

CONTRACT STANDING ORDERS

1 Introduction

- 1.1 These Contract Standing Orders (“the CSOs”) are made further to Section 135 of the Local Government Act 1972. The CSOs represent the Authority’s own procurement rules, which shall govern the letting of certain contracts and which are mandatory for all officers and members of the Authority (unless waived in the limited circumstances set out in paragraph 17) and form part of the Authority’s constitution.
- 1.2 The Rules apply to procurements which are to be commenced on or after 24th February 2025. Procurements commenced before that date shall continue to be governed by the requirements of the Public Contracts Regulations 2015, including the award of a call-off contract from a framework, where the procurement for the framework commenced before that date.
- 1.3 These CSOs are intended to promote good procurement practice, and demonstrate public accountability.
- 1.4 The CSOs should be read in conjunction with both the Financial Regulations and the Scheme of Delegation.
- 1.5 All Relevant Contracts must comply with these CSOs. A Relevant Contract is any arrangement made by, or on behalf of, the Authority for construction works, for the provision of services or for the supply of goods. These include arrangements for:
 - 1.5.1 the appointment of agents e.g. for estates or for the recruitment of staff
 - 1.5.2 utilities
- 1.6 Relevant Contracts do not include contracts of employment which make an individual a direct employee of the authority, land transaction agreements nor legal services for the purpose of litigation.
- 1.7 Regulated Procurements covers the letting of contracts above set thresholds governed by the Procurement Act 2023 (“PA”) and the Procurement Regulations 2024 (“PR”). Compliance with the PA and PR is a strict legal requirement upon the Authority, and it is not open to the Authority to waive compliance for such Regulated Procurement. Regulated Below Threshold Procurements cover those procurements above £25,000 ((£30,000 including VAT) with a limited form of regulation, including a prohibition from restricting submission of tenders by reference to a supplier’s suitability to perform the contract and a requirement to publish a notification. Unregulated Procurement covers contracts of a value below £25,000 (£30,000 including VAT) which are not covered by the PA.

2 Governance

- 2.1 Procurement is the process by which the Authority lawfully purchases goods, services and works, following a decision to procure such services from an external source. This decision is frequently referred to as the make or buy decision.
- 2.2 All officers and members involved in procurement activity must comply with these Rules, together with the Authority's Financial Regulations, the Employees Code of Conduct, Members' Code of Conduct, all Authority policies and guidance. Particular care should be taken to comply with the requirement of officers and members to declare interests.
- 2.3 Before undertaking any Procurement, the Authority must take all reasonable steps to identify, and keep under review, any conflicts of interest or potential conflicts of interest. The Authority must take all reasonable steps to ensure that a conflict of interest does not put a supplier at an unfair advantage or disadvantage in the procurement. Before publishing a tender notice, the Authority must also prepare a conflicts assessment in relation to the procurement. This conflicts assessment must include details of any conflicts or potential conflicts of interest identified by the Authority and any steps the Authority has taken or will take to mitigate them. This conflicts assessment must be kept under review and revised as necessary during a procurement.
- 2.4 The contract management of contracts for goods, services or works and goods is the responsibility of the Authority's various directorates.
- 2.5 Officers must:
 - 2.5.1 when necessary, seek and duly consider all necessary legal, financial and procurement professional advice.
 - 2.5.2 ensure they fully understand and comply with all aspects of these CSOs as failure to do so may result in disciplinary action,
 - 2.5.3 have the budget and correct authorisation to procure and award the contract before proceeding,
 - 2.5.4 ensure that contracts for which they are responsible are managed,
 - 2.5.5 keep a record of decisions made in connection with the procurement,
 - 2.5.6 ensure that any agents, consultants or contractual partners acting on their behalf also comply with the Authority's CSOs.
 - 2.5.7 provide suppliers with an official purchase order as generated by the finance system having a unique number,
 - 2.5.8 not place any order in advance of the official order. either verbally (e.g. by telephone) or in writing (e.g. by email)

3 Procurement principles

- 3.1 The Authority must have regard to the National Procurement Policy Statement (NPPS), issued by the government and which may be amended from time to time. The NPPS sets out a number of important obligations upon the Authority for procurement including:
 - 2.1.1 priority to achieving value for money,
 - 2.1.2 due consideration for the inclusion of social value objectives; and
 - 2.1.3 providing a level playing field for small and medium enterprises (SMEs), voluntary, community and social enterprise (VCSE) and start-ups.
- 3.2 The PA sets the following objectives for procurement of contracts:
 - 3.2.1 delivering value for money
 - 3.2.2 maximising public benefit
 - 3.2.3 sharing information for the purpose of allowing suppliers and others to understand the authority's procurement policies and decisions; and
 - 3.2.4 acting, and being seen to act, with integrity.

4 Procurement Thresholds

- 4.1 Contracts shall be procured in accordance with the CSOs, following the processes set out, dependent upon the value of the contract (and whether an eligible Framework or a Dynamic Market exists and, exceptionally, where justification exists for a direct award of contract without competition). Each of the different processes are set out in the following paragraphs.

Table 1 - Thresholds

Contract Value Band	Requirement	Procurement Type	Method to communicate the opportunity
£1 - £24,999.99	Minimum one written quote	Unregulated	No requirement to use the Procurement Portal
£25,000 ¹ - £74,999.99	Minimum three quotes	Regulated Below threshold	Procurement Portal and Find a Tender Service
£75,000 - the PA Threshold (£177,897.50) ²	Open Tender	Regulated Below threshold	Procurement Portal and Find a Tender Service
Above the PA Threshold	Open Procedure or the Competitive Flexible Procedure	Regulated Procurement	Procurement Portal and Find a Tender Service

- 4.2 The award of a contract the value of which exceeds £300,000 must be approved by the Authority .
- 4.3 For Regulated Procurement, the Government from time to time sets the relevant thresholds above which it is legally required to carry out a compliant competitive tendering procedure, in accordance with the PA, unless a justification applies for a direct award of contract.
- 4.4 The Authority must not split contracts in such a way as to deliberately avoid exceeding the relevant PA threshold or any lower threshold to which these CSOs apply. Officers must estimate the anticipated value by reference to all known relevant information at the time the procurement would commence.
- 4.5 For service contracts, the total/aggregate value of the contract shall be determined over its entire term, and this value shall be the figure taken into account for the purpose of assessing whether the anticipated value is above a relevant threshold (and not the annual value). It is not necessary to apply any inflationary or discounting assumptions to the aggregate value.

¹ This figure when VAT is taken into account is £30,000, which is the same as VAT inclusive threshold in the PA at which Regulated Below Threshold Contracts are notifiable.

² The PA Threshold is VAT inclusive and is currently £213,477 for goods and services and £5,336,937 for works. Because the Authority reclaims VAT, the Authority's actual expenditure at which the PA threshold applies i.e. the net expenditure is £177,897.50 and £4,447,475 respectively.

- 4.6 To determine the Procurement Type, the Authority has to estimate the contract value. In particular, officers must include within their valuation all options, extensions or renewals of term and all fees, prizes, premiums, commissions or interests which could be payable under the contract.
- 4.7 Where the value of the contract is indeterminate, the Authority must assume that the threshold for the purpose of the PA is exceeded.
- 4.8 Whilst it is not compulsory to aggregate the values of two or more similar contracts, when determining the estimate of value, the Authority shall take a view as to whether the requirement could be reasonably supplied under a single contract.

5 Contracts awarded under frameworks

- 5.1 The Authority may award a public contract or a regulated below threshold contract that is covered by a framework which the Authority has concluded, or which another Contracting Authority has concluded and which the Authority is permitted to use. Such contracts are also known as Call-Off Contracts.
- 5.2 Any Call-Off Contract must be signed by all parties no later than the last date of the enabling framework.
- 5.3 Any decision to award a Call-Off Contract from a framework shall be taken in accordance with the terms and conditions of the relevant framework.

6 Pre-Procurement

- 6.1 In each financial year the Authority shall publish a pipeline notice setting out information as required by the PR relating to the Regulated Procurements with an estimated value of £2m or more which the Authority intends to enter into in the following financial year. Such notice shall be published by 26 May in each financial year.
- 6.2 Before publishing a tender notice for a Regulated Procurement, the Authority shall consider whether to publish a Planned Procurement Notice setting out its intention to carry out a Regulated Procurement. The Authority shall, if practicable, issue the Planned Procurement Notice at least 40 days prior to the tender notice, in order to give the ability if required to utilise reduced tendering periods in the procurement itself.
- 6.3 Before publishing a tender notice for a Regulated Procurement, the Authority shall consider whether to undertake preliminary market engagement. Where the Authority undertakes preliminary market engagement, it shall, unless it has good reason not to, publish a preliminary market engagement notice. Should it choose not to publish such a notice, it must provide the reasons for conducting such engagement without a preliminary market engagement notice in the tender notice itself. Officers must ensure that any preliminary

market engagement is carried out in a manner which does not put any suppliers at an unfair advantage, or which otherwise distorts competition.

- 6.4 If an officer is concerned that a supplier's participation in any preliminary market engagement has put it at an unfair advantage or otherwise distorts competition, they must seek the advice as to whether to exclude such supplier from the tendering procedure.
- 6.5 The Authority may undertake preliminary market engagement for any Unregulated Procurement in such manner as it deems appropriate, provided such engagement does not put any supplier at an unfair advantage or otherwise distort competition.
- 6.6 Before commencing a Regulated Procurement, the Authority shall consider whether the requirement could reasonably be supplied under more than one contract and whether such contracts could appropriately be awarded by reference to Lots. Officers shall seek guidance as to whether their requirements can be met in this way. Where the Authority concludes not to procure by reference to Lots, it must record its reason for not doing so in the Tender Notice.

7 Regulated Procurement - Tenders

- 7.1 Regulated Procurement shall be undertaken in a way which is fully compliant with the PA and the PR. If officers are unsure as to any matter regarding the procurement, they must seek advice.
- 7.2 The scope of this section covers all of the Authority's above PA threshold requirements, except where the contract is awarded under a Framework or a Dynamic Market or a justification exists for a Direct Award.
- 7.3 Regulated Procurements shall be conducted applying either the Open Procedure or the Competitive Flexible Procedure. A decision to follow the Competitive Flexible Procedure shall be made only after consultation with the Procurement Team.
- 7.4 All tender opportunities must be commenced by the publication of a tender notice and be placed on the Procurement Portal and the UK E-notification service. In the case of a Competitive Flexible Procedure, the tender notice shall either invite suppliers to submit a request to participate in the process or invite suppliers to submit their first or only tender as part of the procedure. Officers shall seek the advice of the Procurement Team as to which of the forms of tender shall be used in those circumstances.
- 7.5 No tender opportunity shall be placed on the Procurement Portal and the UK E-notification service until the Authority has prepared a specification for the goods, works or services, the conditions of contract, the conditions of participation and the invitation to tender (Open Procedure) or participate in the Competitive Flexible Procedure.

- 7.6 Each invitation to tender or participate shall contain the following information:-
- 7.6.1 A statement of the validity of a submitted tender (which shall not be less than 90 days);
 - 7.6.2 An anti-collusion certificate;
 - 7.6.3 A form of tender;
 - 7.6.4 The evaluation criteria, the weighting to be applied to such criteria and the scoring methodology for assessing the evaluation;
 - 7.6.5 In the case of a competitive flexible procedure a statement as to whether the procedure will be conducted in successive stages and if so whether the Authority intends to refine the evaluation criteria and/or the weightings;
 - 7.6.6 A statement as to whether a parent company guarantee, a performance bond or other security is required from the suppliers;
 - 7.6.7 A statement that the Authority is not bound to accept any tender; and
 - 7.6.8 Notification that tenders are submitted at the bidder's expense.
- 7.7 Clarification questions relating to the procurement may be asked by bidders up to 6 days prior to the tender submission deadline. The Authority shall respond to all clarifications as soon as reasonably possible and no later than 4 days prior to the tender submission deadline. All responses to clarification questions shall be provided to all bidders, unless the bidder requesting the clarification has indicated that the question is confidential. Where a bidder has indicated that a question is confidential, the officers shall seek confirmation from the Procurement Team as to whether it is agreed that the information is confidential. If the Authority agrees, the response shall be sent to the bidder who submitted the clarification question only. If the Authority disagrees, the bidder which submitted the question shall be given the opportunity to withdraw the question. If the question is not withdrawn, the response shall be provided to all bidders.
- 7.8 All communication with bidders in an Open Procedure shall be conducted through the Procurement Portal. Officers and members shall make no direct contact in person, telephone or email with suppliers under any circumstances.
- 7.9 All communication with bidders in a Competitive Flexible Procedure shall be conducted through the portal, except to the extent that the Authority has determined the formal structure of the procedure to include face to face or online meetings.
- 7.10 No post-tender clarification shall be undertaken in an Open Procedure except with the agreement of the Head of Procurement.
- 7.11 Post tender clarification may be undertaken in a Competitive Flexible Procedure provided it has been allowed for as part of the procedure or is authorised by the Head of Procurement.

- 7.12 Post-tender negotiations are not permitted in an Open Procedure. Negotiations may be undertaken at any stage in a Competitive Flexible Procedure, provided that they have been allowed for as part of the procedure. However, even where such negotiations have been allowed for in the procurement as part of the outlined procedure, they shall not be undertaken without the presence of the Procurement Team.

8 Regulated Procurement – Conditions of Participation and Exclusion of suppliers

- 8.1 It is not a requirement of the PA to set Conditions of Participation, which assess a potential supplier's legal and financial and technical ability to carry out the contract. However, the Authority ordinarily will set Conditions of Participation to ensure that a potential supplier has the requisite capacity and technical ability to perform the contract. The approval of the Head of Procurement will be required to proceed with a procurement without the Authority setting Conditions of Participation as part of the procedure. Where Conditions of Participation are required, the PA does not prescribe the means of proof relating to these conditions, but any conditions set must be a proportionate means of ensuring suppliers have the relevant capacity or ability, having regard to the nature, cost and complexity of the contract. The Authority may not request information, as a Condition of Participation, which is expressly prohibited by section 22(4) of the PA.
- 8.2 The Authority may exclude a supplier from participating or progressing in a competitive tendering procedure when the supplier has not satisfied the Conditions of Participation.
- 8.3 The Authority shall disregard any tender from a supplier that is an Excluded Supplier. An Excluded Supplier is defined within the PA.
- 8.4 Before conducting the evaluation of an Open Procedure tender, the Authority shall consider whether the supplier is an Excludable Supplier.
- 8.5 Where the Authority receives a tender from an Excludable Supplier, it shall consider whether it shall allow or disregard that tender. No decision to allow or exclude an Excludable Supplier shall be taken without the agreement of the Head of Procurement.
- 8.6 As part of every tendering procedure, the Authority shall request information about whether a supplier is intending to subcontract any part of the performance of the contract and shall request that such information as is deemed necessary to determine whether the subcontractor is an Excluded Supplier or an Excludable Supplier.
- 8.7 Where a proposed subcontractor is an Excluded Supplier, the Authority shall exclude the supplier from the procurement.

- 8.8 Where a proposed subcontractor is an Excludable Supplier, the Authority shall treat the supplier as an Excludable Supplier and determine whether to exclude the supplier from the procurement in accordance with paragraph 8.3.
- 8.9 Where the Authority determines to exclude the supplier in the circumstances set out in paragraph 8.6, it shall notify the supplier of its intention and give the supplier a reasonable opportunity to find an alternative subcontractor.
- 8.10 The Authority shall exclude a supplier if it acts improperly, and its behaviour puts it at an unfair advantage in relation to the award. A supplier is deemed to have acted improperly where it:-
- 8.10.1 fails to provide information requested by the Authority,
 - 8.10.2 provides incomplete, inaccurate or misleading information.
 - 8.10.3 accesses the Authority's confidential information; or
 - 8.10.4 unduly influences the Authority's decision making in relation to any contract.
- 8.11 Where the Authority excludes a supplier, it shall notify the Cabinet Office.
- 8.12 The Authority shall exclude a supplier which is on the Debarment List or is an Associated Person of a supplier on the Debarment List.

9 Regulated Procurement - Evaluation and Award

- 9.1 The Authority shall award a public contract to the most advantageous tender which satisfies the Authority's requirements, and which best satisfies the award criteria.
- 9.2 The award criteria must:
- 9.2.1 relate to the subject matter of the contract (as defined in paragraph 9.3)
 - 9.2.2 be sufficiently clear, measurable and specific,
 - 9.2.3 satisfy the PA requirements relating to technical specifications of contracts; and
 - 9.2.4 be a proportionate means of assessing tenders, having regard to the nature, complexity and cost of the contract.
- 9.3 The subject matter of the contract shall include the following factors:
- 9.3.1 goods, services and works to be provided by the supplier including and in respect of any aspect of their production, trading or other stage in their life cycle,
 - 9.3.2 how or when the goods, services or works are to be supplied,
 - 9.3.3 qualifications, experience, ability, management or organisation of staff where such factors are likely to make a material difference to the quality of the goods, services or works to be supplied,

- 9.3.4 price, other costs which the Authority may incur as a result of acceptance of a particular tender and value for money,
 - 9.3.5 any social value requirement and
 - 9.3.6 length of contract.
- 9.4 Criteria other than those set out in paragraph 9.3 shall not be included except with the agreement of the Head of Procurement. The exclusion of any of the criteria set out in paragraph 8.3 shall also require the agreement of the Head of Procurement.
- 9.5 In the evaluation of Light Touch Contracts, the Authority may also take into account the proximity of the supplier and the views of users of the services and different needs of different service users. Officers shall obtain the agreement of the Head of Procurement to the use of any such evaluation criteria or methodology.
- 9.6 The award criteria shall be given a weighting representing a percentage of the total importance in accordance with the contract's value and associated risk.
- 9.7 The Authority may, in Competitive Flexible Procedures refine the award criteria and/or the weighting, provided that it has given notice of its intention to do so in the tender notice or the tender documents. Any decision to refine shall require the agreement of the Head of Procurement and the application of any refinement to the criteria or weighting to a procedure shall only be carried out after consultation with the Head of Procurement.
- 9.8 If the Authority considers the price offered in a tender to be abnormally low, it may disregard that tender but must first give the supplier a reasonable opportunity to demonstrate that it will be able to perform the contract for the price offered. Advice must be taken from the Head of Procurement before taking any action with regard to what may be considered to be an abnormally low tender.

10 Contracts awarded under Dynamic Markets

- 10.1 The Authority may establish arrangements for the purposes of awarding public contracts known as a Dynamic Market by submitting a Dynamic Market Notice to the UK E-notification service and the Procurement Portal.
- 10.2 In establishing a Dynamic Market, the Authority shall set conditions for participation relating to the legal and financial capacity to perform contracts to be awarded by reference to membership of the Dynamic Market and which have the technical ability to perform the contract. Such conditions shall be proportionate to the requirements, having regard to the nature, complexity and cost of the contract to be awarded.
- 10.3 To award a public contract under a Dynamic Market, the Authority must utilise the Competitive Flexible Procedure.

- 10.4 If a tender is submitted by a supplier which is not a member of the Dynamic Market, the Authority shall exclude such supplier and disregard the tender unless the supplier has made an application for membership of the Dynamic Market and the Authority has accepted the application.
- 10.5 If, due to exceptional circumstances arising from the complexity of the particular procurement, the Authority is unable to assess an application to be admitted to the Dynamic Market prior to the deadline for submitting a request to participate in the procedure (or where no such invitation has been made, the deadline from receipt of initial tenders) the Authority shall not exclude the supplier or disregard the tender.

11 Purchasing from a Centralised Procurement Authority

- 11.1 The Authority may purchase goods, services or works from a Centralised Procurement Authority without the need for additional competition.
- 11.2 For the avoidance of doubt, a purchase from a Centralised Procurement Authority is not the same as a procurement from a framework which a Centralised Procurement Authority has set up, which must observe the requirements of paragraph 5.

12 Collaborative procurement

- 12.1 The Authority may collaborate with other Contracting Authorities to jointly procure contracts for each of them or a joint contract to be entered into together.
- 12.2 A contract between the Authority and an entity which the Authority controls (either individually or jointly with another Contracting Authority) (known colloquially as a Teckal company) shall be exempted from these rules, except to the extent covered in this Paragraph 12.
- 12.3 “Control” of an entity for the purposes of Paragraph 12.2 means that the Authority exercises a decisive influence over the activities of the person and more than 80% of the activities of the entity are carried out for the Authority.
- 12.4 This exemption shall not apply to contracts with an entity which the Authority jointly controls with another person which is not also a Contracting Authority.
- 12.5 A contract or other arrangement between the Authority and another Contracting Authority shall be exempted from these CSOs, provided that it is entered into with the aim of achieving objectives in common in connection with the exercise of public functions and which is solely in the public interest.

13 Regulated Below Threshold Procurement

- 13.1 The Authority is obliged to issue a “below threshold tender notice” on the Procurement Portal and the Find a Tender service for all contracts with a

value above £25,000 (£30,000 inclusive of VAT) and below the threshold for Regulated Procurement.

- 13.2 The Authority may waive the requirement to advertise a Regulated Below Threshold Contract in accordance with the provisions of paragraph 17.
- 13.3 Where the Authority advertises for a Regulated Below Threshold Contract, it shall not restrict the submission of tenders by reference to a supplier's suitability to perform the contract, by reference to its legal and financial capability and its technical ability.
- 13.4 When advertising a Regulated Below Threshold Contract, an appropriate description of the goods, services, or works (commensurate with the value of the contract) setting out the Authority's requirements in sufficient detail, must be provided to prospective suppliers to enable the submission of competitive tenders.
- 13.5 The below threshold tender notice shall also make reference to or include the following as a minimum:
 - 13.3.1 the terms and conditions of contract that will apply,
 - 13.3.2 notification that tenders are submitted to the Authority on the basis that they are compiled at the supplier's expense,
 - 13.3.3 a description of the award criteria as appropriate,
 - 13.3.4 the date and time by which a tender is to be submitted; and
 - 13.3.5 a declaration to the effect that the Authority is not bound to accept any tender submitted.

14 Unregulated Procurement

- 14.1 The Authority shall request a Quote for all contracts below £25,000 (£30,000 inclusive of VAT) without the advertising through the Procurement Portal.
- 14.2 When requesting a Quote, an appropriate description of the goods, services, or works (commensurate with the value of the contract) setting out the Authority's requirements in sufficient detail, must be provided to prospective suppliers to enable the submission of competitive Quotes.
- 14.3 The request for a Quote shall also make reference to or include the following as a minimum:
 - 14.3.1 the terms and conditions of contract that will apply,
 - 14.3.2 notification that Quotes are submitted to the Authority on the basis that they are compiled at the supplier's expense,
 - 14.3.3 a description of the award criteria as appropriate,
 - 14.3.4 the date and time by which a Quote is to be submitted, and
 - 14.3.5 a declaration to the effect that the Authority is not bound to accept any Quotes submitted.

14.4 The suppliers must be given a reasonable period in which to prepare and submit a Quote, consistent with the complexity of the contract requirement.

14.5 The contract will be awarded in accordance with the award criteria used.

15 Concessions

15.1 A concession contract, whether a concession for the provision of works or services means a contract where all or part of the consideration is the right for the supplier to exploit the said works or services and under which the supplier is exposed to a real operating risk.

15.2 The Authority may procure a works concession contract or a services concession contract in the same way as a contract for works or services in accordance with the provisions of paragraph 7. However, only concession contracts with a value of more than £5m are required to be procured in accordance with such provisions. The procurement of a concession contract with a lower value shall be treated in the same way as a Regulated Below Threshold Procurement.

15.3 In estimating the value of a concession contract, the Authority shall take into account the amount the supplier could expect to receive under or in connection with the contract, including revenue received and any payments by the Authority.

16 Direct Award

16.1 The Authority may make an award of contract without competition as permitted under the PA where the contract is of a type described in 16.4 – 16.9 or is necessary to protect human, animal or plant life or health or to protect public order or safety.

16.2 A direct award shall not be made to an Excluded Supplier unless there is an overriding public interest in doing so.

16.3 For the avoidance of doubt, an award under a framework agreement is not a direct award governed by this paragraph.

16.4 Prototypes and development

16.4.1 The contract concerns the production of a prototype, or supply of other novel goods or services, for the purpose of—

- (a) testing the suitability of the goods or services,
- (b) researching the viability of producing or supplying the goods or services at scale and developing them for that purpose, or

- (c) other research, experiment, study or development.

16.5 Single suppliers

16.5.1 Where the works, supplies or services can be supplied only by a particular economic operator for any of the following reasons:

- (a) The contract concerns the creation or acquisition of a unique work of art or artistic performance.
- (b) due to a particular supplier having intellectual property rights or other exclusive rights, only that supplier can supply the goods, services or works required;
- (c) due to an absence of competition for technical reasons, only a particular supplier can supply the goods, services or works required

16.5.2 and in each case there are no reasonable alternatives to those goods, services or works.

16.6 Additional or repeat goods, services or works

16.6.1 The contract concerns the supply of goods, services or works by the existing supplier which are intended as an extension to, or partial replacement of, existing goods, services or works in circumstances where—

- (a) a change in supplier would result in the contracting authority receiving goods, services or works that are different from, or incompatible with, the existing goods, services or works, and
- (b) the difference or incompatibility would result in disproportionate technical difficulties in operation or maintenance.

16.6.2 The contract concerns the supply of goods, services or works by the existing supplier that are similar to existing goods, services or works where—

- (a) the existing goods, services or works were supplied under a contract that was awarded in accordance with a competitive

tendering procedure within the period of five years ending with the day on which the transparency notice is published, and

- (b) the tender notice or any tender document in respect of that earlier contract set out the Authority's intention to carry out a subsequent procurement of similar goods, services or works in reliance on this direct award justification.

16.7 Commodities

16.7.1 The contract concerns goods purchased on a commodity market.

16.8 Advantageous terms on insolvency

16.8.1 The award of the contract to a particular supplier will ensure terms particularly advantageous to the Authority due to the fact that a supplier, whether or not the one to whom the contract is to be awarded, is undergoing insolvency proceedings.

16.9 Urgency

16.9.1 Where—

- (a) the goods, services or works to be supplied under the contract are strictly necessary for reasons of extreme and unavoidable urgency, and
- (b) as a result the contract cannot be awarded on the basis of a competitive tendering procedure.

16.9.2 For the purpose of paragraph 16.9.1, urgency is unavoidable if it—

- (c) is not attributable to any act or omission of the Authority, and
- (d) could not have been foreseen by the Authority.

17 Exemptions

- 17.1 These CSOs do not apply to contracts which are exempted from competition, and which are listed in Part 2 of Schedule 2 to the PA as “subject-matter exempted contracts”.
- 17.2 The Authority may exempt Unregulated Procurements and Regulated Below Threshold Procurements from these CSOs in accordance with this paragraph 17. Notwithstanding an exemption from competition for Regulated Below Threshold Procurements, the Authority must still publish a contract details notice.
- 17.3 The Budget Holder must obtain approval to apply any Exemption to the CSOs by submitting an Exemption Application to the Head of Procurement to consider the request. Subject to approval, the request will be forwarded to the Head of Legal Services for further approval and finally to a Principal Officer for final confirmation of approval with the exception of any exemption not to be delegated within the Scheme of Delegation and requires approval of the Authority.
- 17.4 The Authority may not exempt itself from following the CSOs, the PA or the PR in relation to a Regulated Procurement in any circumstances, other than where expressly permitted by the PA. In those circumstances, the decision to apply an Exemption must follow paragraph 17.3.
- 17.5 The Authority may make a direct award if the award meets the requirements of the Direct Award Justifications of Schedule 5 of the PA (16.4 – 16.9 of these CSOs).

18 After Award

- 18.1 A minimum of eight working days before entering into a public contract as a result of a Regulated Procurement, the Authority shall first provide an assessment summary to each supplier and publish a Contract Award Notice.
- 18.2 An assessment summary shall set out the Authority’s assessment of the supplier’s tender and the most advantageous tender.
- 18.3 Each assessment summary shall be approved by the Procurement Team before being sent to suppliers.

19 Contract Provisions

- 19.1 All contracts must be in writing and must set out the parties’ obligations, rights and risk allocations. Advice must be sought from the Procurement Team as to the appropriate form of contract to be used and must incorporate the Authority’s appropriate standard terms and conditions. Any deviations from the standard terms must be approved by the Head of Legal Services.

- 19.2 All contracts, irrespective of value, shall clearly specify as a minimum
- 19.2.1 what is to be supplied (i.e. the goods, services or works to be provided),
 - 19.2.2 the provisions for payment (i.e. the price to be paid and when) with a statement of discount or other deductions,
 - 19.2.3 the time or times within which the contract is to be performed,
 - 19.2.4 the provisions for the Authority to terminate the contract and seek damages in the event of the contractor's default,
 - 19.2.5 that the Authority is entitled to terminate the contract and recover the amount of any loss resulting from corrupt practices
 - 19.2.6 the policies and procedures that must be complied with,
 - 19.2.7 data protection requirements as applicable,
 - 19.2.8 relevant insurance requirements,
 - 19.2.9 prohibit the assignment, transfer, novation directly or indirectly to any persons whatsoever any portion of the contract without the Authority's written permission,
 - 19.2.10 Freedom of Information Act and Environmental Information Regulations requirements; and
 - 19.2.11 any required security for the due performance of the contract.
- 19.3 All contracts must be either signed by the Head of Legal Services or by an officer authorised under the Authority's Scheme of Delegation or executed under seal.
- 19.4 A contract must be sealed where the Authority wishes to extend the liability period under the contract and enforce its terms for up to 12 years or where the price to be paid or received under the contract is a nominal price and does not reflect the value of the goods or services or as determined by the Head of Legal Services
- 19.5 The seal must be affixed in accordance with the provisions of the Authority's constitution.
- 19.6 All contracts are to be formally completed before the relevant goods are dispatched or the services or works are commenced, except in exceptional circumstances and then only with the prior approval of the Head of Legal Services.

20 Contract Modifications

- 20.1 Where a public contract has been procured as a result of a Regulated Procurement or it is proposed to modify a contract with the effect that the contract once modified would have a value above the threshold for the procurement to be classified as a Regulated Procurement, such modification shall only be allowed where it is a permitted modification in accordance with paragraph 20.2 or is not a substantial modification, as defined in paragraph 20.3 or is a below threshold modification as defined in paragraph 20.4.

- 20.2 A permitted modification is one which is described as a permitted contract modification in Schedule 8 of the PA.
- 20.3 Where a modification is not set out in Schedule 8 of the PA, it shall nevertheless be permitted if the modification is not a substantial modification. A substantial modification is one which would either:
- 20.3.1 increase or decrease the term of the contract by more than 10% of the maximum term (including any extension provisions provided for in the contract); or
 - 20.3.2 would materially change the scope of the contract; or
 - 20.3.3 would materially change the economic balance of the contract in favour of the supplier.

If any one of these three circumstances apply, the modification is not permitted. A modification shall be deemed to materially change the scope of the contract where it materially provides for the supply of goods, services or works of a kind which are not already provided for in the contract.

- 20.4 A below threshold modification is one which would not increase or decrease the estimated value of the contract by more than:
- 20.4.1 10% (in the case of a contract for goods or services); or
 - 20.4.2 15% (in the case of a contract for works)

and where the aggregated value of all below threshold modifications would be less than the threshold amount for that type of contract and would not otherwise materially change the scope of the contract.

- 21.5 It is necessary to publish a contract change notice for any modification except for a below threshold modification and a modification which increases or decreases the term of the contract by less than 10%.

21 Contract Management

- 21.1 Contract management is the Budget Holder's responsibility and every high risk, high value contract shall have a named contract manager.
- 21.2 All contracts with an estimated value of more than £5m, shall contain at least three key performance indicators. Key performance indicators are factors or measures against which a supplier's performance of the contract can be assessed during the lifecycle of the contract. This provision shall not apply to a Light Touch contract or a contract where it is considered, with the approval of Head of Procurement, that performance cannot be measured by key performance indicators.
- 21.3 Where the Authority has set key performance indicators, it shall at least once in every 12-month period during the lifecycle of the contract and upon termination of the contract assess performance against those key

performance indicators and publish information in relation to that assessment in accordance with the PR.

- 21.4 If the Authority considers that a supplier is not performing a public contract to its satisfaction and the supplier has been given proper opportunity to improve its performance but has failed to do so, the Authority shall publish information relating to the circumstances in accordance with the provisions set out in the PR.
- 21.5 Any contract which the Authority enters into shall contain terms committing the Authority to pay all sums due before the end of the period of 30 days beginning with the day on which an invoice is received or if later the day on which payment falls due in accordance with the invoice.
- 21.6 It shall be implied into every contract that the above term shall be included in all contracts, whether included explicitly or not.
- 21.7 The Authority need not pay an invoice within 30 days if it considers the invoice is invalid or disputes the invoice, but where those circumstances apply, it must notify the supplier without undue delay of those circumstances.
- 21.8 The Authority shall publish a "payments compliance notice" setting out the details of all payments made under contracts twice yearly for the periods ending on 31 March and 30 September. Such notice shall set out the information required by the PR.

22 Conflicts of Interest

- 22.1 Officers of the Authority are strictly bound by section 117 of the Local Government Act 1972 to declare any interest in a contract or proposed contract, whether direct or indirect. Such notice shall be given to the Head of Legal Services, as soon as the Officer becomes aware of the interest in accordance with the Service Instruction Declaration of Interests.
- 22.2 An Officer shall not, under colour of their office or employment, accept any fee or reward whatsoever other than their proper remuneration.
- 22.3 Members of the Authority are bound by the Code of Conduct for Members.

Appendix 1 - Glossary of Terms

Associated Person	a person that a supplier is relying on in order to satisfy the Conditions of Participation other than a person that act as a guarantor
Bidder	any economic operator which submits a Quote or Tender
Call-Off Contract	Contract awarded pursuant to a framework
Centralised Purchasing Authority	a contracting authority that is in the business of conducting procurement for or on behalf of, or for the purpose of the supply of goods, services or works to, other contracting authorities
Competitive Flexible Procedure	the procedure for all Regulated Procurements where the Open Procedure is not used and is designed in such a way as the Authority considers appropriate for the procurement taking account of the nature, cost and complexity of the contract.
Conditions of Participation	conditions set by the Authority to determine whether a potential supplier qualifies to progress to the tendering stage of a competitive tendering procedure
Contract Award Notice	a notice setting out the Authority's intention to enter into a contract, and which contains such information as are required in regulations.
Contracting Authority	a public sector body as defined in the PA
Debarment List	a list of excluded and excludable suppliers held nationally by the government
Dynamic Market	arrangements established under section 35(1) PA
Dynamic Market Notice	a notice of intention to establish a Dynamic Market
Excludable Supplier	either (a) the supplier (or an associated person) to which the Authority considers that a discretionary exclusion ground applies and the circumstances giving rise to the application of the exclusion ground are continuing or likely to occur again, or (b) the supplier (or an associated person) is on the Debarment List by virtue of a discretionary exclusion ground
Excluded Supplier	either (a) the supplier (or an associated person) to which the Authority considers that a mandatory exclusion ground applies and the circumstances giving rise to the application of the exclusion ground are continuing or likely to occur again, or (b) the supplier (or an associated person) is on the Debarment List by virtue of a mandatory exclusion ground

Financial Procedure Rules	that part of the Authority's Constitution which set out the rules governing the expenditure of Authority resources
Find a Tender Service	UK- wide noticing service for public procurement
Light Touch Contract	a contract of a type listed by the government in Regulations
Open Procedure	a single stage procedure for competitive tendering of Regulated Procurements without a restriction on who can submit tenders
PA Threshold	the threshold as set out in the PA and amended by Government from time to time above which a procurement exercise must be conducted in accordance with the Open Procedure or the Competitive Flexible Procedure
Procurement Portal	The Authority's e-procurement system including any replacement or substituted system or platform which is used by the Authority to send notices to be published on Find a Tender Service and for the receipt of quotations and tenders etc.
Quote	a formal offer submitted by a Bidder to the Authority in response to a request for Quotes in respect of non-regulated below threshold procurements
Regulated Below Threshold Procurement	Procurement activity with a value between £30,000 and the PA Threshold which is governed by limited legislative or regulatory requirements as set out in Part 6 of the PA
Regulated Procurement	procurement activity with a value above the PA Threshold which is governed by the legislative or regulatory requirements of either the PA and/or the PR
Tender	a formal offer submitted by a Bidder to the Authority in response to an Invitation to Tender in relation to a Regulated Procurement
Unregulated Procurement	procurement activity with a value below £30,000 which is not governed by the legislative or regulatory requirements of either the PA or the PR

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