

Standing Orders For Contracts

Last revised May 2007

C1. APPLICATION OF STANDING ORDERS

C1.1 Goods, materials, and manual work

Anyone making a contract for the Council to buy goods or materials, or have manual work done, must comply with these standing orders (C1 to C19), and must act in such a way that the Council obtains the best value reasonably achievable in all the circumstances. If the Council engages anyone other than an Officer of the Council to supervise a contract, it must be a condition of his appointment that he complies with these Standing Orders. In deciding how to obtain best value, the option of using the Council's DSO or including it in any bidding process must be considered.

C1.2 Large quantities or values of work must not be broken down into smaller units for the purpose of creating lower value contracts if the main reason is to evade any provision of these Standing Orders. Where there are sound operational or management reasons for breaking work down, these must be approved personally by any two of the Chief Executive Officer, the Director of Administration and Leisure and the Director of Finance. The approving officers must not be responsible for the contract in question. The value of "term" or "call-off" contracts is to be taken in accordance with Standing Order C.19.

C1.3 All contracts must also comply with relevant European Law, and any relevant statute or other English law. Where there is a conflict between these Standing Orders and any binding rule of law, the law must prevail.

C1.4 Small Contracts for Goods, materials, and manual work.

a) subject to Standing Orders C1.8 and C1.9, if the value of a contract for goods, materials or manual work is no more than £1,500 the requirements for selection of a contractor or supplier are:-

- that at least two verbal or written quotations are obtained unless the value is less than £500 or the Relevant Chief Officer has personally agreed that the circumstances justify an exception to this requirement;
- that all quotations are recorded on the contract file;
- that the contract terms are reasonable for the Council in all the circumstances.

b) Subject to Standing Orders C1.4 (a), C1.8 and C1.9, if the value of a contract for goods, materials, or manual work is no more than £5,000, the requirements for selection of a contractor or supplier are:

- that at least three verbal or written quotations are obtained;
- that all quotations are recorded on the relevant file; and
- that the contract terms are reasonable for the Council in all the circumstances.

Nothing in part (a) or part (b) of this Standing Order dispenses with the need to obtain the best value reasonably achievable in accordance with Standing Order C1.1.

C1.5 **Professional and Consultancy Services**

The Chief Executive Officer has provided written instructions on the procurement of professional and consultancy services. He may amend these from time to time. His instructions are intended to ensure that the Council gets value for money and the quality it wants, and that arrangements are properly documented. The current instructions are appended to these Standing Orders. Staff procuring professional and consultancy services must follow them or whatever instructions replace them. Only paragraphs C1.5, C1.10 and C1.11 of these Standing Orders apply to the procurement of professional or consultancy services.

Exceptions

C1.6 Exceptions to these Standing Orders (C1 to C19) may be made only by resolution of the Committee responsible for the contract in question. If this is too slow, the Relevant Chief Officer can decide to dispense with a Standing Order, provided that he gets the written personal agreement (which he must file) of at least one of the following:

- the Chief Executive Officer
- the Director of Administration and Leisure
- the Director of Finance.

If possible in the time, he must also get the agreement of the Chairman of the relevant Committee for the function in question. In any case he must report his action to the next meeting of that Committee.

The Committee or officers taking the decision must be satisfied that the exception is justified by special circumstances.

C1.7 A full note of any exception must be made in the minutes of the Committee which authorised it or which received the report. The minute must state why the exception was made and, if it was made by an officer, why it was a matter of exceptional urgency.

C1.8 If the Council, whether through one of its DSO's or otherwise, is lawfully undertaking work for another person or body, and in order to fulfil that contract it must purchase goods or services from a third party, then if and only if:

- a) the value of the goods or services to be bought from the third party is no more than £30,000;
- b) the Relevant Chief Officer is satisfied that it is necessary to place an order for the goods or services without delay in order to satisfy the contract, and that there is not enough time to obtain tenders or quotations as required by Standing Orders;
- c) the Relevant Chief Officer is also satisfied that the price at which the goods or services are to be bought will not lead to the Council incurring a loss on the contract;
- d) the Relevant Chief Officer is also satisfied that the supplier or contractor has been selected fairly, having regard to the best interests of the Council and in accordance with Standing Order C1.1;

Officers need not follow any Standing Order requiring the obtaining of multiple quotations or the following of a tendering procedure. The Relevant Chief Officer must record the use of this exemption and the reasons for it, together with the reasons for selecting the supplier or contractor used.

C1.9 If:

- a) the value of a contract is no more than £7,500;
- b) competitive tenders or quotations have been obtained for work or supply of the same kind within the previous two months, also at no more than £7,500
- c) the Relevant Chief Officer is satisfied with the performance of the contractor on that earlier occasion;

then the same contractor may be used again without compliance with Standing Order C1.2.

- C1.10 If the Director of Finance confirms in writing that the procurement arrangements operated by a particular consortium or procurement agency are likely to provide good value for money, the Relevant Chief Officer may decide to use that consortium or agency if it procures goods materials or services of the kind he requires. Standing Orders C1.4, C1.5, C2 to C5, C8 and C9 will not then apply. The contract must be formed on terms which comply with these Standing Orders subject to any modifications which the Council's legal division advises are reasonable.
- C1.11 If there are fewer identifiable suppliers of the goods materials or services in question than the minimum number of quotations or tenders needed under these Standing Orders, the requirements are satisfied by seeking quotes or tenders (as appropriate) from all the suppliers identified. The Relevant Chief Officer must agree the circumstances with the Director of Finance and keep a note on the file.
- C1.12 If the Council's insurer or any other party is to reimburse the full value of the Contract, the Council need not comply with any Standing Order as to the seeking of tenders or quotations provided that the procurement method is acceptable to that other party and that any instructions given by the Director of Finance for the periodic checking of value for money are followed.
- C1.13 If the Council makes a contract on behalf of or as agent for another body or local authority, it must comply with these Standing Orders or with the Standing Orders of that other body or authority, or any instructions which the other body or authority gives. These Standing Orders C1 to C19 must be used if the other body or authority has no standing orders of its own and issues no instructions. If the Council is carrying out work as a contractor to another body or local authority which has its own select list for the type of work in question, that select list may be used to choose potential tenderers in addition to any method available under these Standing Orders.

Partnering

- C1.14 The Committee responsible for the function in question may authorise procurement by means of a negotiated partnering arrangement under the provisions of Appendix 2 to these Standing Orders.

C2. METHODS OF OBTAINING TENDERS OR QUOTATIONS

Subject to Standing Orders C1.8 and C1.9 tenders or quotations must be obtained for all contracts of more than £5,000 as follows:

C2.1 Where the estimated value of the contract is more than £5,000 but not more than £10,000, the Relevant Chief Officer must obtain at least three tenders or written quotations from contractors whom he considers suitable.

Local Lists

C2.2 Each Chief Officer may if he or she wishes maintain a List of contractors ("a List") from which tenders or quotations may be sought for contracts with an estimated value of not more than £10,000. The Chief Officer shall determine the categories of work or supply on the List.

C2.3 If the Authority believes that a contractor on the List is unsatisfactory, or if he cannot perform any contract for which the Council has engaged him, he must be removed from the List immediately. If a contractor on the List is temporarily unable to perform contracts he may be suspended for such time as the Authority decides.

C2.4 The Director of Administration and Leisure may issue further instructions for the fair compilation or use of a List. Whether or not such instructions exist, the Relevant Chief Officer will ensure that all contractors on the List are treated fairly and that a reasonable rotation is applied to invitations to quote or tender.

C2.5 Where the estimated value at the contract is more than £10,000:

a) if the estimated value is not more than £30,000 at least three tenders or written quotations must be invited

b) if the estimated value is more than £30,000 or least four tenders must be invited.

The method of inviting tenders or written quotations (as the case may be) shall be as set out in Standing Order C3, C4, or C5. The choice (unless otherwise instructed by the Authority) shall be made by the Relevant Chief Officer. If no method is specified by either, then Standing Order C3 will be used.

C2.6 The Relevant Chief Officer may decide to use Standing Order C3, C4 or C5 for contracts of £10,000 or below if he wishes.

C2.7 The Relevant Chief Officer must ensure compliance with any relevant European Community Law regarding methods of tender, placing of advertisements etc. He must also ensure that the tendering arrangements and contract are arranged in such a way as to comply with Health and Safety legislation including the Construction, Design and Management Regulations.

C3. SELECTION OF TENDERERS FROM CONSTRUCTIONLINE OR OGC

C3.1 In this Standing Order and others where mentioned, "Constructionline" means the Constructionline register maintained on behalf of the Secretary of State for Trade and Industry, and "OGC" means any of the lists of contractors available for use by local authorities maintained by the Office of Government Commerce.

Procedure

C3.2 Where this Standing Order is to be used, the invitation to tender or quote must be sent to at least the minimum number of contractors required under Standing Order C2.1 or C2.5.

C3.3 The Relevant Chief Officer must choose the contractors to be invited from amongst those listed for the type and value of work in question on Constructionline or OGC (or both). If the estimated value of the contract is more than £100,000 the Relevant Chief Officer must report to the Authority who shall choose the tenderers.

C3.4 All invitations to tender must comply with Standing Order C8.

C3.5 The Relevant Chief Officer must ensure that Constructionline and OGC are used fairly and in particular that a reasonable rotation is applied to the selection of tenderers. This rule does not apply so as to require tenders to be sought from contractors who in the opinion of the Relevant Chief Officer are unsuitable for the work in question. He may always include the contractor who last won a contract for similar work or supply, if on Constructionline or OGC as appropriate.

C3.6 The Relevant Chief Officer shall consider whether to submit information about the performance of a contractor to Constructionline or OGC.

C4. SELECTIVE INVITATION FROM ADVERTISEMENT

If the Authority or the Relevant Chief Officer decides to choose tenderers following an advertisement, then:

- C4.1 A notice describing the contract and asking for the names of contractors interested in tendering must be placed in such publications as the Relevant Chief Officer considers will be read by the best range of prospective tenderers for the contract in question.
- C4.2 The notice must state what information the Authority requires (or state where application forms can be obtained) and give a closing date for receipt of applications. This must be at least fourteen days after the last publication.
- C4.3 If the Authority or Relevant Chief Officer wishes, copies of the notice may be sent to any other contractor.
- C4.4 After the closing date the Relevant Chief Officer is to choose at least four contractors and invite them to tender unless the value of the contract is more than £100,000. The tenderers chosen must be a selection who between them appear to the Relevant Chief Officer to offer the best chance of obtaining a satisfactory bid offering good value for money. If the estimated value of the contract is more than £100,000 he must report on the replies to the Authority, and the Authority shall choose at least four contractors to be invited, on the same criteria. If fewer than four have replied all those considered suitable are to be invited, unless the Relevant Chief Officer (or the Authority if the contract exceeds £100,000) decides to re-advertise or use another method.
- C4.5 The invitations to tender must comply with Standing Order C8.

C5. OPEN INVITATION

- C5.1 Where the Authority or the Relevant Chief Officer decides that tenders are to be obtained by open advertisement, notice inviting tenders must be published in such publications as the Relevant Chief Officer considers will be read by the best range of prospective tenderers for the contract in question. The notice must:
- i) describe the contract
 - ii) state where further details may be obtained
 - iii) give a closing date and time at least fourteen days after the last publication by which tenders must be received
 - iv) comply with Standing Order C8.
- C5.2 Copies of the notice may also be sent to any contractor the Relevant Chief Officer wishes.

C6. SPECIAL REQUIREMENTS FOR TENDERS FOR WORKS OR SERVICES

C6.1 In preparing instructions to tenderers for works or services, the Relevant Chief Officer must do everything necessary to comply with the Council's duties under the Health and Safety at Work Act 1974 and other health and safety legislation, including the competency and other requirements of the Design Construction and Management Regulations. In particular he must:

- identify any safety risks associated with performance of the proposed contract and tell the contractor in writing;
- require the contractor to provide a method statement showing how it proposes to avoid or minimise these risks and any others the contractor may cause during the work.

C6.2 The Relevant Chief Officer must also consider whether any particular contractual terms are desirable in the light of the recommendations of the report of the DETR Construction Task Force "Rethinking Construction" (the Egan Report) published on 16 July 1998.

C7. LIQUIDATED DAMAGES AND SECURITY

C7.1 The Relevant Chief Officer must consider the following matters before tenders are invited.

C7.2 If a contract has a value of £30,000 or more the Relevant Chief Officer must consider whether a liquidated damages clause is necessary. For this purpose he may consult the Director of Administration and Leisure and Director of Finance.

C7.3 If the Relevant Chief Officer requires, and if the Director of Administration and Leisure considers it legally practicable, such a contract must provide for the contractor to pay liquidated damages if he fails to complete it in the stated time. The method of calculating damages is to be fixed by the Director of Administration and Leisure after considering advice from the Relevant Chief Officer and the Director of Finance.

C7.4 The Authority or Relevant Chief Officer may require a contractor to give security for the performance of any contract.

C8. REQUIREMENTS FOR INVITATION, SECRECY AND SAFE KEEPING OF TENDERS

C8.1 Every invitation to tender must:

- (a) state that no tender will be considered unless it is delivered to the Director of Administration and

Leisure in a plain sealed envelope marked "Tender" followed by the subject to which it relates, with no mark identifying the tenderer. The invitation must also state the closing date and time for receipt of tenders; or

(b) make provision for tenders to be received electronically in a manner satisfactory to the Director of Administration and Leisure taking into account all reasonable requirements for the exercise to be secure against fraudulent practice; or

(c) provide for both of the above.

C8.2 The Relevant Chief Officer may decide to consider a tender which has not complied with the above requirements if he and the Director of Administration and Leisure are both satisfied that its contents have not been communicated to any person other than the Council interested in the tendering process.

C8.3 The Director of Administration and Leisure must keep the tenders in a secure place until the time set for their opening.

C9. OPENING OF TENDERS

C9.1 Tenders are to be opened whether physically or electronically one at a time in the presence of at least three Officers of the Council, one of whom must be appointed for the purpose by the Director of Administration and Leisure and one of whom must be a representative of the relevant Chief Officer. At least one of the Officers present shall be either a solicitor employed by the Council or graded at middle manager level or above on the Runnymede scales and from a department other than that seeking tenders. Any Member of the Council may also attend the opening of such tenders.

C9.2 An Officer present at the opening of tenders must record the details of each (or that no tenders were received), and the record must be verified and endorsed by the Members and other officers present. Such records are to be stored by the Director of Administration and Leisure in a secure place.

C9.3 Where written quotations are being sought, the Relevant Chief Officer must ensure that quotations received are not made known to other tenderers or prospective tenderers and that each is recorded clearly on the file. If he wishes he may set a formal date and time by which sealed quotations must be received. In this case Standing Orders C9.2 C9.3 and C9.4 will apply, except that the functions in C9.2 fulfilled by the Director of Administration and Leisure and his Department will be fulfilled by the Relevant Chief Officer and his Department.

C9.4 Tenders received in the Council's offices after the closing date and time must not be considered unless there is clear evidence that they were posted by first class post no later than the day before the closing date, or proof that they were despatched electronically before the closing time, and no contract has yet

been formed. If such tenders are opened after the remainder of the tenders for the same contract, the same formalities for opening shall nevertheless apply. Legal advice must be obtained in all circumstances where action is to be taken under this Standing Order.

C9.5 In setting a time for the opening of tenders, the Director of Administration and Leisure must if practicable allow one working day after the closing time for receipt of tenders. The purpose of this provision is to enable all validly received tenders, including those which can be considered under C9.4 above, to be opened together.

C9.6 Where the most financially favourable tender received has a greater value than £100,000, the tenders must be reported to the Authority, but the most financially favourable may be accepted before that report, under Standing Order C10 below.

C10. ACCEPTANCE OF TENDERS

C10.1 Before accepting any tender the Appropriate Officer must satisfy himself that the contractor seems sufficiently capable and financially sound to undertake the contract in question. In particular he must:

- make whatever enquiries he thinks fit including enquiries as to the general competence and safety record of the contractor;
- take into account the adequacy of any method statement provided by the contractor under Standing Order C6 and the extent to which the contractor has understood and met the identified problems;
- ask the Director of Finance to carry out whatever financial checks the Director of Finance thinks are appropriate, and
- require the contractor to provide one or more further references.

No officer shall assume that inclusion on a list maintained under Standing Order C2.2, or the Constructionline register or Gcat alone is enough to guarantee a contractor's strength and competence. There is, however, no presumption that a contractor of whom little is known is less satisfactory than one who is familiar. Nor is there any requirement to duplicate requests for recent information which is already available from Constructionline or OGC.

C10.2 Unless the Authority instruct otherwise, the Relevant Chief Officer may authorise the Director of Administration and Leisure to accept the most financially favourable tender provided that it comes from a

contractor who satisfies the Appropriate Officer under C10.1 above, and provided that sufficient budgetary provision has been made.

C10.3 A tender which is not the most financially favourable or which will lead to the relevant budgetary provision being exceeded can only be accepted by the Authority after considering a report from their Officers. If, however, the only tenders which are more financially favourable come from contractors who have failed to satisfy the Appropriate Officer under C10.1, and the Council's Director of Finance so agrees, this requirement only applies if the budgetary provision will be exceeded.

C11. REQUIREMENTS FOR CONTRACTS

C11.1 Every contract for £500 or more to which these Standing Orders apply must:-

- (a) be in writing in a form approved by the Director of Administration and Leisure. If it is for more than £30,000 all its terms must be set out in a single formal contract document which is legally enforceable. The Director of Administration and Leisure may require this document to be under seal;
- (b) state what is to be supplied or done, the price and any discount or deductions, the time within which the contract is to be performed, and any other agreed terms;
- (c) state that if the contractor fails to perform his obligations within the time allowed, the Council in addition to any other remedies, may:
 - i) determine the contract, either wholly or partly, and
 - ii) do whatever is necessary to make good the contractor's default, and
 - iii) recover from the contractor the expense of doing so, to the extent that it exceeds the contract sum.
- (d) in the case of contracts for works or services, require the contractor to carry public liability insurance to a minimum sum of five million pounds or such other figure as the Director of Finance may determine;

C11.2 In the case of contracts for £500 or more for physical works or services the Relevant Chief Officer must either

- ensure that the contract requires the contractor to advise the Council as to whether the contracted works or services ("the contract"), and any facility, system or equipment used

by the Council to which the contract relates, accord with the requirements of best modern safety practice; or

- ensure that arrangements are in place to provide the Council with such advice from other competent and knowledgeable sources which carry insurance against the consequences of faulty advice, to a minimum sum advised by the Director of Finance.

unless he is satisfied that in-house staff have the necessary skill and experience to offer such advice and that arrangements are in place to ensure that it is offered.

C11.3 If the contract is for works or services and includes the supply of goods or materials, the Relevant Chief Officer shall seek the advice of the Director of Finance (or directly from the Council's Insurance Officer) as to whether public liability insurance should be required.

C12. BRITISH AND INTERNATIONAL STANDARDS

Every contract for £500 or more must state that all goods, materials and work must comply with any relevant British, European Union, or ISO Standards or Standard Code of Practice in force at the date of tender.

C13. CORRUPTION

C13.1 Every contract for £100 or more must state that the Council may cancel the contract and recover any resulting loss from the contractor, if the contractor or anyone acting on his behalf, or his employees (with or without his knowledge):

- i has improperly offered, given or agreed to give anything to any person in return for doing or refraining to do anything in connection with the obtaining or execution of the contract or any other contract with the Council, or in return for showing or refraining from showing favour or disfavour to anyone in relation to the contract or any other contract with the Council;
- ii has, in relation to any contract with the Council, committed an offence under the Prevention of Corruption Acts 1889 to 1916, or has given any fee or reward the receipt of which is an offence under Section 117 (2) of the Local Government Act 1972.

C14. PROTECTION OF WORKERS

C14.1 In relation to workers and work places within the United Kingdom, every contract for £5,000 or more must oblige the contractor to:

- (a) ensure that all relevant UK and European employment law is complied with
- (b) recognise the freedom of his workers to be members of Trade Unions;
- (c) ensure that his sub-contractors comply with the conditions set out in this Standing Order;
- (d) if required, provide the Council with the names and addresses of sub-contractors engaged on the contract;
- (e) if required, provide the Council with copies of any documents kept by him or a sub-contractor to show whether or not the conditions set out in this Standing Order are being observed;
- (f) ensure that working practices comply with the provisions of all relevant UK and European Health and Safety legislation and codes of practice.

C14.2 If any question arises as to whether the provisions of paragraph C14.1 are being observed, the matter shall be submitted to a single agreed Arbitrator in accordance with the Arbitration Act 1950 (or in default of agreement to an Arbitrator appointed by the Secretary of State for Employment).

C15. ADDITIONAL WORK NOT CONTRACTED FOR

If the Relevant Chief Officer is satisfied that a need for additional work or supply has arisen during the carrying out of a contract, and that:

- that work or supply cannot be required under the terms of the existing contract;
- it is nevertheless of the same type as that being provided by the existing contractor, and has arisen as part of the same set of circumstances as gave rise to the existing contract;
- the additional work or supply is necessary, is correctly specified, and does not amount to more than 20% of the existing contract sum in estimated value;
- the existing contractor is likely to carry out the work or supply to the required standard;

- it is in the best interests of the authority to agree with the existing contractor for the new work or supply;
- budgetary provision exists;

then he may negotiate the best terms he is able with the existing contractor to carry out the new work or supply. He must follow the advice of the Director of Administration and Leisure as to how best to document the new contractual terms.

C16. NOMINATED SUB-CONTRACTORS AND SUPPLIERS

C16.1 Where a sub-contractor or supplier is to be nominated to a main contractor, and the estimated value of the sub-contract, or goods to be supplied, is more than £30,000 then:

- (a) At least three tenders for the nomination must be invited in accordance with one of the methods set out in Standing Order C3, C4 or C5, chosen by the Appropriate Officer.
- (b) Standing Orders C6, C7 and C8 are to apply to the tenders except that "Appropriate Officer" shall be substituted for "Relevant Chief Officer".
- (c) The invitation to tender must require the tenderer to undertake that he will enter into a contract with the main contractor which includes an obligation to indemnify the main contractor in respect of matters included in the sub-contract.

However, where in the reasonable opinion of the Appropriate Officer it is not practicable to obtain competitive tenders, this Standing Order will not apply.

C17. LIST OF TENDERERS

C17.1 The Director of Administration and Leisure must record the identity of tenderers for all contracts for more than £30,000 placed by the Council under these Standing Orders. The record must include:

- i the name of each tenderer.
- ii the work to be done or the goods to be supplied.
- iii the value of the tender.

Any member of the Council may inspect the record.

C17.2 The Director of Finance must arrange for the keeping of a register or registers of all contracts having a value greater than £50,000 (or such value as he shall from time to time determine having consulted the Director of Administration and Leisure). The registers must show the state of account of each contract between the Council and the contractor, together with any other payments and the related professional fees.

C18. AUTHORISATION OF PAYMENTS, CLAIMS, ETC.

In relation to contracts for building, constructional or engineering work:

- C18.1 Payments to contractors on account of contracts may be made only on a certificate issued by an Officer (or private architect, engineer or consultant) authorised by the Council to do so. Payments must not be made before contract documentation has been executed to the satisfaction of the, Director of Administration and Leisure except with the agreement of the Director of Administration and Leisure and Director of Finance.
- C18.2 Subject to the provisions of the contract every extra or variation must (unless otherwise evidenced to the satisfaction of the duly authorised Officer) be authorised in writing by the duly authorised officer (or private architect, engineer or consultant) or other person who may be nominated for the Council under the contract). The authorisation must state the cost of the extra variation or, if this impossible, an enforceable mechanism (such as a schedule of rates) by which the cost will be calculated. If the estimated cost of the contract is likely to exceed the authorised budget by more than £1,000, the Relevant Chief Officer must report this to the Relevant Committee as soon as practicable.
- C18.3 The final certificate of completion of any contract must not be issued until the authorised Officer, private architect, engineer or consultant has produced to the Director of Finance a detailed contract payment proforma in the form required by the Director of Finance, and has produced all documents required by the Director of Finance.
- C18.4 In any case where the value of the contract exceeds £100,000 and the total cost will exceed the approved contract sum by more than 5%, the Relevant Chief Officer must before payment submit the final account to the Director of Finance, who will arrange for its examination and make all such enquiries and receive such information and explanations as may be required in order to be satisfied as to the accuracy of the account. It is the responsibility of the Relevant Chief Officer to provide all necessary papers and information for this purpose, to the requirements of the Director of Finance and in good order.

- C18.5 Where the total Cost of any Contract exceeding £100,000 in value exceeds the approved contract sum by more than 5%, the Relevant Chief Officer must also report on the cost to the Relevant Committee, after agreement of the final account. Where it is apparent earlier that this will be the case, the Relevant Chief Officer must consider the advisability of reporting at that stage instead.
- C18.6 If a contract has been awarded on a term or call-off basis, the Relevant Chief Officer must ensure that the cumulative cost is monitored and that any necessary virements or supplementary estimates are sought in accordance with the Financial Regulations reproduced in this Constitution.
- C18.7 Claims from contractors in respect of matters not clearly within the terms of any existing contract must be referred to the Director of Administration and Leisure for consideration of the Authority's legal liability. Where necessary the Director of Finance must be consulted in respect of the financial considerations before a settlement is reached.
- C18.8 Where completion of work or services due under the contract is delayed beyond the contract period, the Relevant Chief Officer must consult with the Director of Administration and Leisure and ensure that any necessary action is taken to claim liquidated damages.

C19. DEFINITIONS AND INTERPRETATION

- C19.1 The provisions of this Standing Order are to apply to Standing Orders C.1 to C.19 where the context allows.
- C19.2 "Appropriate Officer" means the Chief Officer of the Department responsible for supervising the contract, or if a person other than a Council Officer has been engaged to supervise the contract work, that person.
- "Authority" includes the Council and any Committee or sub-committee of the Council exercising functions lawfully delegated to it by the Council.
- "Contractors" includes, where the context allows, any persons in the business of providing the kind of work or supply for which tenders are to be sought by the Council.
- "Estimated" refers to an estimate by the Appropriate Officer or approved by him.
- "Most financially favourable" means the lowest price where the Council are to make payment and the highest price where the Council are to receive payment.

"Relevant Chief Officer" means the Chief Officer of the Department responsible for supervising the contract and shall include any officer he has authorised to carry out the task in question, unless the Standing Order indicates that the action is to be taken by the Chief Officer personally in which case the action can be taken only by the Relevant Chief Officer or, in his or her absence, a second tier officer reporting directly to him or her.

"Relevant Committee" means a Committee whose terms of reference include authorising contracts of the type in question.

"Value of the Contract" means the value or price to be given for the work to be done or the goods or materials to be supplied, and "Cost of the Contract" shall be understood similarly. In the case of term or call-off contracts where the amount to be paid under the contract is not certain, the value shall be taken as the available amount for that work during the term of the contract ascertained from the revenue budget, revenue forecast, or capital programme as appropriate, or (if none of these give the required figure) as agreed by the Director of Finance.

Words describing the masculine, feminine or neuter gender include the other genders.

References to the Director of Administration and Leisure or the Director of Finance shall include officers in their departments whose normal duties include the tasks in question, unless the Standing Order indicates that the tasks are to be performed by them personally. In this event the Head of Law and the Assistant Borough Treasurer respectively may deputise in their absence.

EXPLANATORY NOTE

Summary of value limits in Standing Orders:

VALUE	BRIEF DESCRIPTION OF PURPOSE (this description does not override any Standing Order)
£500	Threshold for normally requiring competitive quotations
£1,500	Threshold for requiring at least three quotations
£5,000	Threshold for requiring written quotations.
£7,500	Upper limit for "fast track" use of same contractor (Standing Order C.18)
£10,000	Threshold for requiring use of Constructionline, OGC or advertisement to seek tenders or quotations (Standing Order C2).
£30,000	<ul style="list-style-type: none"> i Threshold for formal tender procedure ii To define need for formal contract document (Standing Order C11). iii To define lower limit for liquidated damages clause (Standing Order C7). iv To define lower limit in relation to sub-contracts (Standing Order C16). v Upper limit for third party contract exemption (Standing Order C1.8)
£100,000	<p>To define requirement for reporting to Council on shortlist and tenders (Standing Orders C3, C4, C5 and C9).</p> <p>Threshold for certain audit and reporting requirements (Standing Order C18)</p>

* N.B. Regard must also be paid to value limits provided for the time being by European Community Law for various purposes, including the placing of advertisements in certain publications.

**USE OF PROFESSIONAL OR CONSULTANCY SERVICES
CHIEF EXECUTIVE'S GENERAL INSTRUCTIONS**

Applicability

1. These instructions are provided under Standing Order C1.5 for staff choosing professional or consultancy services. They apply to any of the following categories of work unless they are to be provided in-house:
 - i) Any professional advice or other service, including engineering, architectural, legal, surveying, personnel, training, costing, financial, and information technology services.
 - ii) A specially commissioned report on any subject.
2. If you consider that there are good reasons for dealing with the matter differently from these instructions, you must obtain the Chief Executive's formal agreement.
3. These instructions do not apply where the Council have authorised a different method of procurement of professional or consultancy services, or in the case of unusual or exceptional services such as the conduct of an investigation into an accident or alleged crime. Arrangements for such cases must be specifically settled with the Chief Executive.

Appointment Process

4. The following procedure should be adopted:
 - i. A project file must be set up to include all appropriate records to demonstrate the steps undertaken. This file will be subject to inspection by Internal Audit or the Chief Executive Officer.
 - ii. The specification for the task, or the essential instructions, must be clear before estimating the value of the job or seeking any quotes. A copy of the specification should be held on the project file.
 - iii. If the fee (excluding direct expenses) is estimated at £1000 or less, the relevant Chief Officer may appoint any firm which he is satisfied will do the job competently and deliver good value for money. Unless the firm is well known to the Council, it should always be interviewed first and trade references (ideally from public sector clients) obtained. The Government's Constructionline database includes consultants in various fields.

APPENDIX 1 TO STANDING ORDERS FOR CONTRACTS

Appointment Process (Cont'd)

- iv. If the fees are estimated to exceed £1000, proposals should be sought from at least three firms. The Constructionline database and/or other sources of information may be used to identify potential consultants. These should be assessed by the Chief Officer and/or suitably senior colleagues before a choice is made. The applicants, or a shortlist, should normally be interviewed. References should be sought, and a quote for the job or rate of charge should be obtained. Whilst cost may not be the only criterion in the choice of a consultant, there must be sound reasons for appointing one which has not submitted the most financially favourable proposal. A full note of the process followed and of the reasons for appointing the successful consultant must be kept on the relevant project or case file.
- v. The basis of charging should always be agreed before the work is placed with the firm in question. If possible, an estimate of the cost should be obtained. In any case where the scope of the task is uncertain at the outset, and therefore it is not possible to estimate costs with any precision, it must be agreed with the consultant or professional that the Council's authority is needed to exceed a specified sum, and the basis of charging (e.g. hourly rate, charge per completed task, or other) must be agreed and understood.
- vi. If it is acknowledged good practice for a formal contract to be drawn up and entered into with the external professional or consultant, this should always be done. The number of cases in which this will not be appropriate are now very limited. Even in these, there should always be a formal letter of instruction setting out exactly what services are to be performed, the agreed basis of charging, payment terms, insurance cover, indemnity issues, custody of files, and copyright issues (for which the presumption should always be that copyright vests with the Authority. We should not deviate from this principle without the concurrence of the appropriate Chief Officer, Internal Audit or Chief Executive Officer.) Obtaining guidance/clearance of documentation from colleagues in the Legal Division is essential. Insurance requirements should be carefully considered with all the possible consequences of faulty work or advice taken into account. It may be difficult to specify a guideline figure for insurance cover for all kinds of consultancy, but officers must seek and follow guidance from the Council's own insurance section.
- vii. Unless special circumstances apply, the Chief Officer should not decide to use the same consultant twice or more in succession for different non-associated jobs except following a competitive process and interview, whatever the value of the commission.
- viii. Where a consultant is used on a "call-off" basis (i.e. the same type of project requested by the Council on a regular/irregular basis e.g. running training courses), an annual review should be undertaken to ensure the Council continues to receive value for money from these services. This review should include obtaining at least two other quotes from other consultants. The results of the review must be documented and held on the project file.

APPENDIX 1 TO STANDING ORDERS FOR CONTRACTS

Appointment Process (Cont'd)

- ix. The briefing of Counsel, or the obtaining of Counsel's opinion, by the legal division is of necessity approached in a different way and the personal qualities of Counsel may be particularly important. Discussions as to suitability will normally be conducted on the basis of the instructing solicitor's experience and negotiations with the Clerk of the relevant chambers. Existing practice may continue in this regard, subject to legal staff keeping in mind the need for the Council to obtain value for money from the relevant fees.

Monitoring

5. Monitoring the work performed by the consultant is an essential element in the control process. Written notes of progress meetings should be held on the project file. This is particularly relevant to project type work. Although the detail and extent of these notes will depend on the nature of the task, this discipline should be encouraged. To assist officers in this task, a monitoring checklist (see Annex A) gives guidance on the important issues.
6. Any failure, non-compliance or underperformance should be drawn to the company's formal attention in a timely fashion and in writing.

General

7. Be very wary of consultants who canvass business by offering to do introductory work on special terms. Always take legal and senior management advice, and avoid any commitment to future custom.

Annex A- Monitoring Checklist

- Has a named project officer been appointed who is responsible for overseeing progress?
- Has a timetable been prepared with key targets and deliverables against which the consultant's progress can be monitored?
- Are costs monitored against budget, ensuring that invoices are charged against correct account codes?
- Are payments made in accordance with the agreed terms?
- Have regular progress meetings been held with the consultant and the minutes of these meetings held on file?

APPENDIX 2 TO STANDING ORDERS FOR CONTRACTS

1. Purpose of Partnerships

The purpose of this Appendix is to provide the framework to enable the Council to enter into partnering arrangements. In this context, “partnering arrangements” are negotiated arrangements which result in a contract for the provision of work, goods, supplies and services.

Authorities are required to make arrangements to secure continuous improvement in the economy, efficiency and effectiveness in the exercise of their functions. This includes the requirements to challenge why and how services are being delivered and to consider alternative service delivery options.

Partnering is seen as one way in which the Council can achieve delivery of services which may have advantages over traditional competitive methods.

2. Purpose of Appendix

Partnering arrangements will vary and may take on different forms depending on the nature of the work, goods, supplies and services involved and the organisation that is to be “joined” in partnering. This Appendix does not specify the details required in any partnering agreement or regulate the way in which the partners are formed. It does however set out over-riding principles that Officers and Members must address when considering creating or entering into partnering.

3. Partnering Procedures

Where partnering is being considered for whatever reason the following procedures and principles will apply:

3.1 Committee Approval to Proceed

Before detailed negotiation with any proposed partner a report must be put to the relevant committee, which must approve the proposal in principle.

3.2 Option/Benefits/Risk Appraisal

A full evaluation of all options/benefits and risks must be undertaken in advance of the procurement exercise, and must be included in the report required under 3.1 above. This evaluation must provide evidence that the partnering arrangement is likely to provide best value for the Council and must consider the impact that the partnering arrangement will have on any in-house service.

3.3 Selecting a Partner(s)

- (a) An opportunity must be given to a range of potential partners to participate in the proposals (at least the minimum number which would be required for a formal tendering exercise). The legal propriety of any proposals must be established and considered in advance in consultation with the Director of Administration and Leisure.
- (b) All partnering arrangements must follow a two-stage process involving an initial pre-qualification questionnaire (PQQ) which covers as a minimum financial capacity, legal standing and technical capacity. The PQQ process must comply with current procurement legislation.
- (c) Assessment of potential partners must be carried out by a PQQ assessment panel and should involve as a minimum representatives from the financial, legal and relevant technical specialisms. The lead procurement officer must ensure that assessment panel members have received appropriate experience and/or training in their duties and responsibilities as panel members.
- (d) PQQ assessment weightings must be agreed in advance of the assessment process and be transparent to both the assessing panel and the potential partners. An audit trail for the PQQ process must exist to demonstrate how the successful partner(s) was selected.

3.4 Authority to Proceed to Detailed Negotiations

For partnering arrangements where the procurement value is up to

- (a) £100,000 written endorsement of the Head of Service and Relevant Chief Officer is required before detailed negotiations with the successful partner can proceed;
- (b) Over £100,000 approval by the relevant Committee is required before detailed negotiations with the successful partner can proceed.

3.5 Consultation with Director of Finance and Director of Administration and Leisure

- (a) There must be consultation with the Director of Finance to ensure that the financial and budgetary position, including that of any potential partner, has been fully explored and that funding exists. Where either party's ability to proceed is subject to grant funding this must be secured before the final agreement is entered into.
- (b) The Director of Administration and Leisure must be kept informed throughout the procurement process.

3.6 Authority to Execute the Contract

- (a) Where payment under a partnering arrangement is based upon an agreement of target prices between the Council and the external partner then the relevant Chief Officer and the Director of Finance must be satisfied on written evidence that the target prices represent value for money.
- (b) The wording of the contract is to be settled by the Director of Administration and Leisure in consultation with the Director of Finance and the Relevant Chief Officer.

3.7 Written Record and Audit Trail

The Relevant Chief Officer must keep a full written record of the key stages of the procurement and the decisions made through the process.

3.8 Relevance of other Standing Orders For Contracts

All Standing Orders for Contracts continue to apply except where they conflict with this Appendix. Exceptions that may be required by the particular nature of the contract must be authorised by the procedures provided in Standing Orders for Contracts.

RUNNYMEDE BOROUGH COUNCIL

CONTRACT STANDING ORDERS

EXPLANATION AND GUIDANCE

Last revised May 2006

CONTRACT STANDING ORDERS - EXPLANATION AND GUIDANCE

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INTRODUCTION

This guide tries to explain Contract Standing Orders in a simpler form. It also offers some extra comment and guidance where appropriate.

You must always remember that it is the Standing Orders themselves which are the final authority. This guide has to leave out some detail, and is intended to give people a basic level of understanding. If in doubt about anything, please consult a senior member of the Legal staff.

The guide follows the order of the Standing Orders. On page 200 there is also a checklist summarising which requirements apply to which Contracts.

BASIC REQUIREMENTS, QUOTING AND TENDERING

Application of Standing Orders - Standing Order C1

This section describes the contracts to which Standing Orders apply, and various special provisions and exceptions. Whenever you are planning a project, you need to provide room in the timetable to comply with Standing Orders.

Standing Orders for Contracts are published in the Constitution of the Council. They are reviewed each year and approved by the Council. The current edition of Standing Orders has effect from June 2004. It will usually apply to any action taken from that time on, regardless of when the contract was signed. If in doubt, ask the Legal Division.

Any contract under which the Council is buying goods, materials, manual work, or professional services will be caught by at least some provisions of Standing Orders. The basic scheme is as follows:-

Goods, materials, and manual work:-

- i All contracts : there is an overriding duty to get the best value reasonably achievable, whatever other provisions apply. This is a fundamental requirement.
- ii You must comply with the Council's corporate purchasing arrangements. This means that you must order the following items from the Stores:-
 - Office furniture
 - Stationery
 - Equipment
 - Cleaning materials
 - DSO supplies and materials
 - Any other supplies that need to be stored at the depot

The exemptions to this general instruction are:-

- Mobile telephones - to be ordered from the Office Manager in the Department of Administration and Leisure
 - Computer equipment - to be ordered from the Information Systems Section
 - Day Centre and Sheltered Housing furniture - to be ordered by the Community Services Section
- iii Contracts for less than £500 : only the best value provision applies. Without spending excessive time shopping around, you need to satisfy yourself that you cannot make the purchase at a significantly better price. If the item is available from the Council's stores, you must get it from there.
 - iv Contracts of £500 or more, but less than £1,500: get at least two quotes. File them or, if they are verbal, record them on the file. Make sure you think that the terms are reasonable. You can only avoid getting quotes if your Chief Officer personally agrees that the circumstances justify an exception.
 - v Contracts over £1,500 and up to £5,000 : get at least three quotes. File them or, if they are verbal, record them on the file. Satisfy yourself that the terms are reasonable.
 - vi Contracts over £5,000 and up to £30,000 : get three written quotations, or use the formal tendering procedure. See below.

- vii Contracts over £30,000 : you must use the formal tendering procedure and obtain at least four tenders.
This is dealt with below.

Professional and consultancy services :

There are comprehensive guidelines which are attached to Standing Orders. You must follow these unless you get the explicit approval of the Chief Executive to do something else.

What is the best value duty?

Standing Orders say you must “act in such a way that the Council obtains the best value reasonably achievable in all the circumstances”. You will need to be satisfied about two things - first, that you are getting the quality of service or goods that you need, no more and no less; secondly that you are not able to find what you need elsewhere at a better price. You must consider using the Council’s DSO or seeking a bid from it as one of your options. The DSO may be able to offer the most competitive price, and even if it cannot, its bid can be a safeguard to ensure that the terms offered by other bidders are genuinely competitive.

The judgment on quality is in your hands. Make sure you know what you need and can justify it. As to price, the easiest way to prove your case is to get competitive quotes. Even if Standing Orders do not tell you to, still think about whether it would be worthwhile. If you do get quotes, keep a record on the file. If you do not get quotes, you need to know what is a good price for the supply in question, get it at that price, and be prepared to demonstrate that you have achieved this if need be. You can negotiate with your chosen supplier to achieve a good price, but do not take a quote and then hawk it round other suppliers to see if they can better it. This is unfair on the first supplier and often results in complaints and allegations of malpractice.

Getting Quotes - good practice:

Be very clear about the requirements and give exactly the same information to all the contractors approached. Get all the quotes at the same time. Do not tell contractors who are quoting what any other quote is. In particular do not hawk the best quote round to try to get others to better it. Make sure each contractor is treated fairly. If the quotes are written, or if you promised feedback, tell the successful and unsuccessful contractors promptly.

Following these principles will protect you against allegations of maladministration, unfairness or corruption.

Printing Services :

The Council has awarded a contract to SD&P after a competitive process. They will do all standard printing work, and must be given a chance to quote for non-standard work. For details consult Andy Gardiner, Head of Law and Committees.

Other things to remember:

There may be other legal requirements, such as European Law, which apply to contracts. Remember that all procurement practices must comply with current legislation. If in doubt consult the Legal Section.

Do I always have to follow Standing Orders regardless of the situation?

Standing Order requirements cannot normally be dropped except by Council resolution. If the case is urgent, a Committee could authorise an exception. In an emergency, it is possible for the Chief Executive, the Director of Administration and Leisure, or the Director of Finance to agree the dropping of a Standing Order requirement. The relevant Committee Chairman must also be consulted if possible. A full Committee report must be made later. It is not helpful if the emergency is happening because you have forgotten to start the procedure earlier!

There are some special exceptions:

- if the Council is under contract to another body, and goods or services are needed to fulfil the contract, and there is not enough time to get tenders within the contract timescale, then goods or services up to £30,000 can be bought without a tendering or quoting procedure. You must be satisfied that the price paid will not lead to a loss on the contract, you must try to get best value, and you must use a fair

procedure to select the supplier. You must make a file note of why this exemption was used and why the particular supplier was selected.

- If you have run a competitive process under Standing Orders to select a contractor for a similar supply within the past two months, and the successful contractor was satisfactory and you want to use him again, you can do so as long as the new contract is not worth more than £7,500. If the competitive process was more than two months ago, you must start again.

Using Outside Agents :

If you engage anyone to supervise the contract, you must make it a condition that he follows Council Standing Orders. Make sure he has a copy.

Where you are acting for another agency :

If the Council is acting on behalf of another body, you must follow the Runnymede Standing Orders if there are no other instructions. If the other body has its own Standing Orders, either theirs or ours can be used. If the other body issues specific instructions, they must be followed. If it has its own select list, you can treat it as part of the Council's Select List or use it instead of Constructionline (see below) if your Chief Officer thinks this is sensible in the particular circumstances.

"Partnerships"

The appropriate Committee can authorise a negotiated arrangement with a selected partner in place of a rigidly specified tendering exercise, if there are benefits for the Council. A full evaluation of options, benefits and risks is necessary, and the requirements are set out in Appendix 2 to Standing Orders for Contracts. This type of contract is likely to be of most value when there needs to be a lot of flexibility in the working arrangement, or when level or costing of work varies.

Systems to be used for larger Contracts - Standing Order C2

As mentioned above, if the contract is over £5,000 but under £30,000, you must get at least three written quotations from suitable contractors, or get at least three formal tenders. If you opt to get formal tenders, you must follow the Standing Orders which apply to that process.

If the contract is not more than £10,000, you may obtain tenders from any contractor that you consider suitable. This allows you to use a departmental (or local) list of contractors from which tenders or quotations may be sought.

For contracts over £10,000, you must invite tenders or written quotations by selecting tenderers through one of the following methods:-

- Constructionline.
- selection from a list maintained by the Office of Government Commerce (OGC).
- selection of tenderers following an advertisement.
- open invitation.

For contracts over £30,000, you must use a formal tendering procedure and get at least four tenders if possible. You cannot split a contract up so that each bit is less than £30,000 just to avoid this or any other provision of Standing Orders. There are three methods of getting formal tenders - using Constructionline or OGC, selecting after advertising, and open advertisement. These are described below.

Selection of Tenderers from Constructionline or OGC - Standing Order C3

Standing Orders allow you to use the Constructionline register maintained by the Department for Trade and Industry or an OGC List. Inclusion on the register is not a guarantee of suitability. Detailed checks must be done when an actual contract is being let.

You must send invitations to tender to at least three contractors if the value is no more than £30,000 or four contractors if the value is over £30,000. (If less than four are on the list you must send an invitation to all - but think carefully whether you ought to use other methods to attract suitable tenders). You can choose who to invite unless the estimated value of the contract is more than £100,000. In that case, the decision is made at Committee.

You must use Constructionline and OGC fairly. Do not keep on asking the same contractors every time. Rotate the opportunities around contractors who look suitable. You can, however, always include the successful contractor for the last similar job.

Selection after advertisement - Standing Order C4

You must place an advertisement in suitable magazines or newspapers likely to be read by the best range of potential tenderers. If you want to, you can ensure that a particular contractor knows about the opportunity by sending him a copy of the advertisement.

After the closing date you must choose at least four contractors from the replies received and ask them for bids. If the contract is likely to be worth more than £100,000, the choice of who to ask must be made at Committee. If fewer than four have replied, you must ask them all as long as they are suitable. Alternatively you could re-advertise or choose another method.

Tender by open invitation - Standing Order C5

You must place an advertisement in suitable newspapers or magazines likely to be read by the best range of potential tenderers. Standing Order C5.1 sets out what the advertisement must contain. You can make sure that any particular contractor knows about the opportunity by sending him a copy of the advertisement.

Tender details are sent to any contractor who replies, and every tender received by the closing date will be considered.

MATTERS YOU NEED TO THINK ABOUT BEFORE DRAWING UP TENDER DOCUMENTS

Health and Safety legislation - Standing Order C6

Your instructions to tenderers must comply with Health and Safety legislation, including the Construction Design and Management Regulations. If you are in any doubt about what you need to do, you need to seek advice from a senior officer who has a knowledge of the requirements.

Liquidated damages and security - Standing Order C7

A liquidated damages clause requires the contractor to pay a fixed amount for certain breaches of contract. It is not, however, a penalty (which cannot be enforced) but an attempt to avoid legal wrangles by making a genuine estimate in advance of the amount of damage likely to occur from a breach of contract. (For this reason there are some breaches of contract for which we cannot use a liquidated damages clause.) You need to decide whether this kind of clause is needed and if so what it should say. Legal and financial advice will be available to you if you ask. You can put a clause like this in any contract if it is suitable, but you must particularly consider doing so if the contract is for £30,000 or more.

Think about whether you need security for the performance of the contract. This will normally be a bond or guarantee in the Council's favour, given by a bank or substantial company or institution. You can require this for any contract, but it may not always be appropriate.

Other matters

Read the provisions about the contents of contracts in Standing Orders C11 to C14 as well. If any of these are relevant, they will need to be included in the tender documents. You should also check insurances which the contractor is obliged to carry by the contract or by law (such as Employer's Liability). Have arrangements to re-check these if they will expire during the contract period.

RETURN, OPENING AND ACCEPTING OF TENDERS

Tenders and their return - Standing Order C8 and C9

The formal tendering procedure is intended to give maximum security and fairness. It therefore relies on the identity of the tenderers being secret until the tenders are open, and on strict steps being taken to ensure that no tenderer can discover anybody else's bid until after the closing date. Standing Order C8 tells you what you must say in the tendering instructions, and the formalities for the tender return. When you send out the tender documents, you need to tell the Committee Section, who will make the arrangements to store and open the tenders.

Standing Order C9 sets out the formalities for the opening of tenders. The arrangements for witnessing and recording the opening are intended to protect the Council by avoiding subsequent allegations of corruption.

Late tenders cannot normally be considered. The only exception, for which legal advice must be taken, is where a tender has clearly been posted first class by no later than the day before the closing date. Staff will normally try to set the opening date for a day after closing date to make sure that all the valid tenders have arrived.

If the best tender is for over £100,000, the tenders must be reported to Committee. However, the successful tender can normally be accepted under delegated powers, and this report will be for information only.

Acceptance of Tenders - Standing Order C10

Any outstanding checks on the contractor must be made before tenders are accepted. Remember that the Select List, Constructionline or OGC does not guarantee a contractor's suitability for your particular contract. Before acceptance, therefore, you must have satisfied yourself about the contractor's capability and safety record, his safety procedures, his financial standing, and his track record.

Formal acceptance will be carried out through the Administration and Leisure Department. The Department which is buying the goods or services can authorise acceptance of the most financially favourable tender (cheapest if the Council is buying, most expensive if it is selling). If officers want to accept another tender, or if the best tender breaks the budget, the matter must go to Committee (except in an emergency when the special provision in Standing Order C1 might apply).

For the purpose of deciding which is the most financially favourable tender, you can ignore tenderers who have not passed the various quality and financial checks you have made, provided that the Director of Finance agrees with you.

Negotiations following tender opening :

You may be exposing yourself and the Authority to allegations of maladministration or corruption if you negotiate with tenderers after opening the bids. There are a limited number of circumstances where discussion or negotiation is acceptable:

- i In order to clarify a bid or confirm arithmetical details. This is not negotiation. The tenderer should not be told whether he has won or lost. The exercise must be restricted to ensuring that you know what is in the bid and that the arithmetic is correct. You must not start discussing changes to the bid or tender.
- ii In order to bring a winning bid within budget. Where one bid is a clear winner but is over budget you may discuss with the tenderer, before acceptance, the omission of certain parts of the specification. You must be satisfied that the omissions are acceptable for the purposes of the service, and that you are not changing the nature of the bid in such a way that you are treating other tenderers unfairly. If the best bids are close, think about asking all of the competitive tenderers for a revised price on the changed requirements.

Do not enter discussions with one tenderer to change the specification except as described in (ii) above. If a tenderer proposes a different way of meeting the requirement which you find attractive, then either revise the specification and restart the process, or else issue details of the changes to all the tenderers and ask for revised bids.

In cases of doubt consult the Legal Division and/or the Chief Internal Auditor.

THE FORMAL CONTRACT, PROCEDURES AFTERWARDS, AND OTHER MATTERS

Formal Contract requirements - Standing Orders C11 to C14

These Standing Orders contain various provisions as to what must go into contracts. If you are preparing the tender documentation, you must put these requirements in it. The Council's standard tender documentation should already satisfy these requirements (but check). Even official order forms contain the minimum essentials, printed on the back. Remember that if the contract is for more than £30,000, you must send the details over to the Legal division for the preparation of a formal contract. Even where the value is £30,000 or below, if the formal tendering procedure has been used the Legal division must produce the letter of acceptance.

Beware of simply accepting suppliers' standard terms. More than one officer has entered into what he or she thought was a low value short term arrangement, only to find themselves locked in to a disadvantageous contract over a long period. In all cases where you are presented with somebody else's terms to agree, get legal advice even if you are not formally required to do so.

When can I use a standard order form?

The Council's official order forms have the minimum terms needed to comply with Standing Orders printed on the back. This does not mean, though, that they can safely be used for any kind of contract up to £30,000. Orders are only suitable if:

- The description of what is needed, and the time within which it is to be supplied, can be simply and clearly stated on the front (and you make sure that it is); and
- You are quite satisfied that there is no need for any conditions apart from what is printed or written on the form.

For example, while you might very well use a official order to buy standard goods, you would be extremely ill advised to use it to arrange building or engineering works. If you are in any doubt about whether to use an order or some other form of contract, consult the Legal division.

Additional work - Standing Order C15

Sometimes, after a contractor has begun work on either work or supply, it becomes obvious that more work or materials are needed. This does not always fall neatly into the terms of the existing contract. To save having to start another tender or quotation procedure, Standing Order C15 allows you to negotiate the best terms for the additional work or supply with the existing contractor, as long as it is of the same type and certain other conditions are fulfilled. The value of the additional work or supply must not exceed 20% of the existing contract sum.

Nominated Sub-Contractors - Standing Order C16

If you want to nominate a sub-contractor, you must choose him by the formal tendering procedure if the value of the sub-contract is more than £30,000.

Registers - Standing Order C17

Standing Order C17 requires the keeping of certain registers of contracts in the Administration and Finance Departments.

Payment, overspends, etc - Standing Order C18

Standing Order C18 contains important provisions about payment and cost overruns. In summary these are:

- i Payment must not be made before the contract has been signed, unless the Director of Administration and Leisure and the Director of Finance both agree.
- ii If payment is to be made on account following certification of work completed, the person issuing the certificate must be authorised by the Council to do so.
- iii Only authorised officers or agents can agree extras and variations. If the cost is likely to exceed the authorised budget by more than £1,000, a Committee report must be made, although this need not delay the authorisation.
- iv The Finance Department must be satisfied on a variety of matters before the final certificate can be issued. See Standing Order C18.3. They must also be able to audit the accounts and documentation. Build time for these procedures into the project timetable. It is your responsibility to provide files and papers in good order so that the auditor can see how the final account is made up, and the explanation of any variations. Accounts will automatically have to be audited if the value of the contract is more than £100,000 and there will be an overrun by more than 5% of the approved contract sum.
- v A Committee report must be made if the contract is more than £100,000 in value, and the approved contract sum has been exceeded by more than 5%.
- vi Any contractual claims over which there is any doubt must be referred to the Legal Division for advice and, if necessary, to the Finance Department for consideration of the financial implications.
- vii If the contractor is late fulfilling his obligations, liquidated damages must be claimed where possible.

Standing Order C19 - Definitions

This Standing Order explains the precise meaning of various phrases used in the Contract Standing Orders. Note that most references to the relevant Chief Officer include other officers who have been authorised by the Chief Officer. However, some Standing Orders, particularly those where exceptions are to be made to the general rules, require the Chief Officer (or if unavailable, his deputy) to act personally.

Table of requirements

You will find on the Intranet a table summarising the Standing Order provisions applying to various sorts of contract.

Summary of value limits in Standing Orders

£500	Threshold for normally requiring competitive quotations
£1,500	<i>Threshold for requiring at least three quotations</i>
£5,000	<i>Threshold for requiring written quotations.</i>
£7,500	<i>Upper limit for "fast track" use of same contractor.</i>
£10,000	<i>Threshold for requiring use of Constructionline or OGC to seek tenders or quotations.</i>
£30,000	<ul style="list-style-type: none"> <i>i) Threshold for formal tender procedure.</i> <i>ii) Need for formal contract document.</i> <i>iii) Lower limit for liquidated damages clause.</i> <i>iv) Lower limit in relation to sub-contracts.</i> <i>v) Upper limit for third party contract exemption.</i>
£100,000	<i>Reporting to Council on shortlist and tenders. Certain audit requirements.</i>

Contract Check List

1. Do you have authority?
 - Is there budgetary provision?
 - Do you have delegated authority?
 - If appropriate, has Committee approved the acceptance of tenders?
2. Has a named project officer been appointed who is responsible for overseeing progress?
3. Has a timetable been prepared with key targets and deliverables against which progress can be monitored?
4. Have you obtained at least the minimum number of tenders required by Standing Orders?
5. Have tenders been opened in accordance with paragraph C9 of Standing Orders and have you completed the tender opening checklist available from the Committee Section?
6. Have you provided the Legal Section with the following information to prepare a contract?
 - Name of contractor.
 - Description of work.
 - Period of contract.
 - Maintenance period.
 - Payments clause.
 - Retention details.
 - Confirmation that the contractor holds at least £5 million Public Liability Insurance.
 - Liquidated damages or Bond requirements.
 - Relevant Committee minute.
7. Has the contract been signed before any payments are made?
8. Are costs monitored against budget, ensuring that invoices are charged against correct account codes?
9. Are payments made in accordance with the agreed terms?
10. Have regular progress meetings been held with the consultant and the minutes of these meetings held on file?
11. Does the project file record the following information?
 - financial summary (including budget, contract sum, variations and payments).
 - a reference to all relevant Committee reports.
 - authorised variation orders.
 - planned and actual start dates.

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