

Part 4 Rules of Procedure

4.5 Contract Standing Orders

1 Purpose and Status

- 1.1 These Standing Orders are made and approved by the Council to regulate and ensure probity in all its dealings with suppliers and contractors. In following these procedures, officers of the Council must:
 - Ensure value for money is achieved
 - Ensure fairness in allocating public contracts
 - Comply with all legal requirements
 - Be consistent with highest standards of integrity
 - Support the Council's aims and policies
- 1.2 Compliance with these Standing Orders is mandatory for all staff employed by or on behalf of South Norfolk Council, and failure to observe them without good and sufficient reason will be treated as a disciplinary issue. Staff letting or managing contracts must ensure that all contractors are aware of their provisions and comply with them.
- 1.3 When commissioning work through consultants or other forms of agent, the staff concerned must ensure that the said agents adhere strictly to these same Contract Standing Orders as if they were employees of the Council. Agents or consultants must not make any decision as to whether to award a contract, or whom a contract should be awarded to. Such decisions should only be made by a Council Officer with delegated authority. This applies to any agent and consultant commissioned by the Council, be they employed directly to provide advise, support and guidance on a specific contract, or employed to fulfil a more general role within the Council.
- 1.4 All staff and members involved in any way in dealing with suppliers or contractors on behalf of the Council must be aware of and pay full regard to the requirements in the Council's Constitution to declare as provided for any interests, whether pecuniary or otherwise, that they may have in any such matter. Specific guidance is included separately in Codes of Conduct for members and officers.
- 1.5 These Standing Orders also apply to the appointment of Consultants as they constitute the provision of a service.
- 1.6 These Standing Orders are the minimum standards which should be followed. Further advice is available from the procurement team or the Financial Services Manager.

2 The contract value

- 2.1 The first step is to identify what services/goods are required and to estimate the cost for these. A detailed cost estimate should be drawn up; for higher value contracts, professional estimators should be considered to ensure estimates and tenders subsequently received are realistic and provide value for money for the Council. The timeframes over which you should estimate costs apply as follows:
- If it is a construction project, the total costs over the full life-time of the project
 - If it is a fixed-term service contract, the total costs over the full fixed-term of the service provided
 - If it is an indefinite life service (e.g. something the Council intends to buy over a number of years, or you are not sure when it will end), the costs you would expect to pay over the first 4 years of that service being provided.
- 2.2 The total cost for the whole council should be considered, not just within the individual service. There are numerous permutations but they might include:
- A one off purchase
 - A one off purchase which requires on-going costs such as servicing and maintenance
 - A regular supply of a service
 - An initial contract for particular goods / services, with options for future purchasing / add-on purchases within that same contract

Example: To purchase a rolling road for brake testing. The total estimate of the cost, if it was to be awarded to one supplier, would be the initial cost of the rolling road, its installation and the on going maintenance cost for the four year period.

Alternatively there could be three contracts with different suppliers; the supply of the equipment, the installation and the on-going maintenance cost for four years. In this instance all three would need to be a separate contract, however each would have to stand up to independent scrutiny without any premeditated outcome on who the supplier will be. The breaking down of a supply cannot be used to justify the circumvention of the rules.

3 Is a new contract required?

- 3.1 If an existing contract is in place under which the new supply of goods/services can be obtained then this should be used.

3.2 There is also the option of using a framework agreement. Frameworks are pre-tendered contracts, which the Council can use, providing we operate to the pre-approved terms. They have usually been commissioned by buying consortia such as ESPO or the Office of Government Commerce, and are compliant with the EU rules of procurement. There are several types of these arrangements such as :

- One supplier who has won a specific tender for a specific contract. The Council has to continue to operate to the terms and conditions set out in that contract.
- Several suppliers who have been invited to tender to meet specific terms. The Council can vary these terms, but should we do so, we must hold a “mini-competition” between the various suppliers.

3.3 The advantage of using such arrangements is to gain the benefits of bulk purchasing whilst avoiding the need to spend time setting up a tendering/quotation exercise. However there are several issues which must be considered:

- The conditions of the framework agreement must allow use by the Council.
- The goods/services being requested must be covered in full by the framework.
- The life of the framework and its end date.

4 Exceptions to tendering and quotation procedures

4.1 It shall not be necessary to invite tenders tenders/quotations: -

- (a) Where effective competition is prevented by governmental control or market monopoly. The Officer must prove to the satisfaction of the Financial Services Manager that there are no alternative providers;
- (b) Where purchase is made at public auction;
- (c) Where procurement is made through a purchasing consortium; Officers must assure themselves and the Financial Services Manager that the contract has been subject to the appropriate tendering process and covers call off by other parties which would include the Council
- (d) Where procurement is in conjunction with a third party; i.e. a shared procurement exercise; it must be conducted to the satisfaction of the Council.
- (e) Where it is in the business interests of the Council not to seek formal tenders (e.g. urgent action is required); agreement from the Corporate Management Team, the Financial Services

Manager, the Monitoring Officer and the Leader of the Council must be sought prior to commissioning works. A subsequent report will be made to Cabinet.

5 Tendering and Quotations

- 5.1 Tenders and quotations are both offers to supply goods, works and services.
- 5.2 A quotation is a competitive written quotation of price and any other relevant matter. This is typically used for purchasing standard items e.g. IT equipment, which are available from different sources and prices may be expressed in terms of a discount on a standard price list.
- 5.3 A tender will normally be used for more complex circumstances where the goods/services need to be defined in detail as they are non-standard, with bidders entering their prices for work against a schedule of separate elements.

6 Value of Contract is expected to be under £20,000

- 6.1 A minimum of three “informal” quotations/tenders must be obtained, unless agreed by the Director and Financial Services Manager.
- 6.2 These quotations/tenders can be obtained in a variety of ways which may include phone, internet, letter, face to face, however the information needs to be recorded. Where quotations / tenders are obtained via phone or face to face interaction, these should be confirmed in writing (e.g. send e-mail or through third party providing written quote)
- 6.3 Quotations/tenders will be received by the Officer commissioning the goods / services. They should ensure that any suppliers offering tenders of quotes to the Council are aware that the Council complies with the Government’s transparency agenda and in doing so will be required to publish data related to expenditure, contracts and invitations to tender.
- 6.4 Evaluation of quotations/tenders should take into account the whole life costing of the goods, works or services, including any maintenance requirement and their ultimate replacement where appropriate. Issues around sustainability should also be considered. The decision as to which offer should be accepted should be based on the best overall

economic advantage to the Council, which does not always mean the lowest price.

- 6.5 Where any of the following circumstances prevail, a Director may, prior to the formal agreement of any contract, or instruction to commence works, carry out negotiations to clarify offers received or otherwise to agree the prices and other terms of the contract proposed:
- (a) Where one or more offer is accompanied by alternative proposals;
 - (b) Where examination of offers reveals errors, discrepancies or misunderstandings which would affect the contract price;
 - (c) Where the relevant Director considers that the best offer presented does not represent the best Value For Money that can reasonably be obtained.
- 6.6 In all cases the following provisions shall apply:
- All bidders shall receive fair and equitable treatment and shall be given equal opportunity to clarify their offers or to submit alternative proposals;
 - The relevant Director(s) shall ensure that all negotiations are fully documented and that this documentation and all other evidence of negotiations is collated and filed so as to be readily available for audit or other inspection as required. All such evidence shall be retained in accordance with the Council's Document Retention Policy;
 - At no time shall a bidder be informed of the detail of any other bid.
- 6.7 The decision on who to award the contract to shall be recorded in sufficient detail for the logic to be apparent to anyone who subsequently reviews the circumstances.
- 6.8 Formal contracts are not required but may be useful, depending on the circumstances. There should be a written record of the agreement, although a simple exchange of letters/emails may often suffice.
- 6.9 Where, during the process of tendering for the contract, it becomes clear that the nature, scope or timing of the specifications changes in such a way as to significantly alter the goods / service being tendered, the tendering process should immediately be halted. Discussion should be held with the procurement team as to the process that should be followed, although it is anticipated that significant changes will require the entire tender process to be re-started
- 7 Contract value is expected to be between £20,000 and £100,000**

- 7.1 A minimum of three written “formal” quotations or tenders is required before placing orders or creating contracts of this value. Formal and detailed specifications should be produced to determine the nature, scope, and timing of the goods / services to be performed.
- 7.2 Tenders/quotations will be based on the specification, standard pre tender qualification questionnaires (PQQ’s) and an invitation to tender setting out the terms and conditions proposed. PQQ’s may be sent out with the invitations to tenders and tender specification if there is limited time available.
- 7.3 The PQQ’s will be assessed as follows:
- The Health & Safety Officer will ensure compliance with Health & Safety requirements.
 - Financial Services will be responsible for ensuring the viability of the organisation.
 - The client service will be responsible for the quality of the service/goods tendered for.
- 7.4 The relevant Director will be required to:
- Approve the specification of the works, including any specifications that may restrict those parties that are invited to tender (e.g. covenants which favour local organisations)
 - Approve the list of parties invited to quote or tender, where this list is restricted to several named organisations.
- 7.5 To enable well-considered bids to be submitted, there must be sufficient time allowed. Only for the simplest of works should a period significantly less than 40 days be assumed. All invitations to tender (ITT) or requests for quotation (RFQ) should include:
- (a) A list of the criteria to be applied in bid evaluation;
 - (b) Details of the information required from bidders against each of the criteria;
 - (c) A full set of contract documentation, including where appropriate the conditions of contract, functional specification and any other document necessary to fully describe and specify the Council’s requirements;
 - (d) Full details of the timescales and other conditions for return of bids;
 - (e) A declaration form to sign stating that the Contractor will not collude with other companies during the bidding process (excepting joint / combined bids with other parties), which clearly states that whilst tenders will be treated in the strictest confidence, they will be made available to Trading Standards, the Office of Fair Trading and other regulators when undertaking any investigations, and that legal action will be taken against false declarations

- (f) A statement that the Council complies with the Government's Transparency agenda, and, in so doing, will be required to publish data relating to expenditure, contracts and invitations to tender.

Further advice is available from the Procurement Team, including standard templates.

- 7.6 Where any Director wishes invitations to tender, requests for quotations or submissions in response to be in any form other than original documents on paper, that Director shall first in each case agree suitable arrangements with the Monitoring Officer and the Financial Services Manager. Any such arrangements must provide at least the same degree of anonymity, security and confidentiality until the scheduled time of opening as the arrangements specifically detailed in these Standing Orders. This provision is expressly designed to facilitate the use and development of electronic tendering procedures, where appropriate and to the benefit of the Council. Further advice and assistance is available from the Procurement Team.
- 7.7 All tenders and quotations shall be returned in sealed envelopes that shall be:
- Marked clearly to indicate that it contains a tender or quotation and have no means by which the bidder can be identified;
 - Endorsed to identify the goods, services or works to which it relates;
 - Addressed to the Monitoring Officer who shall keep them unopened in safe custody until the deadline for receipt has passed.
- 7.8 No tender or quotation can be considered as valid if:
- The envelope bears any mark by which the bidder can be identified;
 - If it is received after the deadline for receipt set out in the ITT or RFQ;
 - If for any reason the envelope has been opened prior to the deadline;
 - If for any reason the bidder has failed to comply with any of the instructions contained in the invitation.
 - Where there is clear evidence of inappropriate behaviour during the bidding process (fraud, corruption, bribery) on the part of the organisation submitting the bid.
- 7.9 Tenders and quotations shall be opened at one time in the presence of the relevant Director and the Monitoring Officer.
- 7.10 Evaluation of quotations/tenders should take into account:
- The whole life costing of the goods, works or services, including any maintenance requirement and their ultimate replacement where appropriate.

- Sustainability of the proposals made
- The decision as to which offer should be accepted should be based on the best overall economic advantage to the Council, which does not always mean the lowest price.
- Quotations and Tenders should be subject to critical evaluation to ensure that they are affordable; this particularly applies where any quotations / tenders show any indication of being abnormally low costed
- Ensuring bid information contains sufficient detail upon which to determine that the contractor has appropriately costed all aspects of the bid

7.11 Where any of the following circumstances prevail, a Director may, prior to the formal agreement of any contract, carry out negotiations to clarify offers received or otherwise to agree the prices and other terms of the contract proposed:

- (a) Where one or more offer is accompanied by alternative proposals;
- (b) Where examination of offers reveals errors, discrepancies or misunderstandings which would affect the contract price;
- (c) Where the relevant Director considers that the best offer presented does not represent the best Value For Money that can reasonably be obtained.

7.12 In all cases following provisions shall apply:

- All bidders shall receive fair and equitable treatment and shall be given equal opportunity to clarify their offers or to submit alternative proposals;
- The relevant Director(s) shall ensure that all negotiations are fully documented and that this documentation and all other evidence of negotiations is collated and filed so as to be readily available for audit or other inspection as required. All such evidence shall be retained in accordance with the Council's Document Retention Policy;
- At no time shall a bidder be informed of the detail of any other bid.

7.13 Any such negotiations shall be conducted strictly in accordance to the following rules:

- They shall take place at predetermined times and places;
- The Monitoring Officer and the Financial Services Manager must be notified of the time and venue of all negotiations;
- More than one officer of the Council shall be present at all times, including the Monitoring Officer and the Financial Services Manager, or their senior representative.
- The signed record of all meetings shall be kept on file and a copy supplied to the Monitoring Officer, the Financial Services Manager and the bidder.

- In the event of a contract being awarded, the relevant signed records of meetings shall be bound into the contract.

7.14 Acceptance of tenders/quotations shall be by the relevant Director. Provided that:

- Adequate budget provision exists for both capital and revenue expenditure.
- All relevant approvals have been obtained in accordance with the Council's Project Management Guide.
- A proper evaluation has been carried out which clearly demonstrates that the tender/quotation in question constitutes the best economic advantage to the Council, taking into account quality, price and sustainability
- The tender accepted presents the most economically advantageous position for the Council.

7.15 Formal contracts will be required and may be executed under seal depending on the nature of the work and degree of protection required.

7.16 Where, during the process of tendering for the contract, it becomes clear that the nature, scope or timing of the specifications changes in such a way as to significantly alter the goods / service being tendered, the tendering process should immediately be halted. Discussion should be held with the procurement team as to the process that should be followed, although it is anticipated that significant changes will require the entire tender process to be re-started

8 Contract value is expected to be between £100,001 and £156,000 (EU threshold)

8.1 A minimum of five formal competitive tenders are required. Formal and detailed specifications should be produced to determine the nature, scope, and timing of the goods / services to be performed.

8.2 Tenders/quotations will be based on the specification, standard pre tender qualification questionnaires (PQQ's) and an invitation to tender setting out the terms and conditions proposed. PQQ's may be sent out with the invitations to tenders and tender specification if there is limited time available.

8.3 The PQQ's will be assessed as follows:

- The Health & Safety Officer will ensure compliance with Health & Safety requirements.

- Financial Services will be responsible for ensuring the financial viability of the organisation.
 - The client service will be responsible for the quality of the service/goods tendered for.
- 8.4 The relevant Director will be required to:
- Approve the specification of the works, including any specifications that may restrict those parties that are invited to tender (e.g. covenants which favour local organisations)
 - Approve the list of parties invited to quote or tender, where this list is restricted to several named organisations.
- 8.5 To enable well-considered bids to be submitted, there must be sufficient time allowed. Only for the simplest of works should a period significantly less than 40 days be assumed. All invitations to tender (ITT) or requests for quotation (RFQ) should include:
- (a) A list of the criteria to be applied in bid evaluation;
 - (b) Details of the information required from bidders against each of the criteria;
 - (c) A full set of contract documentation, including where appropriate the conditions of contract, functional specification and any other document necessary to fully describe and specify the Council's requirements;
 - (d) Full details of the timescales and other conditions for return of bids;
 - (e) A declaration form to sign stating that the Contractor will not collude with other companies during the bidding process (excepting joint / combined bids with other parties) , which clearly states that whilst tenders will be treated in the strictest confidence, they will be made available to Trading Standards, the Office of Fair Trading and other regulators when undertaking any investigations, and that legal action will be taken against false declarations
 - (f) A statement that the Council complies with the Government's Transparency agenda, and, in so doing, will be required to publish data relating to expenditure, contracts and invitations to tender.

Further advice is available from the Procurement Team, including standard templates.

- 8.6 Where any Director wishes invitations to tender, requests for quotations or submissions in response to be in any form other than original documents on paper, that Director shall first in each case agree suitable arrangements with the Monitoring Officer and the Financial Services Manager. Any such arrangements must provide at least the same degree of anonymity, security and confidentiality until the scheduled time of opening as the arrangements specifically detailed in these Standing Orders. This provision is expressly designed to

facilitate the use and development of electronic tendering procedures where appropriate and to the benefit of Council. Further advice and assistance is available from the Procurement Team.

- 8.7 All tenders and quotations shall be returned in sealed envelopes that shall be:
- Marked clearly to indicate that it contains a tender or quotation and have no means by which the bidder can be identified;
 - Endorsed to identify the goods, services or works to which it relates;
 - Addressed to the Monitoring Officer who shall keep them unopened in safe custody until the deadline for receipt has passed.
- 8.8 No tender or quotation can be considered as valid if:
- The envelope bears any mark by which the bidder can be identified;
 - If it is received after the deadline for receipt set out in the ITT or RFQ;
 - If for any reason the envelope has been opened prior to the deadline;
 - If for any reason the bidder has failed to comply with any of the instructions contained in the invitation.
 - Where there is clear evidence of inappropriate behaviour during the bidding process (fraud, corruption, bribery) on the part of the organisation submitting the bid
- 8.9 Tenders and quotations shall be opened at one time in the presence of the relevant Director and the Monitoring Officer.
- 8.10 Evaluation of quotations/tenders should take into account:
- The whole life costing of the goods, works or services, including any maintenance requirement and their ultimate replacement where appropriate.
 - Sustainability of the proposals made
 - The decision as to which offer should be accepted should be based on the best overall economic advantage to the Council, which does not always mean the lowest price.
 - Quotations and Tenders should be subject to critical evaluation to ensure that they are affordable; this particularly applies where any quotations / tenders show any indication of being abnormally low costed
 - Ensuring bid information contains sufficient detail upon which to determine that the contractor has appropriately costed all aspects of the bid
- 8.11 Where any of the following circumstances prevail, a Director may, prior to the formal agreement of any contract, carry out negotiations to clarify offers received or otherwise to agree the prices and other terms of the contract proposed:

- (a) Where one or more offer is accompanied by alternative proposals;
- (b) Where examination of offers reveals errors, discrepancies or misunderstandings which would affect the contract price;
- (c) Where the relevant Director considers that the best offer presented does not represent the best Value For Money that can reasonably be obtained.

8.12 In all cases following provisions shall apply:

- All bidders shall receive fair and equitable treatment and shall be given equal opportunity to clarify their offers or to submit alternative proposals;
- The relevant Director(s) shall ensure that all negotiations are fully documented and that this documentation and all other evidence of negotiations is collated and filed so as to be readily available for audit or other inspection as required. All such evidence shall be retained in accordance with the Council's Document Retention Policy;
- At no time shall a bidder be informed of the detail of any other bid.

8.13 Any such negotiations shall be conducted strictly in accordance to the following rules:

- They shall take place at predetermined times and places;
- The Monitoring Officer and the Financial Services Manager must be notified of the time and venue of all negotiations;
- More than one officer of the Council shall be present at all times, including the Monitoring Officer and the Financial Services Manager, or their senior representative.
- The signed record of all meetings shall be kept on file and a copy supplied to the Monitoring Officer, the Financial Services Manager and the bidder.
- In the event of a contract being awarded, the relevant signed records of meetings shall be bound into the contract.

8.14 Acceptance of tenders/quotations shall be by the Management Team (with a retrospective report to Cabinet for information). Provided that:

- Adequate budget provision exists for both capital and revenue expenditure.
- All relevant approvals have been obtained in accordance with the Council's Project Management Guide.
- The tender accepted presents the most economically advantageous position for the Council.

8.15 Formal contracts under seal are required unless the Solicitor to the Council deems them not to be necessary.

8.16 All original copies of the contract are to be held by the Solicitor to the Council.

8.17 Where, during the process of tendering for the contract, it becomes clear that the nature, scope or timing of the specifications changes in such a way as to significantly alter the goods / service being tendered, the tendering process should immediately be halted. Discussion should be held with the procurement team as to the process that should be followed, although it is anticipated that significant changes will require the entire tender process to be re-started

9 Contract value is over £156,000

9.1 EU procurement rules stipulate that higher value contract opportunities should be subject to additional rules and controls. Any proposed purchase of goods or contract for services where the estimated value exceeds approximately £156,000 or for works where the value exceeds approximately £3,900,000, is caught by these provisions. The terms goods, works and services have precise definitions within the legislation but these broadly follow a common sense understanding. "Works" involves works of design, construction or maintenance to any land or buildings and specifically includes anything normally defined as building or civil engineering work. The detailed provisions are set out in Directives issued by the EU administration which have been incorporated into UK law and MUST be complied with. Further details are available in the CIPFA guidance. If in any doubt, be sure to consult the Legal Services Team or the Procurement Team. The Procurement Team will provide guidance at all stages of the process.

9.2 Contracts caught by the EU provisions as described above must first be advertised in the Official Journal of the European Union (OJEU). The procedures vary with the nature of the work involved and can sometimes require you to advertise for expressions of interest well in advance of actually inviting tenders.

9.3 Sufficient time must be set aside to ensure compliance with the European Tendering regulations.

9.4 All invitations to tender (ITT) or requests for quotation (RFQ) must include:

- (a) A list of the criteria to be applied in bid evaluation;
- (b) Details of the information required from bidders against each of the criteria;
- (c) A full set of contract documentation, including where appropriate the conditions of contract, functional specification and any other document necessary to fully describe and specify the Council's requirements;

- (d) Full details of the timescales and other conditions for return of bids;
- (e) A declaration form to sign stating that the Contractor will not collude with other companies during the bidding process (excepting joint / combined bids with other parties) , which clearly states that whilst tenders will be treated in the strictest confidence, they will be made available to Trading Standards, the Office of Fair Trading and other regulators when undertaking any investigations, and that legal action will be taken against false declarations
- (f) A statement that the Council complies with the Government's Transparency agenda, and, in so doing, will be required to publish data relating to expenditure, contracts and invitations to tender.

Further advice is available from the Procurement Team, including standard templates.

- 9.5 Where any Director wishes invitations to tender, requests for quotations or submissions in response to be in any form other than original documents on paper, that Director shall first in each case agree suitable arrangements with the Monitoring Officer and the Financial Services Manager. Any such arrangements must provide at least the same degree of anonymity, security and confidentiality until the scheduled time of opening as the arrangements specifically detailed in these Standing Orders. This provision is expressly designed to facilitate the use and development of electronic tendering procedures where appropriate and to the benefit of the Council.
- 9.6 All tenders and quotations shall be returned in sealed envelopes that shall be:
- Marked clearly to indicate that it contains a tender or quotation and have no means by which the bidder can be identified;
 - Endorsed to identify the goods, services or works to which it relates;
 - Addressed to the Monitoring Officer who shall keep them unopened in safe custody until the deadline for receipt has passed.
- 9.7 No tender or quotation can be considered as valid if:
- The envelope bears any mark by which the bidder can be identified;
 - If it is received after the deadline for receipt set out in the ITT or RFQ;
 - If for any reason the envelope has been opened prior to the deadline;
 - If for any reason the bidder has failed to comply with any of the instructions contained in the invitation
 - Where there is clear evidence of inappropriate behaviour during the bidding process (fraud, corruption, bribery) on the part of the organisation submitting the bid.

9.8 Tenders and quotations shall be opened at one time in the presence of the relevant Director and the Monitoring Officer.

9.9 Evaluation of quotations/tenders should take into account:

- The whole life costing of the goods, works or services, including any maintenance requirement and their ultimate replacement where appropriate.
- Sustainability of the proposals made
- The decision as to which offer should be accepted should be based on the best overall economic advantage to the Council, which does not always mean the lowest price.
- Quotations and Tenders should be subject to critical evaluation to ensure that they are affordable; this particularly applies where any quotations / tenders show any indication of being abnormally low costed
- Ensuring bid information contains sufficient detail upon which to determine that the contractor has appropriately costed all aspects of the bid

9.10 Where the EU procedure permits post-tender negotiations then a Director may, prior to the formal agreement of any contract, carry out negotiations to clarify offers received or otherwise to agree the prices and other terms of the contract proposed:

- (a) Where one or more offer is accompanied by alternative proposals;
- (b) Where examination of offers reveals errors, discrepancies or misunderstandings which would affect the contract price;

9.11 In all cases following provisions shall apply:

- All bidders shall receive fair and equitable treatment and shall be given equal opportunity to clarify their offers or to submit alternative proposals;
- The relevant Director(s) shall ensure that all negotiations are fully documented and that this documentation and all other evidence of negotiations is collated and filed so as to be readily available for audit or other inspection as required. All such evidence shall be retained in accordance with the Council's Document Retention Policy;
- Prior to the awarding of the contract, at no time shall a bidder be informed of the detail of any other bid

9.12 Any such negotiations shall be conducted strictly in accordance to the following rules:

- They shall take place at predetermined times and places;
- The Monitoring Officer and the Financial Services Manager, must

be notified of the time and venue of all negotiations;

- More than one officer of the Council shall be present at all times, including the Monitoring Officer and the Financial Services Manager, or their senior representative.
- The signed record of all meetings shall be kept on file and a copy supplied to the Monitoring Officer, the Financial Services Manager and the bidder.
- In the event of a contract being awarded, the relevant signed records of meetings shall be bound into the contract.

9.13 Acceptance of tenders/quotations shall be by the Management Team, with a retrospective report to Council if less than £250,000. If greater than £250,000 then acceptance must be provided by the Cabinet. Provided that:

- Adequate budget provision exists for both capital and revenue expenditure.
- All relevant approvals have been obtained in accordance with the Council's Project Management Guide.
- A proper evaluation has been carried out which clearly demonstrates that the tender/quotation in question constitutes the best economic advantage to the Council, taking into account quality, price and sustainability
- The tender accepted presents the most economically advantageous position for the Council

9.14 All candidates must be notified of the full reasons of the Contract award simultaneously and as soon as possible after the decision has been made (i.e. at the commencement of the standstill period, see below). This notification must be in writing, and to ensure speed in notifying should be made via e-mail. The information sent to the unsuccessful candidates must include characteristics and relative advantage of the successful tender; identity of successful tender; the score of the tender receiving the notice and the successful tender; a copy of the standstill notice. Although consideration should be given to disclosure of confidential information when notifying, the principle that the notification should include all the information that would be necessary for the unsuccessful bidder to determine whether or not a decision is well founded must apply.

9.15 There is a statutory standstill period of 10 days which must be provided between the decision being made to appoint a contractor and the signing of the contract with the successful candidates. This is to allow the unsuccessful candidates' time to challenge the decision. Should, at any stage of the contract or tendering process, legal challenge be made to the process, then the contracting or tendering process should immediately halt, and no further progress be made until on advice of the Solicitor of the Council.

- 9.16 Formal contracts under seal are required unless the Solicitor to the Council deems them not to be necessary.
- 9.17 All original copies of the contract are to be held by the Solicitor to the Council.
- 9.18 Where, during the process of tendering for the contract, it becomes clear that the nature, scope or timing of the specifications changes in such a way as to significantly alter the goods / service being tendered, the tendering process should immediately be halted. Discussion should be held with the procurement team as to the process that should be followed, although it is anticipated that significant changes will require the entire tender process to be re-started

10 Forms of Contract

10.1 Exchange of Letters

The minimum formality required to record an agreement is an exchange of letters setting out the terms of that agreement. It can be a very simple note or a more substantial document, for example to accept a written quotation on agreed terms and conditions. Where no other specific terms and conditions have been agreed, the Council's standard terms will apply. Details are available on e-link or from the Procurement Team.

Any such exchange should set out clearly the nature and extent of the goods, works or services to be provided and the terms under which they are to be provided, including a clear statement of the price or other consideration to be paid. It should also include reference to the timescale involved and make it clear if time is to be of the essence of the contract.

10.2 Standard forms of contract

There are many different standard forms of contract, particularly in the construction and engineering industries and for professional services. When obtaining tenders or quotations for goods, works or services, be aware of and make sure you understand the terms and conditions involved. Some examples are those published by the Royal Institute of Chartered Surveyors or Institute of Civil Engineers and available on their respective websites. If in any doubt, be sure to consult the Legal Services Team

10.3 Suppliers terms and conditions

You should never accept without critical examination any terms and conditions offered by suppliers or contractors. These can contain provisions which might seriously compromise the Council's rights should things not go as planned and you should always ensure that the Council's interests are properly recognised in any terms and conditions you are offered. The Council's Standard Terms and Conditions, available on e-link, provide the basic minimum default provisions. You should not agree anything less favourable without the specific authority of the Financial Services Manager. If in any doubt, be sure to consult the Legal Services Team.

10.4 Bespoke contracts

From time to time, you may be involved in work for which few or no precedents exist and a bespoke form of contract is required. In any such case, you should always consult the Legal Services team and the Procurement Team at the earliest possible opportunity and take their advice on the form of any contractual arrangements necessary.

10.5 Equalities and sustainability

All forms of contract need to reflect the Council's commitment to equalities and sustainability. Copies of the Equalities Framework for Local Government and guidance on sustainable procurement are all available on e-link and all officers involved in preparing contracts or otherwise commissioning the supply of goods, works and services should familiarise themselves with these documents and ensure that their proposals take their provisions into account. All contracts should include a clause requiring compliance with good equalities practice. Specific clauses for inclusion in Council contracts are being developed. Until they are available staff should consult the Legal Section.

10.6 Legal Advice

If in any doubt, be sure to consult the Legal Services Team.

11 Contract Variations

11.1 In line with paragraphs 6.9, 7.16, 8.18 and 9.18 above, where a significant change occurs to a specification during the course of the contracting process, that process should be stopped and, ordinarily, it will be expected that the entire process should be restarted.

11.2 Contract variations during the term of the contract will be undertaken through evaluation of the terms and conditions of the variation, and approval as appropriate. Prior to any contract variation being

approved, the full cost, timing and other implications should be identified, and agreed with the contractor.

- 11.3 Should it become clear that any contract variations would have led to the tendering process used being inappropriate (e.g. shortly after commencing the contract, additional terms are recognised which meant that an EU process should have been followed), guidance should be sought from the Financial Services Manager as to whether the contract should be halted and re-tendered.
- 11.4 All contract variations should be notified to all relevant parties in writing and subject to authorisation by both the Council and the Contractor. The contract should clearly identify appointed officers of both parties who have the authority to agree variations.
- 11.5 Council officer authority should be given in line with delegated authority levels as prescribed in the Rules of Financial Governance. Where the cost implications of a variation total between £100,000 and £500,000, then these should be approved by Corporate Management Team, with subsequent notification to Cabinet. Where cost implications total more than £500,000, then these should be notified to Cabinet for approval.

12 Novations to contracts

- 12.1 Should one party wish to novate a contract to a third party, approval to do so should be given in line with delegated levels of authority. All novations between £100,000 and £500,000 should be approved to Corporate Management Team, with notification to Cabinet, and all above £500,000 notified to Cabinet for approval.
- 12.2 Where service managers become aware that a contract may be subject to novation, they should notify the Financial Services Manager and the Procurement Team. The Procurement Team will undertake a qualification questionnaire on the party to whom the contract will transfer, to identify any particular risks that the novation may present to the Council, and take any necessary action as a result.