

G Contracts Standing Orders

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Glossary of Terms

In these Contract Standing Orders:

Approved List - means a list of suppliers whose basic credentials have been checked. This would normally cover financial stability, compliance with any laws or licences needed to operate, adequate insurance, health and safety policies and the like.

Best Value - means the Council's duty to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. Set out in section 3 of the Local Government Act 1999.

Most Advantageous Tender - means award criteria based on consideration of price, quality and wider benefits e.g. social value to the Royal Borough

National Law - means the Public Contract Regulations 2015 (SI 2015/102) and all other legislation and regulatory requirements in force from time to time which apply to public procurement.

National Threshold - means the value in pounds sterling above which the Public Contracts Regulations 2015 apply to a proposed public contract.

Procurement Forward Plan - means a list of annual projects or contracts identified for future procurement exercises.

Scheme of Management - means a plan providing the director's delegation of authority; showing the names and posts of Council officers, who may seek quotations and tenders, enter into Contracts, place orders and authorise payments on their behalf

General

Introduction

- 1.1 These Standing Orders are part of the Council's Constitution and govern all contracts for the supply of services, goods or materials or for the execution of works entered into by the Council.
- 1.2 These Standing Orders apply to all Contracts except for the following types of Contracts:
 - Grants that the Council is applying for or issuing.
 - Contracts of employment which make an individual a direct employee of the Council;
 - Agreements directly associated with the acquisition, disposal, or transfer of assets or land (to which the Financial Regulations shall apply).

2. Purpose and Principles

- 2.1 These Standing Orders are designed to ensure:
 - best value for the Council
 - non-discrimination and equal treatment
 - transparency and accountability
 - propriety
 - compliance with national (i.e. English) law
 - furtherance of the Council's corporate policies (including social value) and procurement strategy.
- 2.2 The Head of Strategic Procurement provides guidance on the matters to be taken into account as part of any procurement process. These Standing Orders regulate the process when a decision has been made to procure externally.

3. Compliance

- 3.1 Every contract made by or on behalf of the Council must comply with National Law, these Standing Orders and the Council's Financial Regulations.

3.2 Every person who lets, manages or supervises a contract will:

- comply with National Law, these Standing Orders and the Council's Financial Regulations;
- comply with the Council's best value duty (i.e. make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness.)
- consider overall value, including economic, environmental and social value, when reviewing service provision. As a concept, social value is about seeking to maximise the additional benefit that can be created by procuring or commissioning goods and services, above and beyond the benefit of merely the goods and services themselves;
- seek to promote all relevant and current corporate policies;
- act in accordance with the highest standards of propriety and proper practice; and
- ensure that adequate records are kept.

3.3 Where there is a conflict between any provision of these Standing Orders and any other part of the Constitution, there shall be a presumption that the more recently amended, inserted or updated part shall prevail.

3.4 Any reference in these Standing Orders to the making of any decision or carrying out any procedure as part of the procurement shall be interpreted in a manner consistent with the requirement to comply with relevant national rules where the contract is over the National Threshold.

Delegation to Chief Officers

4. Delegation

4.1 Chief Officers may accept quotations and tenders and enter into contracts as set out in these Standing Orders, subject to the provisions of:

Standing Order 5	annual plan and list of contracts
Standing Order 6	key decisions
Standing Order 9.4, 20 and 21	negotiating tenders
Standing Order 28	accepting tenders

- 4.2 Each Chief Officer will maintain a Scheme of Management, showing the names and posts of Council officers who may seek quotations and tenders, enter into Contracts, place orders and authorise payments on their behalf. The scheme will set out the maximum contract value allocated to each member of staff for these purposes. The scheme shall not include the granting of waivers under Standing Order 7.
- 4.3 Each Chief Officer will send their Scheme of Management to the Director of Finance before the start of each financial year and within 7 days of making any changes to the Scheme.
- 4.4 Officers must declare to their Chief Officer and the Director of Legal Services any personal interest in a matter they are dealing with, including one which may impinge on their impartiality to apply these Standing Orders. It is a requirement that all Council officers and external advisors complete a Declaration of Interest in prescribed form prior to any involvement in any drafting of tender documents or any involvement in evaluation of applicants or tenderers. In the event that a conflict of interest materialises during the procurement process, officers must additionally notify their Chief Officer and the Director of Legal Services, in writing, as soon as is reasonably practicable.

5. Annual Plan and list of contracts

- 5.1 As part of the annual budget setting process, each Chief Officer will provide the Director of Finance with a Procurement Forward Plan, which will include the planned procurement activity for the coming year. The Director of Finance will collate the information into an Annual Procurement Forward Plan.

6. Key decisions

- 6.1 Chief Officers must comply with the rules relating to Key Decisions in the Constitution.
- 6.2 The Key Decision Appendix is found in Part 4 of the Constitution - Rules of Procedure; Section D - Access to Information Procedures

Waivers

7. Waivers

- 7.1 Cabinet, the Leader, or any Chief Officer may only authorise a waiver of compliance with these Standing Orders in accordance with this Standing Order 7.
- 7.2 No waiver may be authorised to Standing Orders 2 and 3 or compliance with National Law.
- 7.3 Only Cabinet may authorise a waiver of Standing Orders 4, 5, 6 and 28.
- 7.4 All reports seeking a waiver must include the comments of the Director of Finance, Director of Legal Services and Head of Strategic Procurement. If the comments recommend that a waiver should not be made, a waiver may only be authorised by Cabinet.
- 7.5 Chief Officers must keep a register of waivers and the reasons they were granted, and must summarise these in a report every 6 months to Cabinet and to Overview and Scrutiny Committee.

Pre-contract requirements

8. Contract value and evaluation criteria

- 8.1 Before starting any procurement, the Chief Officer will:
 - estimate and record the value of a proposed contract. The value of Contracts which are subject to these Standing Order is calculated net of VAT and over the total duration of the Contract, including any pilot phases or stages of delivery. The Head of Strategic Procurement will issue guidance which explains how to estimate the value of separate or renewable contracts;
 - during the annual procurement forward planning exercise obtain confirmation from the Director of Finance that the estimated value of the contract is within the approved ~~in~~ budget prior to commencement of a tender exercise. Where the estimated value of a new procurement exercise is not included in the procurement

forward plan, complete a Procurement Initiation Proposal Form (PIP Form) for contracts valued at - £100,000 and over in consultation with Director of Finance and Head of Strategic Procurement before the commencement of the tendering exercise

- produce a Business Case report if the value of the contract is estimated to be £500,000 and over for a services or supplies contract and £1m and over if it is a works contract. The Business Case shall be produced in consultation with Director of Finance and Head of Strategic Procurement and submitted to the Corporate Procurement Board for approval. In the case of an urgency, the Business Case can be approved by the Director of Finance.
- ensure the expenditure has been included in approved estimates or in capital or revenue accounts, or has been otherwise approved by the Council.

8.2 Before starting any procurement which requires competition, the Chief Officer will determine whether the contract will be awarded to the tender which offers the most advantageous tender. In addition, the Chief Officer will determine the outcomes that are required from the procurement in terms of:

- what the contract is to deliver
- the timescales in which outcomes are to be delivered
- how outcomes will support the Corporate Plan
- how the supplier's/contractor's performance will be monitored
- the social value and community benefit that could be delivered

8.3 Where the contract will be awarded to the most advantageous tender, the Chief Officer will determine the evaluation criteria.

9. Consultation

9.1 Before purchasing services or supplies which are also provided in house, the Chief Officer will consult the relevant Head of Service and the Head of Strategic Procurement to explore the opportunity of using the existing contract and ensure the Council obtains Best Value.

- 9.3 Before engaging consultants for training or development purposes, the Chief Officer will consult the Head of Human Resources.
- 9.4 Before negotiating tenders or starting a competitive dialogue in the circumstances set out in Standing Order 20 & 21 respectively, the Chief Officer will consult the Director of Finance, Head of Strategic Procurement and Director of Legal Services who will determine how negotiations or dialogue should be carried out so as to achieve the purposes set out in Standing Order 2.
- 9.5 The Chief Officer will record the outcome of each consultation.

10. Pre-tender/ market testing/quotation enquiries

10.1 Chief Officers may make enquiries of firms before tenders or quotations are invited for all proposed contracts of £25,000 and over in value:

- to establish whether goods, works or services the Royal Borough wishes to purchase are available, and within what price range;
- to establish whether particular firms wish to be invited to tender or quote.

10.2 In making enquiries:

- no information may be disclosed to one firm which is not disclosed to all those which may be invited to tender or quote;
- no firm may be led to believe that the information they offer will necessarily lead to them being invited to tender or quote, or awarded the contract;
- the Chief Officer will keep a written record, including notes of any telephone calls and meetings and the responses received.

Competition requirements

11. Requirement to consider Social Value

11.1 The Public Services (Social Value) Act 2012 requires public bodies in England and partly in Wales, to consider the economic, environmental and

social benefits of their approaches to commissioning and procurement before the process starts. The Act requires authorities to make the following considerations at the pre-procurement stage: a) How, what is proposed to be procured, might improve the economic, social and environmental well-being of the 'relevant area'; b) How in conducting a procurement process, the Authority might act with a view to securing that improvement and whether to undertake a consultation on these matters.

- 11.2 The Chief Officer will use this Act including any updates to it, the Council's Social Value Policy and Social Value Framework to consider social value outcomes which may improve the social, economic or environmental well-being of a relevant area, relevant to what is proposed to be procured. The Chief Officer must only consider those matters to the extent to which it is proportionate and the outcomes of the procurement aligns with the subject matter of the contract.
- 11.3 The Chief Officer shall keep records of all the Social Value outcomes delivered by the Supplier on each contract and summarise them on a report every 6 months to the Director of Finance.

12. Contracts not requiring competition

12.1 Competition is not required:

- a. where a waiver from compliance with Standing Order 13 is granted under Standing Order 7 on one of the following grounds:
- where a tendering exercise produced no tenders or inappropriate tenders; or
 - where tendering was discontinued because of irregular tenders.
 - where works supplies or services can be supplied only by a particular economic operator.
 - where the aim of the procurement is the creation or acquisition of a unique work of art or artistic performance,
 - where competition is absent for technical reasons,
 - where the protection of exclusive rights, including intellectual property rights is required.
 - where because of extreme urgency caused by events unforeseeable by the Royal Borough, the time limits for the open, restricted or competitive negotiation procedures cannot be complied with.

- for contracts for research and development.
 - where additional deliveries by the original supplier are required.
 - for public services contracts following a design contest.
- b. for contracts valued below National Light Touch threshold with registered providers of social services and health services for individual clients or groups of clients;
 - c. for contracts valued below National Light Touch threshold with registered providers of education for individual pupils with special educational needs;
 - d. to engage Counsel (Barristers).

Provided that the Chief Officer has the agreement of the Director of Finance, Director of Legal Services and Head of Strategic Procurement.

13 Contracts valued below the relevant National Threshold

13.1 Where the estimated value of a contract is £500,000 or more for services or supplies, and £1m if it is a works contract, the Chief Officer will be required to produce a completed business case using the Royal Borough's corporate template for reports before commencing any procurement. This applies even if the proposed contract does not require competition in accordance with Standing Order 12.

13.2 Subject to Standing Order 13.1, Chief Officers may enter into contracts where the estimated value is:

- less than £15,000, by seeking one quotation from local firms in accordance with Standing Order 13.3.
- £15,000 to £25,000 after seeking at least 2 written quotations. This should include two local firms in accordance with Standing Order 13.3
- £25,000 or more but less than the relevant National threshold for a services or supplies contract, and up to £500,000 for works contract, after seeking at least 4 written quotations. Two of the firms to be invited to quote should be from local firms in accordance with Standing Order 13.3.

The table below provides a summary of the process

Value	Minimum number of firms required	Places to source suppliers from
less than £15,000 for services, suppliers and works contracts	One firm	Invite from local firms in accordance with CSO 13.3
£15,000 to £25,000 for services, suppliers and works contracts	Invite at least 2 firms	Invite two from local firms in accordance with CSO 13.3
£25,000 to below National threshold for services/supplies and up to £500,000 for works contracts	Invite at least 4 firms	Invite at least two from local firms in accordance with CSO 13.3

- 13.3 The Chief Officer shall use the list of local firms which are onboarded on the Royal Borough's e-procurement portal to seek quotes for the provisions of the works, supplies and services sought. Where there is no appropriate local firms available then the Chief Officer will seek quotations from firms which are competent and financially stable from neighbouring boroughs first before consider firms from other places.
- 13.4 For ensuring transparency, fairness and accountability, contracts valued at £25,000 or more, Chief Officers will ensure that all procurements use the Royal Borough's e-tendering system as prescribed by the Director of Finance and in accordance with procedures issued by the Director of Finance. Any other tendering method may be used only with prior authorisation from the Director of Finance as a request for a waiver in accordance with Standing Order 7. Where e-tendering is used, there is no requirement for hard copies of quotations to be returned. All documentation will be electronic and will be securely accessed and retained on the Royal Borough's e-procurement website.

14. Contracts valued above the relevant National Threshold

- 14.1 Where the estimated value of a contract is above the relevant National Threshold, Chief Officers will invite tenders in accordance with the National Law and will record their reasons for deciding which procedure to use.
- 14.2 The Chief Officer in consultation with the Head of Strategic Procurement shall select and follow through the national rules outlined for each procedure for their procurement namely:
- a) Open procedure
 - b) Restricted procedure
 - c) Competitive procedure without negotiation
 - d) Competitive Dialogue
 - e) Innovative Partnership
 - f) Negotiation without prior publication
- 14.3 Further guidance on each of the procedure will be provided by the Head of Strategic Procurement.

Tendering Approaches/Commercial procurement tools

15. Tendering from the Approved List

- 15.1 This Standing Order applies where the contract is above the National Threshold for Services and Supplies but below the thresholds for Works contract, or where the Chief Officer considers that using the Approved List is appropriate.
- 15.2 Where there is an Approved List e.g. constructionline, Chief Officers will invite at least four tenders from firms within the appropriate category. If there are fewer than 4 firms, Chief Officers will invite tenders from all of them.
- 15.3 Chief Officers will invite firms to tender in rotation. However, 1(one) firm may be nominated where it is the existing contractor or has carried out similar work for the Royal Borough.
- 15.4 Chief Officers will record how they compiled the tender invitation list and, if fewer than 4 firms are invited to tender, the reasons for this.

16. Framework agreement and call off contracts.

- 16.1 Before starting a procurement exercise to conclude a framework agreement, the Chief Officer will consult with the Head of Strategic Procurement to determine if there are other frameworks agreements or existing RBG call off contracts which can be used to meet their requirement.
- 16.2 When setting up a new Framework Agreement, the Chief Officer shall determine the estimated value of the Framework Agreement in accordance with CSO 8.1
- 16.2 If the Chief Officer wish to consider permitting other contracting authorities to use the Framework Agreement, they will need to ensure the Tender Documents and Framework Agreement are structured to enable this.
- 16.3 The tendering process for concluding a framework agreement will follow either the open or restricted procedure as outlined in CSO 18 or 19 respectively and all related principles of concluding a framework agreement as outlined in the Public Contracts Regulation 2015.
- 16.4 The tender documents should clearly set out the process to call off from the framework agreement i.e. whether this will be through a direct award, mini competition or both.

Calling off from an external framework agreement

- 16.5 Before starting the process to call off from an external concluded framework agreement, the Chief Officer will consult with the Head of Strategic Procurement. They will advise on whether the proposed framework agreement is compliant, or an alternative framework agreement approved by the Royal Borough already exist and whether it delivers best value.
- 16.6 The Chief Officer will ensure that the Framework Agreement has been procured in accordance with the Public Contract Regulations 2015, and will check that required criteria for the Royal Borough to use the Framework Agreement are satisfied.

16.7 The Chief Officer will ensure that the call off process is compliant with the principles set out in the Public Contracts Regulations 2015 and the guidance provided by the organisation which owns the Framework Agreement.

17 Dynamic Purchasing System

17.1 Where a Dynamic Purchasing System is considered to be the most suitable solution for procuring the works, goods and services, the Chief Officer will seek guidance on how to set it up, manage the rounds and call offs, from the Head of Strategic Procurement.

17.2 The process for setting up and awarding contracts from a Dynamic Purchasing System must follow rules set out in the Public Contracts Regulation 2015.

18. Open tendering

18.1 Where Standing Order 15 does not apply, then unless the Chief Officer considers that using this procedure is inappropriate, tenders will be invited in accordance with the Open tendering procedure as outlined in the Public Contracts Regulation 2015.

18.2 For works, goods and services contracts, the Chief Officer may publish a prior information notice in Find a Tender Services (FTS) as soon as possible after deciding to proceed with the tendering exercise.

18.3 The Chief Officer will advertise the proposed contract in a manner best calculated to bring it to the attention of the contractors in the trade or profession. The notice will give details of the contract, say how tender documents may be obtained or inspected and state the last date for receipt of tenders. The Chief Officer will place a notice in FTS at the same time.

18.4 The Chief Officer will send contract documents to firms via the e-procurement portal within 6 days of request.

18.5 The last date for receipt of tenders will be at least 35 days from the date of the notice, or at least 15 days where a prior information notice was published.

19. Restricted tendering

19.1 Where Standing Orders 15 or 18 do not apply, then unless the Chief Officer considers that using this procedure is inappropriate, tenders will be invited in accordance with the Restricted procedure as outlined in the Public Contract Regulations 2015 as follows.

19.2 For works, goods and services contracts, the Chief Officer may publish a prior information notice in FTS as soon as possible after approving the requirement.

19.3 For all contracts, the Chief Officer will advertise the proposed contract in a manner best calculated to bring it to the attention of the contractors in the trade or profession. The notice will invite expressions of interest and state the last date for receipt of expressions of interest. The Chief Officer will place a notice in FTS at the same time.

19.4 The last date for receipt of expressions of interest will be at least 30 days from the date of the notice, or at least 15 days in case of urgency.

19.5 The Chief Officer will select at least 5 firms to tender. If fewer than 5 firms express an interest, the Chief Officer will invite tenders from all of them.

19.6 Firms will be given at least 30 days to return tenders, or at least 10 days in case of urgency. These periods will be extended if necessary:

- to allow for extra time to be given to firms to inspect the premises on which the works or services are to be carried out, or
- to inspect documents relating to the contract documents. Reasonable requests for further information relating to the contract documents will be granted, provided the request enables the Council to supply the information not less than 6 days (or 4 days in case of urgency) before the date specified for receipt of tenders.

19.7 The Chief Officer will record how he/she compiled the tender invitation list and, if fewer than 5 firms are invited to tender, the reasons for this.

20. Competitive procedure with negotiation

20.1 Chief Officers may use the competitive procedure with negotiation to award a contract:

- where tendering under Standing Orders 15, 18 or 19 is inappropriate;
- where at the beginning of the procurement exercise, only the minimum requirement to be met by all tenders can be defined and negotiation will be required to award of contract

20.2 Before negotiating tenders, the Chief Officer will consult the Director of Finance, Director of Legal Services and Head of Strategic Procurement who will determine how the negotiations should be carried out so as to achieve the purposes set out in Standing Order 2.

20.3 The Chief Officer will advertise the proposed contract in a manner best calculated to bring it to the attention of the contractors in the trade or profession. The notice will invite requests to be selected to negotiate and state the last date for receipt of requests. The Chief Officer will place a notice in FTS at the same time.

20.4 The last date for receipt of requests to be selected to negotiate will be at least 30 days from the date of the notice, or at least 15 days in case of urgency.

20.5 The Chief Officer will select at least 3 firms to tender. If fewer than 3 firms express an interest, the Chief Officer will invite tenders from all of them.

20.6 The Chief Officer will record how they compiled the tender invitation list and, if fewer than 3 firms are invited to tender, the reasons for this.

20.7 The terms of the contract must remain substantially unaltered. All tenderers will be invited to amend their tenders, in writing, in such matters as the Chief Officer specifies. All negotiations will be conducted

by at least two officers, one of whom is not involved in the contract award. The Chief Officer will keep a written record of all negotiations, including notes of all meetings and the names of all individuals present.

21. Competitive dialogue

21.1 Chief Officers may use competitive dialogue procedure to award a contract:

- where the nature of the procurement or the risk does not permit prior overall pricing;
- where the nature of the procurement is such that a precise specification cannot be drawn up to permit tendering under Standing Orders 15, 18 or 19;
- where the rules of a design contest require the contract to be awarded to one of the successful candidates, provided all successful candidates are invited to negotiate.

21.2 Before starting a competitive dialogue tender process, the Chief Officer will consult the Director of Finance, Director of Legal Services and Head of Strategic Procurement who will determine the conduct of the competitive dialogue process to be followed so as to achieve the purposes set out in Standing Order 2.

21.3 The Chief Officer will advertise the proposed contract in a manner best calculated to bring it to the attention of the contractors in the trade or profession. The notice will invite expressions of interest and state the last date for receipt of expressions of interest. The Chief Officer will place a notice in FTS at the same time.

21.4 The last date for receipt of expressions of interest will be at least 30 days from the date of the notice.

21.5 The Chief Officer will select at least 3 firms to participate in the dialogue. If fewer than 3 firms express an interest, the Chief Officer will invite all of them.

21.6 The Chief Officers shall open a dialogue with firms selected from the assessment of the information provided in response to the qualitative selection stage and invite the successful firms to participate in the dialogue.

- 21.7 Following the conclusion of the dialogue, firms shall be asked to submit their final tenders on the basis of the solution or solutions presented and specified during the dialogue.
- 21.8 The Chief Officer will record how he/she compiled the tender invitation list and, if fewer than 3 firms are invited to tender, the reasons for this.

22 Innovation partnership

- 22.1 Where the aim of the procurement exercise is to develop an innovative product, service or works, then unless the Chief Officer considers that using this procedure is inappropriate, tenders will be invited in accordance with the Innovative Partnership procedure as outlined in the Public Contracts Regulations 2015.
- 22.2 Before using the Innovative Partnership procedure, the Chief Officer shall ensure that product, service or works being procured, cannot be met by purchasing products, services or works already available on the market.
- 22.3 The Chief Officer will consult the Director of Finance, Director of Legal Services and Head of Strategic Procurement who will determine the conduct of the negotiation during the Innovative Partnership process to be followed so as to achieve the purposes set out in Standing Order 2.
- 22.4 The Chief Officer will advertise the proposed contract in a manner best calculated to bring it to the attention of the contractors in the trade or profession. The notice will invite expressions of interest and state the last date for receipt of expressions of interest. The Chief Officer will place a notice in FTS at the same time.
- 22.5 The last date for receipt of expressions of interest will be at least 30 days from the date of the notice.
- 22.6 The Chief Officer will select at least 3 firms to tender. If fewer than 3 firms express an interest, the Chief Officer will invite tenders from all of them.

23. Negotiated procedure without prior publication (Direct Award)

23.1 Chief Officers may negotiate and award tenders:

- where tendering under Standing Orders 15, 18 or 19 produced no tenders or inappropriate tenders; or
- where tendering under Standing Orders 15, 18 or 19 was discontinued because of irregular tenders.
- where works supplies or services can be supplied only by a particular economic operator.
- where the aim of the procurement is the creation or acquisition of a unique work of art or artistic performance.
- where competition is absent for technical reasons.
- where the protection of exclusive rights, including intellectual property rights is required.
- where because of extreme urgency caused by events unforeseeable by the Council, the time limits for the open, restricted or competitive negotiation procedures cannot be complied with.
- For contracts for research and development.
- where additional deliveries by the original supplier are required.
- for public services contracts following a design contest.
- For the repetition of similar works or services awarded to the economic operator, to which the Council awarded an original contract within the past three years and this was disclosed at the outset.

23.2 The Chief Officer will consult the Director of Finance, Director of Legal Services and Head of Strategic Procurement who will determine the conduct of the negotiation process to be followed so as to achieve the purposes set out in Standing Order 2 and 3.

23.3 Contracts awarded under this Standing Order must not exceed three (3) years and a notice of the award published on FTS.

24. Selecting tenderers

24.1 A firm may not be invited to tender or negotiate if:

- it is bankrupt, or is being wound up, or is having its affairs administered by a court, or has entered into an arrangement with

creditors, or has suspended its business activities, or is subject to court proceedings regarding any of these matters;

- it or any of its current directors have been convicted of an offence concerning professional conduct, or have been guilty of grave professional misconduct;
- it has not fulfilled obligations relating to the payment of taxes or social security contributions;
- it has seriously misrepresented information supplied to the Council;
- it is not registered in the professional or trade register of the state in which it is established;
- it may otherwise be excluded from tendering in accordance with National Law.

24.2 Firms will be invited to tender by applying criteria of financial and economic standing and of technical ability. Firms may not be invited to tender on the basis of non-commercial considerations, except for social value consideration or where permissible.

24.3 The Chief Officer will record which firms were invited to tender, negotiate, or dialogue, the reasons they were invited and the reasons unsuccessful firms were not invited.

24.4 The Chief Officer will comply with the relevant National provisions concerning the notification of unsuccessful firms.

25. Inviting tenders

25.1 Where the estimated value of a contract is valued at £25,000 or more, Chief Officers will ensure that all procurements use the Royal Borough's e-tendering system as prescribed by the Director of Finance and in accordance with procedures issued by the Director of Finance. Any other tendering method may be used only with prior authorisation from the Director of Finance as a request for a waiver in accordance with Standing Order 7. Where e-tendering is used, there is no requirement for hard copies of tenders to be returned. All tender documentation will be electronic and will be securely accessed and retained on the Royal Borough's e-procurement website.

- 25.2 Where the contract will be awarded to the Most Advantageous Tender, the Chief Officer will state the evaluation criteria in the tender documents.
- 25.3 Unless a waiver has been granted in accordance with Standing Order 7, all tenders will be submitted electronically. Where such a waiver is in place, all tenders will be submitted on a form approved by the Director of Finance, and addressed to the appropriate Chief Officer.
- 25.4 Where the e-tendering system is not used, the Chief Officer will endorse all tender envelopes with the time and date of receipt, and will keep them secure until the time specified for tender opening. Any tender received after the closing date and time for tenders will not be considered for evaluation and will be returned promptly to the tenderer. This will not apply if no eligible tenders have been opened and the Chief Officer is satisfied that there is evidence of posting or hand delivery in time for receipt by the closing date and time in the normal course of events. A late tender may be opened to ascertain the name of the tenderer but no details of the tender may be disclosed.
- 25.6 No-one may communicate with any firm proposing to tender once the invitation to tender has been posted, or collected by the tenderer. No information relating to that tender process may be disclosed to anyone not involved directly in arranging the contract, except where it is necessary:
- for an officer and/or tenderer to carry out an inspection of works, in which case all tenderers must be offered an equal opportunity to carry out an inspection; or
 - to inform tenderers of a change in the tendering arrangements, including the supply of additional or changed information, in which case all tenderers will be sent the same information at the same time.

26. Opening tenders

- 26.1 Except where e-tendering procedures apply, all tenders will be opened at the same time and place in the presence of the Head of Strategic Procurement and one other officer designated by him or her.

26.2 The Chief Officer will record the following details of each tender in a register of tenders:

- the closing date and time for the receipt of tenders;
- the date and time each tender was received;
- the name of each tenderer and the amount of each tender;
- the date and time the tenders were opened

26.3 All persons present at the tender opening will initial each tender, and sign the register as evidence that they were present.

26.4 Where e-tendering applies, the matters set out in this Standing Order 26 will be dealt with by the e-tendering procedures and recorded electronically

27. Evaluating tenders

27.1 Where a contract is to be awarded to the Most Advantageous Tender, the criteria will be stated in the tender documents, and tenders will be evaluated in accordance with them.

27.2 Where the lowest tender is valued £500,000 or more, or the contract is considered to be critical, the Chief Officer will:

- involve at least one senior officer nominated by the Director of Finance; or
- in consultation with Director Finance obtain an independent financial appraisal or consultant;

The information will be considered by those involved in evaluating the tenders and kept by the Chief Officer.

27.3 Tenders may be amended to correct genuine arithmetic errors. Otherwise, where errors affect the tender figure in an otherwise successful tender, the tenderer will be given details of the errors and an opportunity of confirming or withdrawing its tender.

27.4 The Chief Officer may in writing authorise contact with a tenderer in order to clarify any aspect of its tender not falling within Standing Order 27.3, providing such contact does not distort competition.

27.5 The Director of Finance, Director of Legal Services and Head of Strategic Procurement will provide advice based on National Law in respect of how to process abnormally low tenders and Chief Officers will comply with that advice.

28. Accepting tenders

28.1 No tender may be accepted unless the expenditure has been included in approved estimates or on capital or revenue accounts, or has been otherwise approved by, or on behalf, of the Council.

28.2 Before awarding the contract or accepting a tender, a formal written report using the Royal Borough's corporate template for reports shall be approved by the relevant person authorised to accept tenders. Such report must have comments from Legal, Finance and Procurement.

28.3 Contracts may be awarded by:

- the Chief Officer if the tender is within budget and below £500,000
- the Chief Officer if the tender is within budget and over £500,000 provided they are the lowest price, or within 10% of the lowest if it is Most Advantageous Tender.

The table below provides a summary:

Functions	Leader (also as lead member)	Chief Officer
Accept tenders within budget and below £500,000		x
Accept tenders within budget and £500,000 and over, provided they are the lowest price, or within 10% of the lowest if it the Most Advantageous Tender		x
Accept all other tenders	x ¹	

¹ In consultation with the Lead Member

- 28.4 Following the acceptance of a tender, the Chief Officer will disclose the name of the successful tenderer to an unsuccessful tenderer, provide feedback on their submission and allow the mandatory standstill to expire before entering into a contract with the winning supplier.
- 28.4 Chief Officers will keep a register of all contracts awarded by them and provide the relevant information to the Head of Strategic Procurement for the contract to be recorded on the corporate contracts register.
- 28.5 For all contracts value above the National Threshold, Chief Officers will send a Contract Award Notice to FTS within 30 days of the award.

Contracts

29. Contract execution

- 29.1 Every contract where the value exceeds £100,000 will either be made under seal, or will be signed by two officers nominated by the Director of Legal Services.
- 29.2 Every other contract will be in writing and be signed by a Chief Officer or a person whom a Chief Officer has authorised to sign on their behalf.

30. Contract conditions

- 30.1 Every contract where the value exceeds £100,000 will include terms and conditions of contract approved by the Director of Legal Services.
- 30.2 No tender or quotation shall be invited unless it includes relevant terms and conditions of contract previously approved by the Director of Legal Services.

31. Contract specifications

- 31.1 Chief Officers will ensure contracts specify any appropriate quality, performance, safety and other characteristics describing the requirement.

31.2 Technical specifications will be defined by reference to relevant National specifications where they exist.

31.3 Specifications will not refer to supplies of a particular make or source unless:

- the contract requirement justifies it, or
- the contract requirement cannot otherwise be described precisely and intelligibly.

32. Contract performance, monitoring and management

32.1 A lead contract officer or contract manager must be identified for each contract. Where no lead contract officer is identified, the lead contract officer will be deemed to be the budget holder of the section from which the contract is funded or where there is no budget holder, the lead contract officer will be the Chief Officer.

32.2 Contract Performance will be measured against the following minimum criteria but may be subject to change:

- a. Performance and compliance with specification and contract
- b. Cost and any value for money requirements
- c. User satisfaction and risk management
- d. Equality and fairness
- e. Supplier Financial Health Check
- f. Supplier Tax Status Check
- g. Relevant Due Diligence clarifications including Modern Slavery

32.3 The Chief Officer shall keep records of performance of contracts value at £100,000 and above, or 'critical' contracts, and produce a summary report 6 months or more frequently if appropriate to the Director of Finance.

32.4 The Chief Officer will raise incidents of poor performance with the contractor in writing, or at a meeting where notes are made and sent to the contractor. In cases of particularly poor performance, or persistent poor performance, the Chief Officer will consider whether to take formal action under the default provisions of the contract and recommend suspension or exclusion if the contractor is on an Approved List.

32.5 Chief Officers will comply with any guidance issued by the Director of Finance and Head of Strategic Procurement relating to performance management of contractors.

33. Contract variation during the life of the contract

33.1 A formal written report approved by the Chief Officer shall be required where any variation decision would:

- extend the contract period by 50% or by more than four calendar months, whichever is the lesser, for service or supplies contracts. For works contracts the contractual process is used to extend the contract for a period of no more than 12 calendar months, and the Chief Officer shall keep a record of these matters; or
- add more than 10% to the estimated value of service or supplies contracts which are above the National Threshold or add 15% to work contracts which are above £1m. The Chief Officer shall keep a record of all changes; or
- increase it from below the relevant National Threshold to above the relevant National Threshold; or
- mean the works, services or goods to be added to or deleted from the contract are substantially different in scope.

33.2 The value of a variation is calculated by taking the aggregate value of all variations made to the contract and/or in accordance with the applicable National rules where the contract is over the relevant National Threshold.

33.3 No variation may be made until funding has been identified in accordance with the Council's Financial Regulations.

33.4 Standing Order 33.1 does not apply in cases of urgency, where the Chief Officer may approve a variation.

33.5 Comments of the Director of Finance and Director of Legal Services and Head of Strategic Procurement shall be required on any report recommending a variation to a contract which has a value, whether before

or after the proposed variation, that is above the relevant National Threshold.

- 33.6 Chief Officers will keep a record of all variations and summarise them in a report every 6 months to Cabinet and to Overview and Scrutiny Committee.

34. Nominating products/contractors/suppliers

- 34.1 These Standing Orders will be used where a sub-contractor or supplier is to be nominated to a main contractor. Sub-contractors or suppliers will send with their tender an undertaking to work for the main contractor and to indemnify them in respect of the sub-contracted works or supplies.