliers.
- 'Local Supplier' is any supplier that provides works, goods or services from a location within the Bradford District or where a substantial number of any employees working directly on the contract are resident in the Bradford District.
- 'Officer' means employee(s) of the Council.
- 'OJEU' is the Official Journal of the European Union which is the publication in which all tenders from the public sector above relevant financial thresholds must be published.
- ~~'Procurement Risk Assessment Form' a form which evaluates the overall risk of the procurement by assessing the likely impact of the procurement in terms of key criteria such as: corporate priorities, equalities, community benefits, information security, complexity, timescale, value.~~
- 'Public Service Mutual' an organisation which has left the Council parent body but continues to deliver public services. Mutuals are organisations in which employee control plays a significant role in their operation.
- 'Quotation' a formal written offer to execute works, purchase supplies, or provide services at a stated price of a value less than £100k.
- 'Sheltered workshop' an organisation that employs a proportion of disadvantaged or disabled workers which allows the supplier to be eligible to bid for certain types of contracts which can be specifically reserved to organisations meeting the criteria.
- 'SIRO' Senior Information Risk Owner is the person with overall accountability and responsibility for information governance. Currently the Strategic Director Corporate Services.
- 'Tender' a written offer to supply or purchase goods, execute works or provide services at a stated price of a value more than £100k.
- 'TUPE' means the Transfer of Undertakings (Protection of Employment) Regulations 2006.
- 'Whole Life-Cycle Costs' is an estimate of the total costs of works, goods or services over their life. It is a combination of the purchase price, implementation and operating costs, procurement and contract management costs, disposal costs less any residual value.

- ‘YORtender’ is the procurement portal ~~for the Yorkshire and Humber region used by the Council –(www.yortender.co.uk)– which must be used for obtaining quotes or tenders all contracts over £5,000.~~

1 Introduction

- 1.1 The purpose of Contract Standing Orders is to set clear rules by which the Council spends money on works, goods and services. The rules apply to any contract or grant that results in payment being made by the Council.
- 1.2 Public procurement must be undertaken in accordance with principles enshrined in EU and national legislation. The Council must always act to promote competition and to ensure that each procurement is conducted as an open, transparent and fair competition. The Council must avoid practices which may restrict or distort competition.
- 1.3 All amounts quoted in these Standing Orders are exclusive of recoverable VAT.
- 1.4 Any dispute or difference as to the interpretation of these Standing Orders shall be resolved by the City Solicitor.
- 1.5 The Assistant Director Commissioning Finance & Procurement shall undertake a formal review of Contract Standing Orders on an annual basis which will be reported to the Governance and Audit Committee.

2 Compliance

- 2.1 Failure to comply with these Contract Standing Orders result in disciplinary action against the officers concerned.

- 2.2 Every contract made by or on behalf of the Council for works, goods and services and all Council employees engaged to act in any capacity to manage or supervise a contract must comply with:-

- EU Procurement ~~rules where applicable~~Directives
- All relevant statutory provisions including the Public Contracts Regulations 2015, competition law and Public Services Acts (e.g. Social Value, Care Act 2014)
- The Council’s Constitution including these Standing Orders, the Council’s Financial Regulations and the Council’s Procurement policies
- The Council’s strategic objectives and policies

- 2.3 All Council employees and organisations engaged on the Council’s behalf shall ensure that all procurement activity is undertaken with regard to high standards of probity and in a manner which avoids any conflicts of interest. Any conflicts of interest that do arise shall be dealt with in accordance with the Council’s ‘*Code of Practice in relation to Conflicts of interest and Registration of interests*’ available from the Human Resources intranet pages.

- 2.4 In applying these Standing Orders, all officers shall have regard to the duty of Best Value under the Local Government Act 1999.

- 2.5 Within limits specified by him/her, an ~~Chief Officer~~Appropriate Officer may permit other officers to authorise orders and contracts in their own names on behalf of the Council. Any orders or contracts made shall remain the responsibility of an ~~Chief Officer~~Appropriate Officer. ~~Chief Officer~~Appropriate Officers must maintain an up to date record of authorised officers.
- 2.6 All orders for works, goods or services must be placed using the Council's approved systems in advance of the invoice being received and coded to the appropriate account codes. Miscellaneous payments must only be used where the payments is not as a result of a purchase. For example, a refund, grant payment or third party payment
- ~~2.6 With regard to new major projects all officers must comply with the approved Project Management Framework documents.~~
- 2.7 Exemption from these Standing Orders shall only be awarded-used in exceptional circumstances and following authorisation by either:
- 2.7.1 The Executive after considering a report by an ~~Chief Officer~~Appropriate Officer; or
- 2.7.2 An ~~Chief Officer~~Appropriate Officer obtains the agreement of the Strategic Director Corporate Services and the City Solicitor. ~~A—The Chief Officer~~Appropriate Officer must retain written reasons of the decision.
- 2.8 Exemptions authorised under Standing Order 2.7.2 will be reported to Governance and Audit Committee on a quarterly basis.
- 2.9 All ~~Chief Officer~~Appropriate Officers are responsible for ensuring compliance by their staff and shall report all breaches to the Assistant Director of ~~Commissioning and Procurement~~Finance and Procurement.
- ~~2.10 Failure to comply with these Contract Standing Orders and the Commissioning Framework may result in disciplinary action against the officers concerned.~~

3 Social, Economic, Environmental and Ethical Considerations

- 3.1 In formulating proposals for a services contract, the Authorised Officer must consider the Public Services (Social Value) Act implications and whether and to what extent any ethical, social or environmental aspects of procurement should be taken into account. These would include: the Council's Fair Trade Policy, sustainability, equality and diversity, living wage, means of production and community benefit (including maximising employment and training opportunities within the District).
- 3.2 Where appropriate and always subject to EU law and Public Contract Regulations, the Authorised Officer should ensure tenders or quotes are framed in such a way to encourage local suppliers, small and medium sized companies (SME's) and third sector organisations such as social enterprises to bid. This may includes dividing the contract into lots.

4 Pre-Contract Requirements for all Contracts

- 4.1 The procurement of works, goods or services should be done through existing approved arrangements where they exist. These include:
- In-house provision
 - Corporate contracts, framework agreements or DPS
- 4.2 Other arrangements should be considered and used where it can be evidenced that they provide best value for money:
- Contracts, framework agreements or DPS established by central purchasing bodies (Crown Commercial Services, YPO etc.) or other public body
 - Collaborative or shared service arrangements with another public body
 - Alternative delivery vehicles such as Controlled Entities (Teckal) or Public Service Mutuals
 - Sheltered workshops
 - Other approved e-procurement solutions (e.g. purchasing cards)
- 4.3 Where the Council has an in-house provision and the estimated contract value is less than £100,000, external suppliers can only be used when the **Strategic Director** Appropriate Officer providing such in-house provision confirms that they are unable to meet the requirements on that occasion due to insufficient resources, skills or capacity.
- 4.4 If the estimated contract value is more than £100,000, the **Strategic Director** Appropriate Officer providing such in-house service may also be required to clearly demonstrate that they provide best value for money.
- ~~4.5 In the event that the Strategic Director providing such in-house provision is able to sub-contract the works, goods or services to an external supplier, they must obtain the agreement of the Strategic Director requiring the works, goods or services before doing so.~~
- 4.5 All procurement processes will be proportionate to the total value of the contract (see Table 1), the nature of the works, goods or services and the Council will produce clear accessible documentation which must be available in electronic format.
- 4.6 Before inviting tenders or quotations, the Authorised Officer must:
- 4.6.1 for contracts with a total estimated contract value in excess of £2m, report details to the relevant Overview and Scrutiny Committee using the **agreed pre-contract reporting process determined by the Assistant Director of Commissioning & Procurement** standard Committee report template. For clarity, details of call-off contracts from a framework or DPS do not need to be separately reported providing the original framework has been reported except where the relevant Overview and Scrutiny Committee request a separate report.

- 4.6.2 have carried out, where appropriate pre-procurement engagement with the market (including talking to suppliers, clients and other stakeholders) to understand the availability, strengths and weaknesses of markets and to develop the specification and the best value for money procurement and contractual approach. Pre-engagement with the market must be done in such a way that ensures the subsequent procurement process remains open, fair and transparent with no supplier gaining an unfair advantage which would distort competition.
- 4.6.3 consider whether a framework agreement, DPS or electronic auction is appropriate and would deliver best value for money seeking advice from the Assistant Director of Commissioning and Procurement Finance and Procurement where necessary
- ~~4.7.4 divide the contract into separate lots or indicate in the procurement document the main reasons why this would not provide value for money~~
- 4.6.4 be satisfied that a written and clear specification has been prepared which will form the basis of the contract.
- 4.6.5 where there is a significant supply risk and for all contracts valued over £100,000, complete a procurement risk assessment form (~~held by Commissioning and Procurement~~available on Bradnet) and produce and maintain a documented risk log
- 4.6.6 consider at the outset any equality and diversity implications that may require an equality impact assessment to be undertaken
- 4.6.7 consider at the outset any TUPE implications
- 4.6.8 consider at the outset any data protection, information security or data processing implications that may require additional schedules or terms and conditions and need the SIRO to be notified
- 4.6.9 consider at the outset any implications from the Social Value Act
- 4.6.10 prepare and document an estimate of the whole life-cycle costs including where appropriate any on-going costs and/or disposal costs and ensure that the cost is within the approved current and future budget provision for both capital and revenue expenditure
- 4.6.11 ensure that all evaluation criteria including sub-criteria have been determined in advance, put in order of relative importance or weighting and published in the tender documentation. ~~This includes any selection criteria used to evaluate the supplier and award criteria used to evaluate the tender or quote.~~Selection criteria must be relative and proportionate following statutory guidance issued by the Secretary of State.
- 4.6.12 ensure that electronic versions of all the appropriate and approved forms of procurement documentation is available through an internet portal immediately on publication of any advert

4.7 Before entering into any contract, the Authorised Officer must

4.7.1 be sure that they have the necessary authority to enter into the contract and that these Standing Orders, the Council's Financial Regulations and procurement advice have been complied with, and that the proposed contract represents best value for money

4.7.2 be satisfied about the technical capability of such proposed contractor; and

4.7.3 where there is a significant supply risk and all contracts which exceed £100,000, consult with the Strategic Director Corporate Services and the Assistant Director of Commissioning and Procurement Finance and Procurement to agree appropriate checks on the financial and resource capacity of the contractor to perform the contract and to agree what, if any, security should be provided for performing the contract. Forms of security include such as: parent company guarantee, Director's guarantee and performance bonds.

4.8 Authorised Officers are responsible for arrangements to ensure the proper control and use of Council ordering and contracting procedures, in accordance with guidance issued by the Strategic Director Corporate Services and City Solicitor.

4.9 All quotations and tenders must be undertaken using the Council's standard template documentation unless prior approval has been obtained from the Assistant Director of Commissioning and Procurement Finance and Procurement

~~5 Selective Tendering From Approved Lists~~

~~5.1 Selective tendering from an approved list does not comply with the new regulations when inviting bids for a total contract value over £25,000 and must not be used.~~

5 Contracts under £25,000

~~6.1 For contracts valued at below £25,000, there are minimal competition requirements and the Authorised Officer concerned should proceed in a manner to enable the most efficient management of the service but must use a local supplier where the supply base is available.~~

5.1 The Authorised Officer must be able to demonstrate best value for money and may must invite quotes using local suppliers only where the supply base is available. All quotations must be in writing.

5.2 Officers shall retain a written record of actions taken and the reasons.

5.3 Invitations to quote over £5,000 must use the Council's procurement portal, Yortender-YORtender and all contracts over £5,000 must be recorded on the Contract and Grant Register.

6 Contracts between £25,000 and £100,000

6.1 The Authorised Officer must either:

6.1.1 seek at least 4 written quotations ~~by selecting suppliers registered on YORtender inviting a minimum of two local suppliers where the supply base is available, or~~

6.1.2 advertise an open invitation to tender using both YORtender and Contracts Finder

~~or advertise an invitation to tender for a proposed contract of an estimated contract value of over £25,000 and up to £100,000 inviting a minimum of two local suppliers where the supply base is available. All invitations to quote or invitations to tender for contracts must use the Council's procurement portal, YORtender and also Contracts Finder. A record must be kept of the reasons for accepting a quotation or tender.~~

6.2 If 4 quotations or tenders cannot be obtained owing to insufficient suitable suppliers prepared to quote or provide tenders, then the Authorised Officer must keep a record of this.

6.3 No pre-qualification questionnaire is permitted during the procurement stage ~~under the EU threshold but~~ suitable assessment questions ~~which are relevant and proportionate may be asked to assess eligibility are part of the Council's template procurement documents.~~ Only the winning bidder(s) will be required to submit certificates and documents as evidence of their legal and financial standing and technical or professional ability in addition to specific requirements relating to insurance, health and safety, equality, environmental management etc.

7 **Contracts over £100,000**

7.1 Where the contract value is likely to exceed the EU threshold, taking account of the rules of aggregation, it must be tendered in accordance with the relevant EU procurement rules. ~~The exception to, unless~~ this rule is through an existing framework or DPS agreement that has been established via a compliant EU procurement process.

7.2. Before commencing any process for the procurement of works, goods or services with an estimated contract value in excess of £100,000 or any process which involves a proposed service transfer or the development of a strategic partnership, the Authorised Officer must consult the Assistant Director of ~~Commissioning and Procurement~~ Finance and Procurement.

7.3 For contract values of £100,000 or more, contractors must be appointed by one of the procedures under Contract Standing Order ~~9-8~~

7.4 All tenders shall be advertised and available for download on the YORtender system and Contracts Finder. Standard template documentation must be used

7.5 All tenders above the relevant EU threshold must be advertised in the OJEU.

8 **Procurement Procedures**

8.1 The **open procedure** under which all those interested may respond to the advertisement by submitting a tender. This is often the most expedient system and

enables all of the suppliers in the market that wish to engage in the process to submit a tender. There is no pre-qualification questionnaire (PQQ) or short-listing stage prior to invitation to tender (ITT).

8.2 The **restricted procedure** under which a selection is made of those who respond to the advertisement and only they are invited to submit a tender. This procedure can only be used for tenders above the EU threshold for goods and services. ~~For clarity this procedure can be used for works contracts above the EU threshold for goods and services but below the EU threshold for works.~~

8.3 ~~The following procedures apply to more strategic, complex or high value projects and must be done in consultation with the Assistant Director Finance and Procurement as there are limited circumstances under which this process can be used.~~

8.4 The **competitive dialogue procedure** under which a selection is made of those who respond to the advertisement and the Council enters into dialogue with potential bidders to develop one or more suitable solutions on which the chosen bidders submit a tender. This can be used where the contract is complex and cannot be purchased “off the shelf”

8.5 The **competitive procedure with negotiation** under which a selection is made of those who respond to the advertisement and only they are invited to submit a tender. The Council may then open negotiations to seek improved offers. ~~This applies to more strategic, complex or high value projects and must be done in consultation with the Assistant Director Commissioning and Procurement as there are limited circumstances under which this process can be used.~~

8.6 The **innovation partnership procedure** under which a selection is made of those who respond to the advertisement and the Council uses a negotiated approach to invite suppliers to submit innovative ideas to meet a need where there is no suitable existing “product” on the market. The partnership can be awarded to more than one supplier.

~~**9.6** The Public Contracts Regulations contain both mandatory and discretionary grounds for exclusion of a supplier from the tender process which now includes previous poor performance. The time limits are five and three years respectively but if a supplier provides evidence to demonstrate its current reliability this must be evaluated in light of the seriousness of the misconduct and relevance of the exclusion criteria.~~

9 Exceptions to Requirements of Competition

9.1 Subject to the statutory requirements for procurement processes above EU thresholds and provided that the market for a proposed contract has been investigated and it can be demonstrated that departure from these Rules is justifiable and provides overall value for money, no procurement process is required where one or more of the following exceptions apply:

9.1.1 the purchase of proprietary or patented goods or materials or services which, in the opinion of the Authorised Officer in consultation with the

Assistant Director Finance and Procurement, are obtainable only from one supplier, and where no reasonably satisfactory alternative is available;

9.1.2 the execution of works or the supply of goods or services are controlled by a statutory body

9.1.3 the execution of works or supply of goods or services are of a specialised nature which, in the opinion of the Authorised Officer in consultation with the Assistant Director Finance and Procurement, are carried out by only one supplier, and where no reasonably satisfactory alternative is available;

9.1.4 the execution of works or supply of goods or services for which the Authorised Officer in consultation with the Assistant Director Finance and Procurement can demonstrate that no genuine competition can be obtained;

9.1.5 the purchase of a named product required to be compatible with an existing installation as approved by the Authorised Officer in consultation with the Assistant Director Finance and Procurement;

9.1.6 procurements made through or on behalf of any consortium, local authority, statutory or similar body provided that tenders or quotations are invited and contracts placed in accordance with national or EU legislation;

9.1.7 obtaining work or supplies from the Industrial Services Group or other in-house service provider;

9.1.8 special education, health or social care contracts, if in the opinion of the Authorised Officer and following consultation with the Assistant Director of ~~Commissioning and Procurement~~ Finance and Procurement, it is considered in the Council's interests and to meet its obligations under relevant legislation;

9.1.9 the execution of works or the supply of goods and services that are required so urgently as not to permit compliance with the requirements of competition. However these should be immediately reported to the Assistant Director Finance and Procurement.

9.1.10 carrying out, with the approval of the Strategic Director Corporate Services, security works where the publication of documents or details in the tendering process could prejudice the security of the works to be done.

9.2 The Authorised Officer must retain written reasons justifying the decision to use Standing Order 10.1 and be able to demonstrate that best value for money has been obtained.

9.3 Any contract awarded using an exception to competition shall be notified to the Assistant Director Commissioning & Procurement ~~and recorded~~ who will record the contract in the "Exceptions to Competition Log".

10 Submitting and Opening Tenders and Quotations

- 10.1 Every invitation to tender or request for a quotation must state that a tender or quotation will only be considered if it is received by the specified closing date and time ~~by the Council's approved on-line electronic tender process via YORtender~~, or for quotes below £5,000 at the specified ~~place in a sealed envelope with the word "QUOTATION" and the title of the contract written on it. The Authorised Officer must keep the envelopes received in secure custody date and time.~~
 - 10.2 All tenders or quotations for each contract must be opened ~~together~~ by ~~two~~ officers appointed by the Authorised Officer at a prescribed time.
 - 10.3 The Authorised Officer must keep a record of all tenders and quotations.
 - 10.4 The Authorised Officer ~~shall after~~ must consultation with the Assistant Director Finance and Procurement disqualify a tender or quotation which fails to comply with the requirements of this Standing Order and must return the tender or quotation to the tenderer or quotation provider stating the reason for the disqualification.
- 11 Errors in Tenders and Quotations**
- 11.1 Prior to acceptance of any tender or quotation received, any arithmetic error or other minor discrepancy made in good faith can be corrected by the City Solicitor after consultation with the Authorised Officer in one of the following two ways:
 - 11.1.1 The tenderer shall be given details of the error(s) found during the examination of the tender and shall also be given the opportunity of confirming without amendment or withdrawing the tender; or
 - 11.1.2 Amending the tender to correct genuine arithmetic error(s) provided that in this case, apart from these genuine arithmetic errors, no other adjustment, revision or qualification is permitted.
 - 11.2 A written record must be kept of all such amendments
- 12 Post Tender and Quotation Negotiations**
- 12.1 In the interests of ensuring an open, fair and transparent process, negotiation following receipt of tenders is only permissible in limited circumstances.
 - 12.2 No negotiation ~~must be undertaken~~ is permitted following receipt of final tenders where the tender was subject to EU procurement rules ~~except where the "competitive procedure with negotiation" or "innovation partnership" has been used.~~
 - 12.3 The Authorised Officer may, after consulting with the Assistant Director of ~~Commissioning and Procurement~~ Finance and Procurement, and where it is intended to obtain better value for money, authorise negotiations with one or more tenderers or quotation providers where s/he considers that none of the tenders or quotations are acceptable and it is in the Council's interests to do so.
 - 12.4 Negotiation on behalf of the Council should be conducted by two or more Authorised Officers and a written record kept of the negotiation.

13 Accepting Tenders and Quotations

- 13.1** Prior to accepting a tender or quotation the Authorised Officer must evaluate all tenders and quotations received in accordance with the evaluation criteria issued with the tender documentation.
- 13.2** The Authorised Officer can only accept the most economically advantageous tender or quotation ~~using whole-life costs~~ and must record the reasons for acceptance.
- 13.3** The Authorised Officer must investigate any tender considered to be abnormally low, ~~and disregard any bid based on approaches in breach of environmental or social law.~~
- 13.4** All suppliers who submit a tender or quotation should be notified in writing of their success or failure in a timely manner using the standard documents and offered feedback.
- 13.5** For all tenders covered by the EU procurement rules, the minimum statutory standstill period is required between notification of the award decision and final contract award.
- 13.6** All contracts over £5,000 must be awarded on the YORtender system and all contracts over £25,000 must also be awarded on Contracts Finder. All contracts above the EU threshold must also be published in OJEU.
- 13.7** For every contract, framework or DPS agreement over the EU threshold, a written report must be retained which includes details of:
- the winning bid,
 - the suppliers involved,
 - results of any selection process,
 - the value and subject matter of the contract,
 - justification for using any negotiated type procedure,
 - any decision not to award,
 - reasons for not using electronic communications,
 - any conflict of interest,
 - reasons for rejecting abnormally low bids.

14 Contract Extensions, Variations or Novation

- 14.1** The Authorised Officer can extend a contract by any value subject to the extension being permitted within the scope and terms of the original procurement and contract and before the expiry date.
- 14.2** An options appraisal must be undertaken to determine if it represents best value for money to extend the contract and any approval required must be sought in a timely manner
- 14.3** The Authorised Officer must make every effort to negotiate improved terms with regard to the cost and quality of the goods or services.

- | 14.4 No extension shall be made until funding has been secured in accordance with the Council's Financial Regulations or any other similar requirement.
- | 14.5 All contract variations must be carried out within the scope of the original contract and must not materially affect or change the contract.
- | 14.6 A new procurement will be required if the proposed variation has a material change where one or more of the following are met;
 - | 14.6.1 the variation introduces new conditions which had they been part of the original procurement procedure would have allowed other candidates to be selected to bid or the contract to be awarded to another tenderer
 - | 14.6.2 the variation changes the economic balance in favour of the contractor
 - | 14.6.3 the variation extends the scope of the contract considerably
- | 14.7 Contract variations which are not within the scope of the original contract ~~are also permitted where:~~ must be reported to:
 - | 14.7.1 ~~additional works, goods or services are required and a change of contractor cannot be made for economic or technical reasons or would cause significant operational disruption~~ the Assistant Director of the Service if the value of the variation is less than 25%,
 - | 14.7.2 ~~the variation could not have been foreseen and does not alter the overall nature of the contract~~ the Strategic Director of the Department if the value of the variation is greater than 25%, and
 - | 14.7.3 ~~any increase in price is still within the financial threshold of the original procurement and does not exceed 50% of the initial contract value~~ the Strategic Director of Corporate Services if the value of the variation is greater than 50%.
- | 14.8 In the event that a Supplier ceases to provide the work, goods or services whether as a result of insolvency, company restructuring, company purchase, termination of the contract or any other reason then the Authorised Officer must consult with the Assistant Director of ~~Commissioning and Procurement~~ Finance and Procurement before novating or assigning the contract to a new Supplier

| 15 **Written Contracts**

- | 15.1 The Authorised Officer must ensure every contract is in writing.
- | 15.2 Every contract with a contract value of £100,000 or more must be executed under seal as a Deed with the common seal of the Council by the City Solicitor where:
 - the Council wishes to enforce the Contract for more than 6 years after its end (e.g. for land or construction works); or
 - it is required by parties to the Contract; or

- the price paid or received under the Contract is a nominal price and does not reflect the value of the goods/services; or
- the City Solicitor deems it necessary taking into account the nature of the contract

~~16.3 Contact the City Solicitor where a contract is required to be sealed as a Deed, for example property and construction contracts or where the documents need to be retained for more than six years after the end of the contract.~~

15.3 Otherwise the following rules for signature apply:

- any contract with a total value over £2 million must be signed by an Chief Officer~~Appropriate Officer~~
- any contract with a total value less than £2million must be signed by a Senior Officer ~~(3rd tier Manager or above,)~~ except
- where the total contract value is less than £100,000 and more than £25,000 in which case an Authorised Officer can sign within the limits specified by an Chief Officer~~Appropriate Officer~~ as per contract standing order 2.4.

15.4 All contracts with the exception of one-off purchases below £5,000 shall be recorded on the Contract and Grant Register.

15.5 A briefing note ~~is required~~should be submitted to the Assistant Director Finance and Procurement using the prescribed document for all new contracts or extensions to contracts where the total contract value is over £100,000

16 Professional Services, ~~and Consultants~~ and Intermediary Employment

16.1 An Authorised Officer may only appoint external consultants providing professional or consulting services if such services are not available within the Council or if Council officers providing them do not have the resources to meet the needs of the Authorised Officer.

16.2 Inline with HMRC IR35 and CIS rules the Authorised Officer must identify the employment status of workers providing works or services in instances including the following:

- Consultancy work
- Self employed contractors
- The engagement of a worker through a limited company or other body
- The use of a Personal Services Company
- The engagement of a CIS registered contractor

16.3 The Authorised Officer must consult the Assistant Director Finance and Procurement for all Construction Industry Scheme (CIS) contractor appointments and payments.

~~17.2 An Authorised Officer must consult with the Strategic Director providing such services before making an external appointment.~~

17 Contract Conditions

17.1 The Council's Standard terms and ~~conditions, available on bradnet, should~~conditions should be entered ~~into wherever possible~~ for all contracts. ~~If this is not possible a supplier will be asked to submit their terms which must be formally approved by the City Solicitor prior to entering into the contract. Any exception must be reported to the City Solicitor and the Assistant Director Finance and Procurement.~~

17.2 The above rule shall not apply to:

- UK government standard documentation or government sponsored schemes such as Academies and amendments may be made for best value for money or project specific reasons.
- Construction and/or engineering contracts where bespoke conditions based on accepted industry practice are used e.g. JCT, NEC3 or ICE

~~18.3 All written contracts shall contain:~~

- ~~• details of the work, goods or services to be provided~~
- ~~• full details of the prices to be paid, frequency and any discounts~~
- ~~• the period or times over which the contract is to be performed~~
- ~~• suitable provisions that state that valid undisputed invoices will be paid by the Council within 30 days and a condition requiring contractors to include similar provisions in their contracts, and so on down the supply chain~~
- ~~• a termination clause relating to circumstances where there has been a breach of EU law on public procurement particularly where this results from a change in the awarded contract~~

18 Leases and Other Credit Agreements

18.1 The Authorised Officer must ensure that prior to entering into any lease or credit arrangement which has a capital cost, the cost must first be approved for inclusion in the Capital Investment Plan in accordance with Financial Regulations relating to capital expenditure.

19 Grants

19.1 The Authorised Officer must follow the Council's principles, processes and template documents as appropriate for awarding grants prior to entering into any grant arrangements

19.2 Before awarding any grant with an estimated value in excess of £100,000, the Authorised Officer must consult the Assistant Director of ~~Commissioning and Procurement~~Finance and Procurement.

| **19.3** All grant agreements shall be recorded in the Contract and Grant Register.

| **20 Payment for Work on Account**

| **20.1** The Strategic Director Corporate Services will make payments on account only on certificates (or other forms approved by the Strategic Director Corporate Services) which have been issued by the Authorised Officer, or the Architect/Engineer/Supervising Officer appointed to deal with a particular contract.

| **20.2** ~~As a general principal p~~Payment for goods, works and services are not to be made in advance of delivery other than in a low contract value and low risk situation.

| **21 Claims**

| **21.1** The Authorised Officer must inform the City Solicitor of all claims by or against suppliers which are the subject of formal dispute resolution or litigation between the Council and the supplier.

| **22 Contracts Where Members Have an Interest**

| **22.1** Where no competitive tendering process has been undertaken, no supplier or organisation in which a member has an interest, may be chosen or appointed unless the member's interest has been disclosed in accordance with the Members' Code of Conduct.

TABLE 1

Value Band	Total Contract Value	Procurement Options	Additional procedures
1	£0 - £24,999	<ul style="list-style-type: none"> • Minimal competition requirement but Must demonstrate value for money • Must use in-house or corporate contract • Must use local supplier if available • Consider using purchasing card for low value, low risk purchases • Invite one or more quotes if appropriate 	<ul style="list-style-type: none"> • All quotes in writing • Use Yortender for quotes over £5,000 • All contracts over £5,000 to be entered in the Contract & Grant Register
2	£25,000 - £99,999	<ul style="list-style-type: none"> • Must use in-house or corporate contract • Consider availability of an existing suitable framework or DPS arrangement (call-off) • Consider if exception to competition applies • Minimum of four quotes inviting at least two local suppliers if available • Formal tender process 	<ul style="list-style-type: none"> • All quotes in writing • Use Yortender for quotes or formal tender • All contracts to be entered in the Contract & Grant Register
3	£100,000 – EU threshold	<ul style="list-style-type: none"> • Must use in-house or corporate contract • Consider availability of an existing suitable framework or DPS arrangement (call-off) • Consider if exception to competition applies • Formal tender process 	<ul style="list-style-type: none"> • All proposed contracts must be referred to Commissioning & Procurement • Complete Procurement Risk Assessment Form • Use Yortender for formal tender • Complete briefing note for contract award and extensions • All contracts to be entered in the Contract & Grant Register
4	Above EU threshold	<ul style="list-style-type: none"> • Must use in-house or corporate contract • Consider availability of an existing suitable framework or DPS arrangement (call-off) • Full EU tender process with advert published in OJEU 	<ul style="list-style-type: none"> • All proposed contracts must be referred to Commissioning & Procurement Finance and Procurement for consultation and advice • Complete Procurement Risk Assessment Form • Use Yortender for formal tender • Complete briefing note for contract award and extensions • Report to Overview & Scrutiny for contracts over £2million • All contracts to be entered in the Contract & Grant Register