



# **LANCASHIRE COMBINED FIRE AUTHORITY**

## **CONTRACT STANDING ORDERS**

## CONTENTS

1. INTRODUCTION .....	3
2. OFFICER RESPONSIBILITIES .....	3
3. HOW THE AUTHORITY BUYS .....	5
4. COMPLIANCE WITH CONTRACT STANDING ORDERS .....	6
5. EXEMPTIONS TO THE CONTRACT PROCEDURES .....	6
6. ADVERTISING OF CONTRACTS .....	7
7. DEADLINES FOR RESPONDING TO ADVERTISEMENTS .....	8
8. PRE RFQ/TENDER REQUIREMENTS .....	8
9. E-TENDERING .....	9
10. HOW THE RFQ PROCESS WORKS .....	9
11. HOW THE TENDERING PROCESS WORKS.....	10
11.6 EU PROCUREMENT RULES .....	11
12. NEGOTIATION .....	12
13. INVITATION AND SUBMISSION.....	12
14. OPENING OF TENDERS AND QUOTATIONS.....	13
15. EVALUATION OF TENDERS AND QUOTATIONS.....	13
16. CLARIFICATION and NEGOTIATION.....	15
17. CONTRACT AWARD – TENDERS AND QUOTATIONS .....	15
18. TENDER REPORT .....	17
19 CORRUPT PRACTICES.....	17
20. THIRD PARTIES.....	17
21. ASSIGNMENT .....	17
22. SEALED CONTRACTS .....	17
23. TERM OF CONTRACT .....	18
Appendix A.....	19

# **CONTRACT STANDING ORDERS FOR LANCASHIRE COMBINED FIRE AUTHORITY**

## **1. INTRODUCTION**

- 1.1 There is a clear requirement for the Authority to achieve value for money. The Authority must ensure a process of openness, integrity, accountability, probity and transparency. These Contract Standing Orders have been written to ensure that this requirement is achieved for the Service. Any procurement decision must therefore be made in the context of achieving overall value for money for the Service.

These Contract Standing orders aim to explain in simple terms the rules and procedures for obtaining written quotations and competitive tenders from Suppliers for the provision of Works, Goods and Services.

Applying the Contract Standing Orders will:

- Achieve value for money;
- Adhere to legal obligations;
- Maintain standards of conduct;
- Be fair to suppliers;
- Protect officers;
- Demonstrate accountability for public money;
- Meet its corporate and directorate aims and policies; and
- Comply with the Service's Procurement Approach.

- 1.2 The Authority's constitution incorporates Financial Regulations and Financial Procedure Rules that provide a framework for managing the Authority's financial affairs. They apply to every Member and Officer of the Authority and anyone acting on its behalf.
- 1.3 These Contract Standing Orders should be read in conjunction with both the Financial Regulations and the Scheme of Delegation.

## **2. OFFICER RESPONSIBILITIES**

- 2.1 Officers must ensure that each procurement requirement is dealt with in accordance with any statutory requirements including relevant EU legislation, is within budgetary provision and is in accordance with the Constitution, these rules and all Service policies, procedures and strategies.
- 2.2 To ensure timely procurement activity, Chief Officers will delegate authority to appropriate employees within their Directorate/Services/Sections/Groups to procure on their behalf. Each Director must however provide and maintain a list of the officers authorised to initiate procurement, place orders and make payments specifying a maximum financial limit for each transaction within any pre-defined limits. The Scheme of Financial Delegation should be reviewed regularly. Officers must ensure before beginning any procurement that they have the appropriate authority to undertake it by means of delegated authority.
- 2.3 Chief Officers will ensure that all employees authorised to initiate procurement, place orders and make payments have the appropriate knowledge, skills and training to undertake the same.

**Definitions:**

**‘Alcatel standstill period’** means the mandatory standstill period of at least ten calendar days following the notification of an award decision in a contract tendered via the Official Journal of the European Union, before the contract is signed with the successful supplier(s).

**‘Authority’** means Lancashire Combined Fire Authority (CFA) Lancashire Fire and Rescue Service (LFRS).

**‘Budget Holder’** means the Authority representative with budgetary responsibility.

**‘CLG’** means Communities and Local Government.

**‘Contract’** means the official binding agreement made between the Authority and Supplier.

**‘Framework Agreement’** means an 'umbrella agreement' that sets out the terms (particularly relating to price, quality and quantity) under which individual contracts (call-offs) can be made throughout the period of the agreement (normally a maximum of 4 years).

**‘Goods’** means such articles, materials or commodities as are described in the Tender Schedule or Order placed by the Authority with the Supplier.

**‘ITT’** means Invitation to Tender, a formal approach to competitively obtain proposals to supply Goods, Services or Works.

**‘MEAT’** means the Most Economically Advantageous Tender which considers overall cost and quality.

**‘Officers’** means any member of staff within the Authority.

**‘OJEU’** means the Official Journal of the European Union.

**‘Order’** means the official purchase order raised by the Authority.

**‘RFQ’** means Request for Quotation, the process to obtain quotes from Suppliers.

**‘Services’** means the schedule of provisions as are described in the Tender Schedule or Order placed by the Authority with the Supplier for the supply of Services.

**‘Supplier’** means the person, firm or company to whom a Contract is awarded and to whom an Order is addressed.

**‘Tender’** means the formal competitive procurement process to obtain Goods and/or Services. The scope of the procurement process will depend on the contract value and complexity of the requirement and will be decided on a project by project basis.

**‘Total Contract Value’** means the total cost of the requirement, including whole-life costing.

**‘Value for money’** means the minimum purchase price and the maximum efficiency and effectiveness of the purchase.

**‘Whole-life Costing’** means the total cost of ownership over the life of an asset.

### **3. HOW THE AUTHORITY BUYS**

3.1 The appropriate procedure to be followed is based upon the total estimated value of the Contract (please note that the total value of the Contract means the value of the Contract over the total number of years it will remain in force – not just the initial purchase or annual cost).

#### **FOR ALL GOODS & SERVICES**

<b>Under £10,000:</b>	With the exception of public utility Services i.e. gas, electric and periodical payments may be procured using an official order.
<b>Between £10,001 and £25,000:</b>	At least three (3) written request for quotations ( <b>RFQ</b> ) must be requested. Procurement Department can assist.
<b>Between £25,001 and £181,302</b>	Procurement Department involvement is required and a formal <b>Tender</b> procedure must be followed with a minimum of three (3) invites. Use of the e-tendering system is recommended.
<b>Over £181,302:</b>	Procurement Department involvement is required and <a href="#">EU Procurement Tender and Regulations</a> <b>must</b> be followed with a minimum of five (5) invites.

#### **FOR ALL WORKS**

<b>Under £25,000:</b>	May be procured using an official order, best value should be evidenced.
<b>Between £25,001 and £4,551,413</b>	Procurement Department involvement is required and a formal <b>Tender</b> procedure must be followed with a minimum of three (3) invites. Use of the e-tendering system is recommended.
<b>Over £4,551,413:</b>	Procurement Department involvement is required and <a href="#">EU Procurement Tender and Regulations</a> <b>must</b> be followed with a minimum of five (5) invites.

**NB: For all procurement projects with a total contract value of £25,000 and above** - in the event that the minimum number of 3 responses is not received, an application for an exemption of contract procedures (as described in section 5 of these Contract Standing Orders) must be completed and approved before proceeding to Contract Award.

3.2 The RFQ or Tendering procedure will utilise market intelligence and/or Suppliers registered on the e-tendering system (and Contracts Finder where appropriate) to seek competitive bids for Goods, Services and/or Works. The Tendering procedure will necessitate a formal advertisement to be published before requesting submission of competitive bids for Goods, Services or Works.

3.3 No RFQ or Tendering procedure needs to be followed in respect of:

- Contracts for the purchase of Goods in respect of which tenders have been obtained from a purchasing consortium or other recognised Government agency Contract or Framework Agreement;

- Contracts for the supply of Goods which CLG have specified as the type of Goods which should be used for a particular purpose and only one Supplier of such Goods exists;
- Contracts for the supply of Goods or Services, the price of which is fixed by a trade organisation or government department and no reasonably suitable alternative is available;
- A Contract for the engagement of legal counsel;
- The acquisition or disposal of land.

NB: for all the above listed in 3.3 there is still the requirement to obtain best value.

3.4 A Procurement Project Initiation document must be completed for all projects over £25,000. ([Appendix A](#) refers).

3.5 Every Contract must be authorised and signed by the relevant Officer, as outlined in Section [17](#) of these Contract Standing Orders.

#### **4. COMPLIANCE WITH CONTRACT STANDING ORDERS**

Every Contract made by the Authority or on its behalf shall comply with:

- The EU Treaty and all relevant EU and domestic legislation (current and future);
- These Contract Standing Orders (current and future);
- Financial Regulations (current and future);
- The Scheme of Delegation (current and future).

In particular the Authority shall comply with the fundamental principle of equality of treatment of all Suppliers, Contractors and Service Providers.

It shall be a condition of any Contract between the Authority and anyone who is not an officer of the Authority, but who is authorised to carry out any of the Authority's Contracts functions, that they comply with these Contract Standing Orders and the Financial Regulations of the Authority as if they were an officer of the Authority.

#### **5. EXEMPTIONS TO THE CONTRACT PROCEDURES**

5.1 The Budget Holder must obtain approval to apply **ANY** exemption to procedure, with a written report identifying the justification for requesting exemption.

5.2 Exemptions to procedure may be permitted where it can be proven that it is inefficient or uneconomic to comply.

5.3 Provided that a proposed Contract award complies with national and EU legislation and any other Finance or Contract Standing Order requirement and subject to formal approval of the exemption, examples when the procedure may not apply include:

- The Goods, Services and/or Works are of a specialised nature carried out by only one firm with no reasonably satisfactory alternatives available;
- The procurement involves the purchase of proprietary or patented Goods or Services obtainable from only one Supplier; are sold at a fixed price and no reasonably satisfactory alternative is available;
- The Goods, Services and/or Works constitute an extension of an existing Contract which is allowed within the Contract terms, scope and total contract value or the Goods, Services and/or Works consist of repairs to, or the supply of parts for, existing proprietary plant or equipment.

- That new Works or Services are required which are a repetition of Works or Services carried out under an original Contract.
- That Goods are required as a partial replacement for, or addition to, existing Goods or installations and obtaining them from another source would result in issues with compatibility or disproportionate technical difficulties in operation or maintenance.
- Tenders are invited on behalf of any consortium or collaboration, of which LFRS is eligible as a member, in accordance with any method adopted by that body. Where however, an LFRS officer invites tenders on behalf of the consortium or collaborative body the receipt, opening and acceptance of tenders must comply with the LFRS Financial Regulations and Financial Procedure Rules or any overriding relevant National or European Union legislation.
- The Goods, Services and/or Works are of a sensitive nature (such as security) where publication of the tender documents would constitute a security breach and undermine the effectiveness of the final product.

**NB:** No exemptions will be granted which would result in a breach of European or domestic law.

5.4 For all procurement projects with a total Contract value under £100,000 the Chief Fire Officer and Treasurer/Director of Corporate Services can approve an exemption.

Any exemptions relating to procurement projects in excess of £100,000 must be approved by the Combined Fire Authority. Please refer to the table below for authorisation signatories required in regard to financial limits for exemptions:

Financial Limit	CFO	Treasurer and Executive Board	Combined Fire Authority
Under £100,000	Y	Y	
Over £100,000:			Y

## **6. ADVERTISING OF CONTRACTS**

6.1 All Contracts to be tendered must be advertised in one or more of the following:-

- local newspaper
- appropriate trade journal
- the e-tendering system (portal)
- LFRS internet site
- Contracts Finder

6.2 All Contracts with a total contract value that exceeds EU procurement thresholds **must** be awarded in accordance with EU Procurement Rules relating to public authorities. Current thresholds are as follows:

Supplies	Services	Works
£181,302	£181,302	£4,551,413

NB: Requirements to be procured above these limits must be advertised via OJEU (Official Journal of the European Union).

- 6.3 The Procurement Department will facilitate advertisement on the North West Procurement Portal (Supply4NWFire), Contracts Finder and in the Official Journal of the European Union (OJEU).

## **7. DEADLINES FOR RESPONDING TO ADVERTISEMENTS**

- 7.1 Deadlines must be included within advertisements in calendar days. For Contracts not requiring OJEU adverts, the **minimum** tender return time is recommended as 14 days. However more time is usually allowed, depending upon the complexity of the Contract.

**For Contracts requiring OJEU adverts there are minimum EU time scales that must be adhered to.** Please contact the Procurement Department who will advise and assist accordingly.

## **8. PRE RFQ/TENDER REQUIREMENTS**

- 8.1 Before beginning any procurement process, the authorised officer responsible for the purchase must:

- Check if the required Goods, Services and/or Works can be procured in the first instance through existing Corporate Contracts. Details of current Corporate Contracts can be obtained from the Procurement Department;
- Investigate what compliant procurement method is most likely to achieve the purchasing objectives;
- Ensure that all relevant rules have been complied with, and that the proposed contract represents value for money;
- Assess the risks associated with the purchase and identify how these will be managed by LFRS and/or the Supplier;
- Ensure that evaluation criteria (how responses will be scored) have been determined in advance, as potential bidders must be made aware of all evaluation criteria when asked to submit a response.

- 8.2 Enquiries of Suppliers may be made before tender or quotations are invited in order to:

- (a) Establish whether the Goods, Services and/or Works that the Authority wishes to purchase are available and within what price range;
- (b) Establish whether particular Suppliers wish to be invited to submit a quotation or tender response, should the procurement progress.

In making enquiries:

- (a) **No** information shall be disclosed to one Supplier which is not then disclosed to all those of which enquiries are made, or which are subsequently invited to tender or quote.
- (b) **No** Supplier shall be led to believe that the information they offer will necessarily lead them to be invited to tender or quote, or awarded a contract.
- (c) A written record, including notes of any meetings held, the responses and the names of all individuals present **must** be kept on the contract file.



- 8.3 Specifications should be prepared as part of the RFQ/ITT documentation. Any technical specifications to be met by the Goods, Services and/or Works must be clearly set out in the contract documentation. The specification must stipulate exactly what is required and will vary in its content depending on the complexity of the requirement.

Where any reference to British Standards or accreditations is made within the specification, this **must** be followed by the words 'or equivalent'.

NB: The Authority is only allowed to consider bids which vary from the requirements set out in the specification if the RFQ/ITT and/or OJEU notice (where applicable) states that variants are permissible. Where variants are to be permitted the minimum requirements must be clearly detailed.

## **9. E-TENDERING**

### **GOODS, WORKS AND SERVICES**

- 9.1 If a Supplier wishes to be considered as a potential provider to the Authority it can register on the North West Authorities e-tendering portal (<http://www.supply4nwfire.org.uk>) at no cost to the Supplier.
- 9.2 If the Supplier is asked to submit a quotation or tender response, they will be asked to provide sufficient information for LFRS officers to conduct an evaluated assessment of their capacity to successfully undertake and deliver the requirement on behalf of the Authority.

### **WORKS**

- 9.3 The Authority may utilise the Constructionline/Police Approved Contractors database as a pre-qualification criteria for tendered Works projects. If the Authority is seeking quotations, the nominated Supplier/Contractor will be asked to provide sufficient information for LFRS officers to conduct an assessment on their capacity to successfully undertake and deliver the requirement on behalf of the Authority.

## **10. HOW THE RFQ PROCESS WORKS**

- 10.1 The RFQ procedure should be used for Goods and Services procurement projects with an estimated total contract value of between £10,001 and £25,000 other than referred to in 3.3: An RFQ procedure should be appropriate to the contract value and complexity of the requirement.
- 10.2 For lower value/less complex projects where a standard product or service is required, the RFQ procedure can be as simple as e-mailing three (3) suppliers requesting a price.
- 10.3 Where there is any variation in the product or service required, the RFQ procedure should include a specification (what exactly is required). The specification should incorporate the quality elements of the requirement e.g. performance targets, criteria for acceptance of the Goods, Services or Works and should be included in the RFQ documentation. The information contained in the RFQ documentation will form a part of the formal Contract or purchase order between the Authority and the awarded Supplier(s). Suppliers should be asked to complete a submission as a bidder. Bidders will submit their response based on the information provided and give contract specific proposals which will be evaluated. It is best practice to provide the bidder with a detailed explanation of how their submission will be scored and evaluated (evaluation criteria).

- 10.4 For all RFQ procedures a minimum of three (3) Suppliers must be invited to quote to ensure that best value evaluation takes place. A maximum number of Suppliers to invite to quote can be decided on a project by project basis.
- 10.5 It is best practise to keep a record of any documents or e-mails in regard to any RFQ procedure undertaken.

## **11. HOW THE TENDERING PROCESS WORKS**

- 11.1 The tendering procedure should be used for procurement projects with an estimated total contract value between £25,001 and £181,302 for Goods and Services and between £25,001 and £4,551,413 for Works (please refer to [6.2 and 6.3](#) if the estimated total contract value is above £181,302 for Goods and Services and above £4,551,413 for Works) other than referred to in [3.3](#):
- 11.2 All tendering requirements must be advertised to ensure that the process is competitive and secures best value. Please refer to [Section 6](#).
- 11.3 The specification should incorporate performance targets and/or criteria for acceptance of the Goods, Services or Works and be included in the Invitation to Tender (ITT) documentation. The information contained in the tender documentation will form a major part of the formal Contract agreed between the Authority and the awarded Supplier(s).
- 11.4 The main two methods of tendering through advertisement utilising the e-tendering portal are:
- Open Competitive Tendering - This is a one-stage process, where all interested Suppliers responding to an advertisement may submit a tender. There is no restriction or selection process prior to the dispatch of tenders. The Contract Notice will be advertised on [www.supply4nwfire.org.uk](http://www.supply4nwfire.org.uk) as well as on Business Links 'Contracts Finder' and OJEU when applicable. The advertisement will state how interested Suppliers may obtain tender documents and the last date that tender responses must be received. The Open Procedure may not be suitable where it is anticipated that there may be a large number of potential Suppliers interested in bidding for the Contract. The Open Procedure is most suitable for the procurement of non-specialist Goods such as stationery, cleaning materials, paper etc. The selection stage and the award stage are undertaken simultaneously.
  - Restricted Tendering (utilising a Pre-Qualification Questionnaire (PQQ) or Constructionline in the case of Works) – NOT TO BE USED FOR PROCUREMENT PROJECTS UNDER EU THRESHOLDS i.e. under £181,302. This is a two-stage process in which potential Suppliers expressing an interest in bidding for a specific Contract are evaluated first (pre-qualified). If a Pre-Qualification Questionnaire is used, the Contract Notice will be advertised on [www.supply4nwfire.org.uk](http://www.supply4nwfire.org.uk) as well as on Business Links 'Contracts Finder' and maximum timescales for completing the process are mandatory. The advertisement will state how interested parties can obtain a Pre-Qualification Questionnaire (PQQ) and the last date by which completed PQQ responses must be received. A shortlist is then drawn up from the evaluation of the PQQ responses for the sole purpose of inviting a reduced number of Suppliers to submit a tender response (bid). The considerations at PQQ stage are those matters which are relevant to the performance of the contract (e.g. financial capability, technical knowledge, expertise

and capacity). There can be no consideration of the suppliers' proposals as to *how* the contract would be delivered - it is an evaluation of the organisation's capability.

- 11.5 For procurement projects with an estimated total contract value between £25,001 and £181,302 for Goods and Services and between £25,001 and £4,551,413 for Works a minimum of three (3) invitations to tender must be sent to ensure that a Best Value evaluation can take place.

If the estimated total contract value is above £181,302 for Goods and Services and above £4,551,413 for Works a minimum of 5 invitations to tender must be sent to ensure that a Best Value evaluation can take place.

A maximum number of Suppliers to invite to tender can be decided on a project by project basis. In the event that the minimum number of 3 responses is not received, an application for an exemption of contract procedures (as described in [section 5](#) of these Contract Standing Orders) must be completed and approved before proceeding to Contract Award.

#### 11.6 EU PROCUREMENT RULES

Where the estimated total value of a Contract exceeds, or is within 10% of the relevant EU threshold (as set out above), the procurement must be conducted in accordance with the appropriate EU Procurement Rules and the appropriate UK guidelines. The application of the EU Procurement Rules and the appropriate UK guidelines cannot be waived by the Authority.

Use of the Negotiated, Accelerated and Urgency procedures under the EU Procurement Rules must be documented and agreed with the Director of Corporate Services before any procedure commences. The Negotiated and/or The Competitive Dialogue and/or The Competitive Dialogue with Negotiation procedures are three additional routes to market but must only be used in exceptional cases where advice has been sought from the Procurement Department.

- Negotiated Procedure - The Procurement department will publicise the Authority's intention to seek offers in relation to the contract by advertising in the OJEU a formal Contract Notice inviting requests to be selected to negotiate. The negotiated procedure may be used in limited circumstances and only where the competitive dialogue procedure is inappropriate. In certain limited circumstances the negotiated procedure may be used without prior publication of a Contract Notice. In those circumstances, an exemption will be required.
- Competitive Procedure - The competitive dialogue procedure is to be used where the Authority wishes to award a particularly complex Contract and the open or restricted procedure will not allow the award of that Contract.

A particularly complex Contract means a Contract where it is not possible to define the technical means capable of satisfying the Authority's needs or objectives or to objectively specify the legal or financial make up of a project or both.

The Procurement department will publicise the Authority's intention to seek offers in relation to the Contract by advertising in the OJEU a formal Contract Notice inviting requests to be selected to participate.

Invitations must be sent simultaneously to each Supplier selected to participate in the dialogue.

The Authority may provide for the competitive dialogue procedure to take place in successive stages by applying the award criteria as defined in the Contract Notice.

The Procurement department will ensure that the number of suppliers invited to participate in the final stage is sufficient to ensure genuine competition.

The Authority may continue competitive dialogue until one or more solutions have been identified.

When each dialogue has been concluded, each participant must submit a final tender containing all elements required and necessary for successful delivery of the project.

**NB:** Framework Agreements - Central and Local Government, Consortia and other legally procured Framework Agreements may be accessed without the need to undertake a formal tender process as described above.

The framework agreement must name the Authority to allow them to utilise the agreement and must adhere to the principles of these Rules. The specification must encompass the Service's requirements. Typically Framework agreements must be for a maximum of four years. Further guidance on the use of Framework Agreements is available via the Procurement Department.

## **12. NEGOTIATION**

12.1 Negotiation of Quotations/Tenders must only take place when the RFQ/ITT documents state that a negotiated procedure will be used and that the Authority reserves the right to enter into post tender negotiations on any aspect of the Quotation/Tender.

12.2 Any discussion with a Supplier to discuss their submission, should:

- Be undertaken only by the Procurement representative in the presence of at least one officer from another department, not involved in the procurement project (the independent observer);
- All negotiation must be conducted in a manner which provides and maintains the highest levels of probity;
- A written record of all discussions and negotiation is maintained by the Procurement representative, and verified by the independent observer;
- At the conclusion of negotiations each Supplier who has provided a quotation must be invited to submit a best and final quotation/tender response.

## **13. INVITATION AND SUBMISSION**

13.1 Instructions must be issued to those Suppliers invited to submit a quotation or tender response, asking them to complete and return the required documents by a specified date and time. These documents will usually contain the following information:

- Letter of invitation and instructions about the process;
- Form of tender;
- Specification and/or schedule of rates;
- Contract conditions or conditions of purchase;
- Any relevant supporting information (maps etc.);
- Bids must be evaluated on the basis of Quality and Price and the tender documentation must specify the criteria and methodology for evaluation.

**NB:** The Procurement Department is responsible for making arrangements to receipt, store and open tender documents.

- 13.2 Both tender and quotation responses **MUST** be returned by the date and time specified. Late tender and quotation responses should be rejected unless it is proven that the reason for the late submission was due to technical failure of the portal.
- 13.3 The RFQ/ITT submission as an electronic file(s) containing the relevant documents must be delivered to the designated e-tendering system by bidders prior to the stated closing date and time.
- 13.4 It is important that Suppliers are given sufficient time to adequately research and compile their submission. This includes allowing enough time to seek accurate estimates from their sub-contractors (if applicable). The Authority's minimum time scale for the return of priced responses (where the total contract value is under £181,302) is 14 days from date of issue, although best practice suggests that at least 21 days should be allowed.
- 13.5 The specified time to submit tenders/quotations may be extended in exceptional circumstances provided that all Suppliers involved in the process are notified of the revised date and time and no potential Supplier is disadvantaged by the deadline extension.
- 13.6 Submissions will be securely held unopened within the e-tendering system and cannot be accessed or opened until after the specified opening date and time. The system will hold each submission unopened with no reference to the contents of the response. An activity log within the system provides a full audit trail logging any activity (accessing or viewing) and records the name of the person, date and time and the activity undertaken.

#### **14. OPENING OF TENDERS AND QUOTATIONS**

- 14.1 After the designated deadline stipulated for submission of responses, the Procurement Department will co-ordinate the opening of all submissions which will be retained in a virtual 'locked box' until the designated opening time.
- 14.2 All tender responses via the e-portal must be opened by the Procurement Department. A representative from the budget holders department can also attend if they wish to.

#### **15. EVALUATION OF TENDERS AND QUOTATIONS**

- 15.1 An evaluation must be made of all tender or quotation responses by an evaluation panel. The number of people on the evaluation panel will be a minimum of two (2) but can vary depending on the type and complexity of the Contract.
- 15.2 The evaluation will include a comparison of the tender sum against the estimate for the Goods, Services or Works prepared in advance of the Suppliers being invited to tender/quote. Where errors or discrepancies are found that may affect the tender/quote sum, the Supplier may be notified in writing and afforded an opportunity to confirm the submitted sum without amendment, amend their bid to correct an arithmetical error, or withdraw their bid. A written record of any revisions or withdrawals must be maintained.

- 15.3 The Authority will evaluate and award Contracts to the Supplier(s) it considers offers the best value having regard to both price and quality factors. This is referred to as the 'most economically advantageous tender' (MEAT) and provides for the Contract to be awarded to the Supplier best able to meet the Authority's requirement, specification and budget.
- 15.4 To ensure fairness, the evaluation criteria and methodology must be clearly defined in the RFQ/ITT documentation. Criteria will vary depending on the type and complexity of the Contract.
- 15.5 Selection Criteria;  
Financial viability and stability - The following criteria (set out in Public Contracts Regulations 23, 24, 25 and 26) may be used to draw up the shortlist of those who will be invited to tender:
- Suppliers who have, or whose directors have been convicted of certain offences listed in Public Contracts Regulation 23 are ineligible to submit bids and must not be included in the short list;
  - The Authority can (but does not have to) refuse to shortlist businesses which are insolvent, have been convicted of a criminal offence relating to the running of the business, or have committed grave misconduct in the running of the business.
  - Businesses can be excluded if they have not paid all their taxes or social security contributions.

The Authority is allowed to request evidence from prospective bidders to allow them to assess whether any of the above factors apply.

The Authority may also make an assessment of bidders' economic and financial standing by taking into account all or any of the following:-

- Statements from the bidders' bankers or evidence of relevant professional indemnity insurance;
- Published accounts where publication of such accounts are a legal requirement;
- A statement covering the two (2) previous financial years setting out the overall turnover of the bidder's business and the turnover in respect of the Goods or Services being provided.

**NB:** Where the tender value is for £50,000 or more it is required that one of the following information is obtained in respect of all tender responses:

- The Authority's internal financial appraisal of the tender responses;
- An independent financial appraisal supplied by a business information service.

Technical or professional ability - can only be assessed against the criteria set out in the Regulations.

- Technical suitability;
- Experience and past performance – capability (SQ)

- 15.6 Award Criteria – Must include both cost and quality i.e. the most economically advantageous tender (MEAT).  
MEAT is used to assess the content of the RFQ/Tender response and include (but not be limited to):
- Quality systems;
  - Technical merit;
  - Customer care, technical assistance and after sales service;
  - Aesthetic and functional characteristics;

- Delivery date and other management factors;
- Commitment to Equality & Diversity and Sustainability;
- Social value;
- Price, Value for money and whole life costings;
- Security of Supply;
- Interoperability and operational characteristics.

The criteria to be used to evaluate bids and the weightings attached to them, or if weightings cannot be established, their relative importance, must be set out in the RFQ/ITT. However, it is not possible to take into account tenderer's experience, staffing levels, equipment or ability to perform the contract within a set timescale. These factors can only be considered at selection stage (SQ).

**NB:** where the award is based solely on price (only for under EU threshold procurement projects) the contract must be awarded to the bidder offering the lowest price unless it is made clear in its invitation to tender that it reserves the right not to award the contract at all.

## **16. CLARIFICATION and NEGOTIATION**

- 16.1 After the receipt of responses, officers may need to contact bidders to clarify technical and contractual information as part of the evaluation process. Any such communication must be confidential and a written record made of the reason for contact and the outcome.
- 16.2 Any negotiation with a bidder to specifically discuss the pricing submitted in their tender response should:
- Be undertaken only by the Procurement representative in the presence of at least one officer who isn't involved in the project (the Independent Observer). All negotiations must be conducted confidentially and in a manner which provides equal opportunity for all Suppliers who have provided responses and which maintains the highest levels of probity;
  - At the conclusion of negotiations each Supplier must be invited to submit a best and final price.
- 16.3 Where post-tender negotiation results in a fundamental change in specification (or contract terms) the contract must not be awarded and must be re-tendered.

## **17. CONTRACT AWARD – TENDERS AND QUOTATIONS**

- 17.1 The award of a Contract to the successful Supplier(s) must be conditional upon the tender costs being within budgetary limits and subject to the appropriate approval being granted to proceed.
- 17.2 For all Procurement projects in excess of £100,000 approval must be sought in writing from the Authority to award the Contract. (Page 3 of [Appendix A](#)).
- 17.3 For Contracts valued at over £50,000, approval from the Director of Corporate Services must be sought where the recommended quotation/tender exceeds the pre-quotation/tender estimate by more than £10,000, providing explanations as to the robustness of the original estimate
- 17.4 The successful Supplier(s) should be notified promptly in writing following acceptance of the tender or quote response and the Contract must be issued to the

Supplier with a formal request to sign and return 2 copies. On receipt of the signed Contracts from the Supplier, the Authority will sign the Contract to form the legally binding agreement, returning one copy to the Supplier(s).

17.5 Authorised signatories to award Contracts are outlined in the table below (on the basis that the relevant managers have been consulted with):

Financial Limit	Dept. Head	Relevant Director	Treasurer	Authority
Up to £50,000	Y			
£50,001 - £100,00	Y	Y		
Over £100,000	Y	Y	Y	Y

**NB:** For all Contracts over £100,000 approval is sought from the Authority yet authorisation to sign is delegated to the Treasurer/Director of Corporate Services.

17.6 All participants in any procurement undertaken in accordance with EU Procurement regulations must be notified in writing as soon as possible after the successful bidder(s) has been chosen with the following information:

- The criteria for the award of the contract;
- The reason for the decision, including the characteristics and relative advantages of the successful tender;
- The score (if any) obtained by the bidder to whom the notice is addressed and that of the successful bidder;
- Any reason why the unsuccessful bidder did not meet the technical specifications;
- The name of the successful bidder.

Information may be withheld if disclosure would:

- Impede law enforcement;
- Otherwise be contrary to public interest;
- Prejudice the legitimate commercial interests of any economic operator; or
- Might prejudice fair competition.

**NB:** For any procurement undertaken in accordance with EU Procurement regulations there is the requirement to inform all the Suppliers involved in the procurement of the intention to award a Contract and this is subject to a minimum 10 day standstill period. This period is referred to as the 'Alcatel Standstill' period and provides the opportunity for Suppliers unsuccessful in the procurement to request debrief information and to potentially challenge the decision formally before a Contract is signed.

A formal contract award notice must be published in OJEU within 48 days of the award of the contract.

17.7 All unsuccessful Suppliers should be notified of the outcome of the procurement promptly in writing providing the reasons for elimination from the process.

17.8 After formal approval of the award of a Contract and in exceptional circumstances, and with the approval of the Director of Corporate Services, a letter of intent can be issued to allow Work to commence in advance of drawing up and signing of the final Contract, but in such circumstances the issue of the formal Contract must follow without undue delay.



17.9 All submissions and supporting documentation for any procurement should be retained for seven (7) years from the commencement of the Contract by the Procurement Department, before being destroyed.

## **18. TENDER REPORT**

18.1 Following completion of the evaluation of responses to an opportunity with a value above £100,000, a tender evaluation report must be completed. The report will validate best practice and the requirements of the Authority's Financial Regulations and Financial Procedure Rules.

## **19 CORRUPT PRACTICES**

19.1 In every written Contract a clause must be inserted to ensure that the Authority is entitled to terminate the Contract and recover from the Supplier the amount of any loss resulting from such termination, if the Supplier has:

- Offered, given or agreed to give to any person a gift or consideration of any kind as an inducement or reward for doing or not doing anything related to the Contract or any other Contract with the Authority;
- For favouring or not favouring any person in relation to a Contract, by any person employed by the Supplier or acting on their behalf;
- The Supplier, or any person employed by them or acting on their behalf, has committed an offence under the Bribery Act (2010) or any amendment of the Act;
- Shall have given any fee or reward, the receipt of which is an offence under the Local Government Act 1972.

19.2 All Authority members and officers must comply with the Authority's anti-fraud/ anti-bribery policies and relevant codes of conduct.

## **20. THIRD PARTIES**

20.1 In cases where a third party, such as a local authority, private architect or consultant is employed to act for the Authority in the carrying out of Works or purchase of supplies, it shall be a term of their appointment that they shall:

- Observe or otherwise secure the observance of the procedures prescribed within these Contract Standing Orders;
- Produce on demand, all records maintained by them in relation to the Contract; and
- On completion of a Contract, transmit all such records to the Procurement department.

## **21. ASSIGNMENT**

21.1 In every written Contract for the execution of Works or the supply of Goods or Services the Supplier shall be prohibited from transferring or assigning or novating directly or indirectly to any person or persons whatever, any portion of that Contract without the written permission of the Authority. Sub-letting, other than that which may be customary in the trade concerned, shall be prohibited.

## **22. SEALED CONTRACTS**

22.1 All Contracts and orders shall be in writing and made in the name of the Authority.

22.2 All Contracts which relate to the purchase of land, or have potential long term liabilities and would benefit from the added legal protection afforded by the process of sealing shall be made by affixing the Common Seal. This shall only be attested by the Clerk to the Authority, the Authority solicitor, the CFO (Chief Fire Officer), DoCS (Director of Corporate Services) or DoPD (Director of People and Development).

### **23. TERM OF CONTRACT**

23.1 The term of a Contract may be extended with the approval of the budget holder if there is provision within the Contract Terms and Conditions to extend and the agreement of the Director of Corporate Services has been given with regards to budgetary provision. If the Contract has already been extended to the full extent within the provisions of the existing Contract, it cannot be extended further.

24.2 If there is no provision within the Contract Terms and Conditions for the Contract to be extended the approval of the Clerk to the Authority, and the Treasurer must be sought to any proposed extension of the term of the Contract and a record kept of the reasons.

24.3 The Contract term cannot be extended where this would result in the total contract value exceeding the European procurement thresholds.

24.4 In order to avoid any issues with the above it is best practice to ensure that Contracts are re-tendered in line with these Contract Standing Orders well in advance of their completion date.



## Appendix A

### PROCUREMENT PROJECT INITIATION

#### Financial Thresholds for Procurement

This form requires completion, and must be kept on Procurement Department files for all Contracts with a value exceeding £25,000.

NB: Total of full contract value must be understood before the procurement commences. (i.e. The total value payable by LFRS over the period of the Contract, including maintenance costs or licensing costs which are payable in addition to the purchase of the Goods, Services and/or Works).

No Contract should be split artificially to avoid application of standing orders. All formal Contracts should be notified to the Procurement Department for registration on the Contracts Register

#### To be completed by the budget holder

Name of Project: \_\_\_\_\_

Project Lead: \_\_\_\_\_

Estimated cost: \_\_\_\_\_

Can this estimated cost be met from existing, approved budget? Y/N

Time scale for delivery: \_\_\_\_\_

Signature of Director:  
(only required for contracts valued over £50,000) \_\_\_\_\_

Tender reference: \_\_\_\_\_

Procurement lead: \_\_\_\_\_

Details of Quotes/Tenders received

Supplier details (incl. full postal address)	Date of Quote/Tender	Quote/Tender price (£)	Overall score awarded (RFQ/Tenders only)

Proposed Supplier: \_\_\_\_\_

Proposed value of Order/Contract £ \_\_\_\_\_

Proposed Order/Contract Award Date: \_\_\_\_\_

Proposed Duration of Contract: \_\_\_\_\_

## **Contract Award Approval**

Authorising Officer Levels are detailed in the table below. The appropriate officer(s) are required to sign this document, prior to Contract Award, in the space provided below:

<b>Financial Limit</b>	<b>Dept. Head</b>	<b>Relevant Director</b>	<b>Treasurer</b>	<b>Authority</b>
Up to £50,000	Y			
£50,001 - £100,00	Y	Y		
Over £100,000	Y	Y	Y	Y

### **Department Head**

Name \_\_\_\_\_

Signature \_\_\_\_\_

### **Relevant Director**

Name \_\_\_\_\_

Signature \_\_\_\_\_

### **Treasurer**

Name \_\_\_\_\_

Signature \_\_\_\_\_

### **Authority**

Name \_\_\_\_\_

Signature \_\_\_\_\_

This completed Appendix A must be submitted to the Contract signatory, with the Contract documents. On receipt of the signed Contract documents, the Procurement Department will retain this Appendix A on the Contract file.