

Contract Standing Orders 2015 (with changes tracked from 2014 (current) version)

Contract Standing Orders ~~May 2014~~August 2015

Section 4 – Rules of Procedure ~~May 2014~~August 2015

Part 6 – Contract Standing Orders

PART 6. CONTRACT STANDING ORDERS

49. _____ SCOPE AND APPLICABILITY

49.1 _____ These ~~standing orders~~Standing Orders apply to all contracts entered into by the Council or by Schools from a delegated budget on behalf of the Council.

49.2 _____ These ~~standing orders~~Standing Orders apply to the procurement of all works, services (including consultants) and supplies and the disposal of assets, land and property.

Value of Contracts

49.3 _____ In these ~~standing orders~~Standing Orders references to the value of contracts are exclusive of VAT.

49.4 _____ For the purpose of these Standing Orders the value of the contracts is the total value of the works, supplies or services for the duration of the contract, including contract extensions and variations.

49.5 _____ These Standing Orders apply to all contracts except contracts referred to in ~~standing order~~ Standing Order 51.2418.1.

49.6 _____ Expenditure must not be sub divided in order to avoid the provisions of these Standing Orders.
~~Standing Orders~~.

Procurement of Works Supplies and Services.

49.7 These ~~standing orders~~Standing Orders set out the principles of how the Council will administer contract procurement and management. Officers must comply with the procedures set out in the Council's Corporate Procurement Unit (CPU) guidance on the procurement pages of the intranet.

49.8 It shall not be obligatory to invite tenders for a contract, seek an exemption of Standing Orders or to give public notice of the intention to enter into a contract for the provision of supplies, services and works

49.8.1 where effective competition is prevented either by government control or by the supplies or services being proprietary and/or are sold only at a fixed price; or

49.8.2 solely as an extension of an existing contract with the Council; or

49.8.3 where tenders have been obtained in compliance with Public Procurement Contracts Regulations, 2015 (as may be amended from time to time), as enacted by Council officers working on a particular procurement project ("a Council Group"), another public body, a local authority consortium, a national agency which is recognised as carrying out procurement for the benefit of public bodies or another local authority as

part of a joint purchasing arrangement of which the Council is either a member or permitted to use ~~preferably by name but at least by class~~ by name or the Council is clearly identifiable as a potential purchaser in the call for competition or the invitation to confirm interest.

50. STATUTORY REQUIREMENTS

- 50.1 Every contract entered into by the Council or an Officer acting on the Council's behalf shall comply with the EEC Treaty and with any relevant directives of the EU for the time being in force in the United Kingdom together with UK law, the Council's environmental and other policies where this is possible within the legislation.
- 50.2 Where the estimated value of contracts exceed the relevant EU Procurement Directive value thresholds then EU tendering requirements as set out in the Public ~~Procurement~~ Contracts Regulations 2006 ~~2015~~ ("PCR 2015") (as may be amended from time to time) must be complied with in conjunction with and in addition to these Standing Orders. For the purpose of these Standing Orders the EU Threshold means the threshold as set out with in the Public Contract Directive (as may be amended from time to time) for public supply contracts, public works contracts and public service contracts awarded by local authorities (Annex A).

51. — CONTRACT TERMS

- 51.1 All contracts entered into by the Council shall be in writing utilising the ~~eTendering portale-~~ Tendering system currently in place, with the exception of disposal of Council assets, land and property referred to in Standing Order 55.
- 51.2 All contracts shall be made upon the conditions of contract approved by the ~~Executive~~ Head of ~~Legal Services~~ SLLP
- 51.3 All contracts shall require contractors to comply with all relevant policies of the Council.
- 51.4 All contracts shall be awarded following competitive tendering carried out in accordance with the requirements of these Standing Orders by this Council or by such other public sector bodies or buying agencies as provided for within ~~Contract~~ Standing Order 49.8.3.
- 51.5 All supplies, services and works will be procured in accordance with requirements and value thresholds set out in Standing Order 54. ~~4.2~~ Competition Requirements unless exemption is provided in Standing Order 55.
- 51.6 Where an external person or organisation is required to supervise a contract on the Council's behalf, then the responsible Council officer shall ensure that the external person or organisation complies with all the requirements of these Standing Orders as though that external person or organisation were a Council officer.
- 51.7 Before commencing any tender process or other procurement exercise officers must consider the need to consult with the Corporate Procurement Unit and/or their directorate adviser as necessary, who will advise on the conditions of contract required and the appropriate methods and procedures to be used, ~~and the Executive. The~~ Head of ~~Legal Services~~ SLLP shall be consulted on any bespoke conditions of the contract that might be required. Officers must have proper regard for all necessary, legal, financial, procurement, insurance and other professional advice.
- 51.8 Details of all contracts entered into will be available on the e-Tendering portal, excluding disposal of Council assets, land and property referred to in Standing Order 55 and details provided to the Head of Procurement for recording onto the Council's contracts register.

- 51.9 Officers must take such due-diligence steps as may be necessary to confirm the identity and bona fides of any prospective contractor and in relation to the transaction generally. This may require compliance with the client identification procedures required by the Money Laundering Regulations (2007) or land registry requirements (where applicable). Any suspicions in relation to money laundering must be reported immediately to the Council's Money Laundering Reporting Officer (Head of Audit).
- 51.10 ~~A Statement of Good Understanding (Regulation 23 of the Public Contract Regulations 2006) forms part of the suite of templates for Request for Quotations (RFQ), framework agreements and tenders.~~ Prospective contractor's Chief Executives (or equivalent) ~~are~~must be asked to sign a declaration confirming, as a minimum, that ~~none of their staff who they~~ have ~~powers of representation have been found guilty of such offences answered the questions in the tender documentation correctly, accurately, in good faith and that there is no conflict of interest in relation to the Council's requirement.~~
- 51.11 All tenders for the procurement of ~~supplies~~works, services and ~~works~~supplies will be submitted securely through the council's e-Tendering portal. For the avoidance of doubt, the term 'tenders' includes Quick Quotes (QQ) and Requests for Quotation (RFQ).

Environmental Requirements

- 51.12 To allow the Council to meet its own performance targets, suppliers of works, ~~goods and services and supplies~~ to the Council will need to comply with the following requirements:-
- 51.12.1 ~~Where the value of supply a contract is above £30,000 and the contract has an impact on the environment, all suppliers and contractors must have a documented environmental policy compliant with ISO 14001 or equivalent. The rationale for a documented policy must be acknowledged in the specification.~~
- 51.12.2 ~~Where the value of the supply a contact is above £150,000 the EU Threshold and has an impact on the environment, all suppliers and contractors must either have a registered environmental management system, for example ISO14001 or, EMAS or equivalent, or implement an environmental improvement programme proportionate to the contract requirements as set out in the specification.~~ The environmental management system must be registered by a UK Government approved, or other EU Governmental equivalent accredited body. If required, the Council will agree the Environmental Improvement Programme and monitor performance periodically.
- 51.12.3 ~~51.12.1 and 51.12.2 will be a key criterion for establishing a list of tenderers, tender evaluation and for the employment of relevant consultants- whenever they are proportionate to the contract requirements as set out in the specification.~~
- ~~51.12.4 While the environmental requirements set out above must be proportionate to the contract requirements as set out in the specification, agreement must be obtained from the sustainability team if they are not to be included in the contact requirements.~~
- 51.13 For contracts that are likely to exceed ~~£150,000 in total~~EU Threshold, suppliers ~~and contractors~~ must supply a method statement as outlined in tender standard templates. The method statements requirements must be proportionate to the contract requirements as set out in the specification.

51.14 All tender documentation for Quick Quote (QQ), Request for Quotation (RFQ), tenders & Council framework agreements will require the inclusion of the Council's Vision & Values which includes an Environmental Statement (One Planet Sutton Purchasing Policy). This requirement is reflected in the Corporate Procurement Unit (CPU) suite of templates available in guidance on the procurement pages of the intranet.

~~51.15 — Contracts that are likely to exceed £150,000 in total and where there are significant transport or accommodation emissions must include a requirement for the contractor to provide carbon emissions information to enable the Council to measure the greenhouse gas emissions that are a consequence of their activities but which occur at sources that they do not own or control. Such information will be required to be provided in a specified format suitable for reporting to the Department of Energy and Climate Change (DECC).~~

Corrupt Practices

51.16 Every contract shall include a clause allowing the Council to ~~cancel~~immediately terminate the contract and to recover from the contractor the amount of any loss resulting from the ~~cancellation~~termination of the contract if the contractor shall have offered or given or agreed to give any person any gift or consideration of any kind as an inducement or reward for doing or procuring to be done or for having done or having procured to be done any action in relation to the obtaining or execution of the contract or any other contract with the Council or for showing, procuring to show favour or disfavour to any person in relation to the contract or any other contract with the Council or if like acts shall have been done by any person employed by the Council acting on his/her behalf (whether with or without the knowledge of the contractor) or if in relation to any contract with the Council the contractor or any person employed by him/her or acting on his/her behalf shall have committed an offence under the Bribery Act 2010 or shall have given any fee or reward the receipt of which is an offence under Section 117(2) Local Government Act 1972.

Contract Conditions

51.17 Every contract must be in a form approved by the ~~Executive~~ Head of ~~Legal Services~~SLLP.

51.18 Every contract over £500,000 shall be sealed with the common seal of the Council. Committee approval is required before any contract is sealed, with the exception of:

51.18.1 The Head of Asset Planning, Management and Capital Delivery in consultation with the ~~Executive Assistant Director of Corporate Governance and~~ Head of ~~Legal Services~~SLLP shall be authorised to sign any contracts arising for the supply of electricity and gas obtained in compliance with Public Procurement Regulations, as enacted: by a local authority consortium, a national agency recognised as carrying out procurement for the benefit of public bodies or another local authority as part of a joint purchasing arrangement of which the Council is a member.

51.19 —Every contract shall contain:-

51.19.1 a specification of requirements and the outcomes to be achieved;

51.19.2 —the price to be paid with a statement of discounts or other deductions; and

51.19.3 —the time or times within which the contract is to be performed.

51.20 Every contract which exceeds £500,000 in value or amount and is for the provision of works, supplies, and services ~~and works~~ otherwise than at one time, shall provide for adequate redress

within the terms and conditions of contract in the event of default by the contractor and as agreed by the ~~Executive~~ Head of ~~Legal services~~ SLLP.

Quality Assurance

- 51.21 Requirements for quality and quality assurance shall be included in every contract entered into by the Council. Such requirements shall be as set out in the Council's Policies.
- 51.22 Where an appropriate British Standard or European Standard specification ~~or British Standard or European~~ and/or code of practice issued by the British Standards Institution or equivalent European Institution is current at the date of tender, every contract - where such a standard is proportionate to the requirements of the specification - shall require that all goods and materials used or to be supplied and all workmanship shall be to a standard not less than the British Standard or European Standard

52. PROCUREMENT PROCESS

- 52.1 Every tender issued shall include such documents as the ~~Executive~~ Head of ~~Legal Services~~ SLLP and the Head of Corporate Procurement Unit (CPU) may require. Where procurements are above EU Threshold all procurement documents, including the contract, must be available at the time the contract opportunity is advertised via the council's E-Procurement tool. Procurements above £30,000, in addition to being advertised via the council's E-Procurement tool, must be advertised on Contracts Finder within 24 hours of the initial advertisement having been placed.
- 52.2 Every tenderer shall be required to accept the specification of requirements and terms and conditions of contract including a certificate as to canvassing and a certificate of non-collusion. Note the latter document does not apply to Quick Quotes (QQ) ~~and Request for Quotation (RFQ)~~.
- 52.3 All invitations to tender issued must include the criteria and sub criteria upon which tenders will be evaluated together with the respective weighting to be applied to each.

How the Council will undertake procurement

- 52.4 Officers must first consider and where required use EU compliant contracts and framework agreements already tendered by the Council or those available to the Council let by other public sector bodies or consortia for the procurement of all supplies services and works
- 52.5 Where the Council has a tendered contract or framework agreement for a category of supplies services and works, officers must use such contracts or framework agreements for the procurement of relevant supplies, services and works unless they obtain the agreement in writing of the Head of Procurement.
- 52.6 Where supplies services and works cannot be obtained through an existing contract or framework agreement officers must comply with the competition requirements in Standing Orders 52.8 - 52.10.
- 52.7 However, where services in excess of £2.5m for works contracts are called off from an existing framework agreement the written authorisation of the relevant Strategic Director in conjunction with the Chair of the appropriate Committee and the Lead Member for Resources shall suffice.

Competition Requirements

- 52.8 The ~~table~~ tables in SO 52.10 ~~is~~ are compiled to take account of the ~~differences regarding~~ Public Procurement Contracts Regulations, ~~as enacted 2015~~ and the EU financial thresholds depending

on whether ~~they are Supplies, Part A Services, Part B Services~~ the subject-matter of the contract is works, supplies or Works noting that new Regulations are currently being debated. ~~services.~~

52.9 All tendering procedures are to be carried out in accordance with the requirements and timescales set out in the Council's Procurement Unit Guidance on the procurement pages of the intranet.

~~It is confirmed that Part B Services will be abolished and therefore will only apply until Public Contract Regulations come into force during 2014.~~

52.10 Competition – Threshold Requirements

Estimated Value : -	<u>Advertising Requirement</u>	<u>Minimum number of organisations to be invited to tender.</u>	<u>Tender Procedure</u>	<u>Authorisation required for Contract Award</u>
Up to £30,000	E-Tender Portal	5 Organisations, including a local organisation, if feasible	Quick Quote (<u>Request for Quotation (RFQ)</u>) if quality weighting required for evaluation)	Executive Head <u>to award</u>
£30,001-£150,000- (below) EU Threshold	Council website and E-tendering <u>Tendering Portal.</u> <u>and Contracts Finder.</u> Plus Trade Journal where appropriate (Optional).	N/A open procedure	Request for Quotation (RFQ) <u>RFQ</u>	Strategic Director <u>to award</u>
£150,001 (or the EU Threshold whichever is the lower) up to £(and above) - £500,000	OJEU Notice Council website and E-tendering <u>Tendering Portal.</u> <u>and Contracts Finder.</u> Plus Trade Journal where appropriate (Optional).	A minimum of five organisations who express interest must be formally asked to tender	EU Compliant Open/Restricted Or Competitive Dialogue <u>Others</u>	<ul style="list-style-type: none"> · <u>Report to go before the Commissioning Board in an advisory capacity before award.</u> · Strategic Director in conjunction <u>consultation</u> with the Strategic Director of Resources <u>Finance</u> <u>to award</u>
Over £500,000	OJEU Notice Council website and E-tendering <u>Tendering Portal.</u> <u>and Contracts Finder.</u> Plus Trade Journal where appropriate	A minimum of five organisations who express interest must be formally asked to tender	EU Compliant Open/Restricted Or Competitive Dialogue <u>Others</u>	<ul style="list-style-type: none"> · <u>Report to go before the Commissioning Board in an advisory capacity before award.</u> · <u>Relevant committee to award</u>

	(Optional).			
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<u>TABLE 2</u> <u>HEALTH, SOCIAL, EDUCATION AND CERTAIN OTHER SERVICE CONTRACTS</u> <u>SUBJECT TO THE LIGHT TOUCH REGIME (SCHEDULE 3 OF THE PCR 2015)</u>				
<u>Part B Services</u> <u>Estimated Value</u> <u>:-</u>	Advertising Requirement	Minimum number of organisations to be invited to tender.	Tender Procedure	Authorisation required for Contract Award
<u>Estimated Value :-</u>				
Up to £30,000	E-Tender Portal	5 Organisations, including a local organisation, if feasible	Quick Quote (<u>Request for Quotation (RFQ)</u>) if quality weighting required for evaluation)	Executive Head <u>to award</u>
£30,001- £150,000-(below) £172,514	Council website and E-tendering Tendering Portal. <u>and Contracts Finder.</u> Plus Trade Journal where appropriate (Optional).	N/A open procedure	Request for Quotation (RFQ) RFQ	Strategic Director <u>to award</u>
£150,001 (or the EU Threshold whichever is the lower) up to £172,514 (and above) –(below) £500,000	OJEU Notice Council website and E-tendering Tendering Portal. <u>and Contracts Finder.</u> Plus Trade Journal where appropriate (Optional).	A minimum of five organisations who express interest must be formally asked to tender N/A open procedure	EU Compliant Open/Restricted Or approved Competitive Dialogue RFQ	· <u>Report to go before the Commissioning Board in an advisory capacity before award.</u> · <u>Strategic Director in conjunction consultation with the Strategic Director of Resources Finance to award</u>
£500,000 (and above) –(below) £625,050	E-Tendering Portal and <u>Contracts Finder.</u> Plus Trade Journal where appropriate (Optional)	N/A open procedure	<u>RFQ</u>	<u>Report to go before the Commissioning Board in an advisory capacity before award.</u> · <u>Relevant committee to award</u>
Over £500,000 <u>£625,050</u>	OJEU Notice Council website and E-tendering Tendering Portal. <u>and Contracts Finder.</u> Plus Trade Journal where appropriate (Optional).	A minimum of five organisations who express interest must be formally asked to tender	EU Compliant Open/Restricted Or Competitive Dialogue <u>Others</u>	· <u>Report to go before the Commissioning Board in an advisory capacity before award.</u> · <u>Relevant committee to award</u>

~~Part B Services will only be relevant until the Public contracts Regulations 2015 come into force in 2014~~

Works	Advertising Requirement	Minimum number of organisations to be invited to tender.	Tender Procedure	Authorisation required for Contract Award
Estimated Value :-				
Up to £30,001	E-Tender Portal	5 Organisations, including a local organisation, if feasible	Quick Quote	Executive Head
£30,001-£150,000	Council website and E-tendering Portal. Plus Trade Journal where appropriate (Optional).	N/A open procedure	Request for Quotation (RFQ)	Strategic Director
£150,001-£500,000	OJEU Notice Council website and E-tendering Portal. Plus Trade Journal where appropriate (Optional).	A minimum of five organisations who express interest must be formally asked to tender	EU Compliant Open/Restricted Or approved Competitive Dialogue	Strategic Director in conjunction with the Strategic Director of Resources
Over £500,000	OJEU Notice Council website and E-tendering Portal. Plus Trade Journal where appropriate (Optional).	A minimum of five organisations who express interest must be formally asked to tender	EU Compliant Open/Restricted Or Competitive Dialogue	Relevant committee

Tender Procedures

- 52.11 All tender processes will comply with the requirements and thresholds set out in CSO 52.10 and the procedures set out in the Corporate Procurement Unit (CPU) guidance on the procurement pages of the intranet.
- 52.12 The Competitive procedure with negotiation, Competitive Dialogue Procedure procedure, the Innovative Partnership procedure, may only be used in exceptional circumstances as outlined in the Corporate Procurement Unit (CPU) guidance on, or a Dynamic Purchasing System established, after Council Officers have agreed the procurement pages appropriateness of the intranet and Council officers must take advice from procedure with the Head of Procurement and the commissioning board.
- 52.13 Each tender process shall be conducted in an equitable, fair, non-discriminatory and transparent manner for each contract

Permission to Tender

- ~~52.13~~ 52.14 Strategic Directors and Executive Heads of Service have the authority to commence a tendering process provided that such action is included in one of the Council's business plans and financial provision has been obtained. 52.13 Strategic Directors and Executive Heads of Service shall authorise the commencement of a tendering process - provided that such action is included in one of the Council's business plans and financial provision has been obtained.
- 52.14.1 In addition to 52.14, all contracts where the aggregate value is in excess of the EU Threshold must be presented to the commissioning board prior to the commencement of the procurement process.
- 52.14.2 When contracts are for health, social, education and certain other services that are subject to the *Light Touch Regime* as set out within Schedule 3 of the PCR 2015, any

deviations from the procurement process used for above threshold contracts not subject to the light touch regime, must be agreed with CPU and the South London Legal Partnership before the procurement process is advertised.

Tendering - Selection of Tenderers

52.1415 Where the number of organisations expressing an interest in an advertisement is fewer than the number set out in Standing Order 52.10 then all such organisations applying will be asked to tender subject to their meeting the requirements of 52.1617 below.

52.1516 Strategic Directors and Executive Heads will be responsible for ensuring audit trail records are completed on the e-Tendering system showing how tenderers are selected for each contract and the reasons why they were so chosen.

~~52.16~~ ~~The~~52.17 Where contracts are subject to the Public Contracts Regulations 2015 and are above the relevant EU threshold, the suitability to pursue a professional activity; economic and financial standing; and technical capacity, technical capability, experience and resources and professional ability of any organisation must contractor or supplier shall be assessed as adequate in relation if relevant and proportion to the contract being procured before being invited to tender. It is not permissible to use a pre-qualification stage for contracts below the EU threshold, although "suitability assessment questions" may be used provided those questions are relevant to the subject matter and are proportionate, as advised by the CPU.

~~52.17~~ Tenderers shall be selected in an equitable, fair, non-discriminatory and transparent manner for each contract.

52.17.1 Where contracts are subject to the Public Contracts Regulations 2015 and are above the relevant EU threshold, in relation to economic and financial standing, the minimum annual turnover that a contractor or supplier is required to have shall not exceed twice the estimated annual contract value, except in duly justified cases. Where the minimum yearly turnover required exceeds twice the estimated contract value, the justification must be included in the report referred to in PCR 2015 regulation 84(1).

Tenderers sought from Framework Agreements

52.18 This ~~standing order~~ Standing Order applies where tenderers are sought from either a framework agreement, set up in compliance with the Public ~~Procurement~~ Contracts Regulations 2015, as enacted by; a Council Group, another public body, a local authority consortium, a national agency which is recognised as carrying out procurement for the benefit of public bodies or another local authority as part of a joint purchasing arrangement of which the Council is permitted to use in accordance with the Public ~~Procurement~~ Contract Regulations 2015.

52.19 Call-offs either by mini competition and/or direct award from framework agreements will be undertaken in accordance with the rules of the relevant framework agreement. Mini competition and/or direct awards, where required under the relevant framework agreement, must be conducted through the Council's e-Tendering system.

52.20 Tenders will not be required where a framework agreement is with a single supplier or allows the call off of supply without competition. In such cases however officers will need to be able to demonstrate that they have obtained value for money.

Council Framework Agreements

- 52.21 Where there is frequent occasion to go out to tender for a category of work, supply or service a framework agreement of organisations may be compiled for the Council.
- 52.22 ~~Each~~For a multi-supplier framework, each framework agreement must include a minimum of ~~threetwo~~ suitable organisations ~~unless~~. Where the Council has decided to enter into a single-~~supplier~~ ~~is~~framework, a single supplier must be appointed ~~to the single-supplier framework~~.
- 52.23 Each framework agreement shall clearly state the rules for call off by mini competition and/or direct awards of contracts under the framework ~~;~~ as applicable.
- 52.24 Each framework agreement will be compiled as in accordance with the competition requirements set out in Standing Orders 52.8 – 52.~~12~~10.
- 52.25 The suitability of applicants will be evaluated in accordance with the criteria and sub criteria stated in the contract documentation and upon the information submitted in the applicant's submission to be included on the framework agreement
- 52.26 Framework agreements may exist for a maximum of four years ~~;~~ unless the subject-matter of the framework agreement justifies a longer contract period as agreed with the CPU and South London Legal Partnership.

Submission of Tenders – Electronic Submission

- 52.27 All tenders for the procurement of supplies, services and works will be submitted securely through the Council's e-Tendering portal. For the avoidance of doubt, the term 'tenders' includes Quick Quotes (QQ) and Request for Quotation (RFQ).

Tender Opening – Electronic Tenders

- 52.28 Tenders, Quick Quotes (QQ) and Request for Quotation (RFQ) will be opened through the e-Tendering portal within an hour of the time specified in the Invitation to Tender documentation.
- 52.29 No tender, Quick Quotes (QQ) or Request for Quotation (RFQ) received after the time and date specified in the Invitation to Tender documentation will be considered without the express authority of the Strategic Director of Resources.
- 52.30 For tenders with a threshold of over £500,000 opening will be carried out by a representative nominated from the CPU at the time of uploading the tender onto the portal by the ~~Executive~~ Head of Legal Services-Procurement.
- 52.31 No person shall disclose the value, number or any other detail of the tenders receives to any tenderer or anyone not involved with the tender evaluation procedure.

Receipt and Opening of Paper Tenders

- 52.32 Paper tenders may be received for the disposal of Council assets, land and property only as set out in Standing Order 55 for the sale of land and property.

Tender Evaluation

- 52.33 Tenders will normally be evaluated by a panel of a minimum of three officers.
- 52.~~34~~3 Tender evaluation shall be carried out in an equitable, fair, non-discriminatory and transparent manner in accordance with the award criteria set out in the tender documentation and the

procedures set out in the Corporate Procurement Unit guidance on the procurement pages on the intranet.

- 52.35 Where a tender contains errors or discrepancies affecting the tender sum or rates, the relevant Strategic Director or Executive Head, during the tender evaluation may, provided no information is given to the tenderer regarding the effect of such action, give the tenderer the option to:-
- o correct the prices or rates concerned;
 - o continue without correcting the prices or rates;
 - o withdraw the tender.

52.35.1 If a tender is received with an abnormally low price in proportion to the contract requirement, the Council Officer leading the procurement shall require the tenderer/s to explain the price or costs proposed in the tender.

52.35.2 If after consulting the tenderer the Officer is not satisfied that the evidence or explanation provided can satisfactorily account for the low level of price or costs proposed, the Officer should discuss what action should be taken with the Head of Procurement.

Post Tender Negotiations

- 52.36 Officers shall not enter into post tender negotiations with a tenderer in an open or restricted procurement process. This principle also applies to Quick Quote and- Request for Quotation.

Acceptance of Tenders

- 52.37 The authority to award contracts is set out in ~~Contract~~ Standing Order 52.10 and subject to:-

The award being to:

~~52.37.1 The lowest priced tender if payment is to be made by the Council or the highest if payment is to be received by the Council; or~~

~~52.37.2~~

52.37.1 The most economically advantageous tender to the Council (quality and cost) as evaluated in accordance with the tender evaluation criteria set out in the tender documents.

52.37.32 All tender award notifications must be conducted through the Council's e-Tendering system.

Standstill Period

- 52.38 All successful and unsuccessful tenderers for a contract must be notified simultaneously and as soon as possible as to the outcome of the tender process via the e-Tendering portal.

- 52.39 For all contracts with a value exceeding ~~£150,000~~the EU Threshold the Council will apply a standstill period of a minimum of 10 days, noting that the day of issue is considered day 0, to comply with the requirements set out in the Corporate Procurement Unit guidance on the procurement pages of the intranet and the Public ~~Procurement~~Contracts Regulations, ~~as enacted~~2015. Framework Agreement call-off contracts are also included in this requirement.

- 52.40 For Quick Quotes and Request for Quotation telephone debriefs, if requested by tenderers, are permissible.
- 52.41 Where the standstill period referred to in ~~Contract~~ Standing Order 52.4039 applies, Council officers must send a notification, including a debriefing schedule as prescribed by the Corporate Procurement Unit to all organisations submitting a tender stating the minimum of the following:-
- o The Award Criteria
 - o Sub criteria weightings
 - o The ranking of the tenderer in the tender evaluation
 - o The name of the successful tenderer.
- 52.42 If the decision to award is challenged by an unsuccessful tenderer then the contract will not be awarded and the matter shall be referred directly to the ~~Executive~~ Head of ~~Legal Services~~ SLLP to advise.
- 52.43 Where a tenderer requests an additional debrief Council officers must provide this in accordance with the requirements set out in the Corporate Procurement Unit guidance on the procurement pages of the intranet using the e-Tendering portal to ensure a full audit trail.
- 52.44 The advice of the Corporate Procurement Unit must be sought in any situation where a face-to-face debrief is being considered. ~~Commencement of Work~~

Commencement of Work

- 52.45 No supply of works, ~~goods~~ supplies or services is to commence until a sufficiently binding contractual arrangement is in place between the Council and the contractor to the satisfaction of the ~~Executive~~ Head of ~~Legal Services~~ SLLP.

53. — CONTRACT MANAGEMENT

- 53.1 The relevant Strategic Director will maintain accurate and proper records of all contracts for which she/he is responsible. Such records will be in a form which complies with the requirements of the Strategic Director - Resources and ~~Executive~~ Head of ~~Legal Services~~ SLLP.
- 53.2 The relevant Strategic Director shall be responsible for ensuring that all contracts for which she/he is responsible are properly performed and managed.

Variations to Contracts

- 53.3 Where a contract is varied by addition to, omission from or amendments to, such variations must be made promptly in writing noting that any variations must fall within the scope of the original contract.
- 53.4 All variation/s issued must include the scope and an estimate of the value of the variation and the method by which the final value of the variation will be determined. Where tender clarifications occur between invitation to tender and award, all such variations must be captured on the e-tendering portal.
- 53.5 No variation to the term of contract will be given which exceeds the term advertised without the specific agreement of the Head of Procurement and the ~~Executive~~ Assistant Director of Corporate Governance and Head of ~~Legal Services~~ SLLP.
- 53.6 Variations to ~~contract~~ contracts for services, supplies and works require the following authorisation according to value:-
Up to £30,000 – Executive Head

£30,001 – ~~£150,000~~ – below EU Threshold in Annex A, Table 3, Row A (services) – Strategic Director
~~£150,001~~ – EU Threshold in Annex A, Table 3, Row A (services) – £500,000 – Strategic Director with agreement of Strategic Director – Resources
 Over £500,000 – the relevant Committee

53.7 Where contract variations generate a lower contract value and no significant change to the contract specification is envisaged no such authorisations are necessary.

54. — EXEMPTIONS FROM TENDERING

54.1 Exemption from any of the provisions of Standing Orders regarding contracts may be made by decision of the Full Council or the Strategy and Resources Committee. In addition, in respect of tendering requirements only, exemption from the provisions of Standing Orders may be made by decision of the relevant Committee.

54.2 In exceptional circumstances a Strategic Director in conjunction with the Strategic Director - Resources shall have the authority to authorise an exemption from tendering requirements for contracts for services, supplies or works with a value ~~of £150,000~~ equal to or less ~~than the EU Threshold in Annex A, Table 3, Row A (services)~~. The question of whether exceptional circumstances exist in a given case shall be at the discretion of the Strategic Director – Resources. Such exemptions must be applied for in a format and using a process determined by the Strategic Director – Resources. Any exemptions approved under this delegated authority must be reported ~~to the next available meeting of the relevant Committee~~ using the Delegated Decision Notice procedure.

54.3 For the avoidance of doubt, no exemption can be granted by Full Council, Committee or officers under delegated authority from the provisions of the Public ~~Procurement~~ Contracts Regulations ~~as enacted~~ 2015.

55. — DISPOSAL OF LAND BUILDINGS OR OTHER ASSETS

55.1 Except where Standing Order 55 permits, the disposal of Council assets, land and property shall be by open competition.

55.2 For the purpose of this ~~standing order~~ Standing Order competitive tender shall include:

- Public advertisement and receipt of sealed tenders.
- Public Auction.
- The sale of land and property through external agents who offer land and property for sale on the open market.

~~property for sale on the open market.~~

Exemptions from Competitive Tender for Disposals.

55.3 The disposal by competitive tender of Council assets land and property shall not be required:-

55.3.1 ___ For Council assets with a value of less than £30,000.

55.3.2 ___ Where the freehold value of the land and premises owned by the ___ Council to be disposed of is valued at less than £500,000

- 55.3.3 For the sale of houses and flats under the Right to Buy provisions in the Housing Acts and Freehold or Leasehold Enfranchisement under the provisions of the Leasehold Reform Housing and Urban Development Act 1993 or similar legislation.
- 55.3.4 Where, in the opinion of the Executive Head of Finance and Procurement in consultation with the Lead Member for Resources, the disposal of particular land and property to a special purchaser will generate a receipt in excess of that estimated to be achieved through an open market sale and with the agreement the relevant Committee.
- 55.3.5 Where the disposal is part of a regeneration project/programme or required to achieve the requirements of a Council policy or strategy or as a joint venture proposal agreed by the relevant Committee. In all such instances, the market value of the council land shall be established through an independent valuation from a chartered surveyor commissioned by the Executive Head of Asset Planning, Management and Capital Delivery.
- 55.3.6 For commercially leased properties let at market based rents.

Disposal of Land and Property.

- 55.4 All land and property which is considered to be surplus to the Council's service requirements must be notified to the Executive Head of Asset Planning, Management and Capital Delivery who will be responsible for the disposal or other reallocation of such land and property in accordance with the Council's asset management strategy and written procedures for land and property disposals.

Disposal of Council Assets

- 55.5 Disposal of Council assets other than land and property shall be undertaken in accordance with the requirements and written procedures set by the Council's Section 151 Officer. ~~Submission and Receipt of Paper Tenders for the Disposal of Council Assets, Land and Property~~

Submission and Receipt of Paper Tenders for the Disposal of Council Assets, Land and Property

- 55.6 All paper tenders shall be submitted enclosed in a plain sealed envelope addressed to the Strategic Director of Resources which shall bear the word "Tender" followed by the subject to which it relates, but no other name or mark or annotation by which the tenderer can be identified must be indicated on the envelope.
- 55.7 The tender shall be kept securely in the custody of the Strategic Director of Resources until the time and date specified for the opening.
- 55.8 No tender received after the time and date specified in the invitation shall be accepted or considered without the express authority of the Strategic Director for Resources unless there is clear evidence of the tender having been posted by 1st class post at least a day before the tenders were due to be returned.
- 55.9 Tenders received in accordance with this Standing Order shall be opened at the same time and in the presence of:-
- 55.9.1 The Strategic Director for Resources or an Officer of the Council designated by the Strategic Director for Resources;

- 55.9.2 The Executive Head of Asset Planning, Management and Capital Delivery or an officer so delegated by the Executive Head.
- 55.10 All tenders received shall be recorded in a book. All present shall initial each tender opened and shall sign and date a list of all tenders opened.
- 55.11 The officers will date and photocopy each summary sheet showing the main tender prices, which shall be retained for future inspection.
- 55.12 A record shall be maintained of all persons present at each tender opening.
- 55.13 No person shall disclose the value, number or any other detail of the tenders received to any tenderer or anyone not involved with the tender evaluation procedure.
- 55.14 After tender opening, the Executive Head of Asset Planning, Management and Capital Delivery, or the officer so delegated as in 55.9 above, shall be responsible for the secure keeping of the complete set of documents, including the tender envelopes. Such officer shall sign and annotate the list of tenders opened to show that she/he has taken custody of the documents.

56. —OTHER PROVISIONS

Work for Third Parties

- 56.1 The ~~Executive~~ Head of ~~Legal Services~~SLLP must approve contractual arrangements for any work carried out by Council Service Units for third parties or external bodies.

Partnerships

- 56.2 Partnerships with other local public, private, or voluntary and community sector organisations will be entered into subject to the approval of the relevant Committee who shall agree;-
- The terms of reference.
 - Where appropriate, a scheme of delegation to officers to operate within the ~~partnership~~Partnership.
- 56.3 Unless specifically agreed by the relevant Committee, partnership arrangements shall only be entered into in accordance with the provisions of these ~~Contract~~ Standing Orders.
- 56.4 All partnerships entered into shall be subject to approval of the heads of terms by the relevant Committee and the full written terms and conditions by the ~~Executive Assistant Director of Corporate Governance and~~ Head of ~~Legal Services~~SLLP and the relevant Committee.
- 56.5 The ~~Head of SLLP, in consultation with the~~ Executive Head of ~~Legal Services~~Customers Commissioning and Governance, will be responsible for ensuring that adequate arrangements for governance are set up within each partnership entered into. Such arrangements shall include provisions of arranging ~~Contracts~~contracts with external bodies.

Council Members and Contracts

- 56.6 No member shall have authority to enter into any contract on behalf of the Council.
- 56.7 No member shall have any authority to issue any instruction or variation to a contractor of the Council.

ANNEX AContract Standing Orders August 2015: Section 4 – Rules of Procedure August 2015
Part 6 – Contract Standing OrdersEU THRESHOLD LEVELS

The financial thresholds are amended on a regular basis, generally every 2 years.

The current thresholds set out below are from 1st January 2014 to 31st December 2015.

The European public contracts directive (2014/24/EU) applies to public authorities including, amongst others, local authorities.

Table 3

		<u>SUPPLIES</u>	<u>SERVICES</u>	<u>WORKS</u>
<u>A</u>	<u>Local authorities</u>	<u>£172,514</u> <u>€207,000</u>	<u>£172,514</u> <u>€207,000</u>	<u>£4,322,012</u> <u>€5,186,000</u>
<u>B</u>	<u>Social and other specific services (Schedule 3 PCR 2015)</u>	<u>N/A</u>	<u>£625,050</u> <u>€750,000</u>	<u>N/A</u>

Note: The threshold for ‘Social and other specific services’ in row B of the table above is a higher threshold as the European Commission decided that these services are not likely to attract cross-border interest and this gives local authorities flexibility in the procurement of these services. Whilst in the past, services were divided in Part A and Part B services, now this distinction does not exist and, instead, there are services which are subject to the full force of the regulations and other services (‘Social and other specific services’) which are subject to the light touch regime.

The new threshold in row B for ‘Social and other specific services’ is not limited to only Public Health, but will also apply to services procured by Childrens and Adults Social Services and other departments, which procure the following services:

Health, social and related services;
 Administrative social, educational, healthcare and cultural services;
 Compulsory social security services;
 Benefit services;
 Other community, social and personal services including services furnished by trade unions, political organisations, youth associations and other membership services;
 Religious services;
 Hotel and restaurant services;
 Some Legal services;
 Other administrative services and government services;
 Provision of services to the community;
 Some Prison related services, public security and rescue services;
 Investigation and security services
 International services;
 Postal services

Where the officer is seeking to procure for any of the above services, please contact the CPU so that the CPU can advise as to whether the service falls under 'Social and other specific services' and is therefore subject to the higher threshold set out in row B.