



ISLINGTON

# Procurement Rules

Strategic Procurement Team  
Ground Floor, 7 Newington Barrow Way  
Finsbury Park, Islington  
London N7 7EP

[procurement@islington.gov.uk](mailto:procurement@islington.gov.uk)

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## **A – FINANCIAL REGULATIONS**

### **1. Introduction and Thresholds**

- 1.1 These mandatory rules apply to all spend made by officers or agents of the Council and companies/partnerships for which the Council has responsibility for on goods, works and services, including when we are leading in a central purchasing body arrangement. References to the Council in these Procurement Rules should be substituted by any relevant company or partnership as appropriate. The rules ensure we comply fully with our obligations for Standing Orders under the Local Government Act 1972 Section 135. It is a disciplinary offence for officers/agents not to follow the Procurement Rules. These rules govern any purchase, lease, rental or combination but exclude employment arrangements or Council land arrangements;
- 1.2 Any explanation or clarification of these Procurement Rules should come exclusively from the Council's Strategic Procurement Team or Legal Services;
- 1.3 Where there is conflict between European Law, UK Law, or Council policy then European Law, UK Law then Council policy shall apply in that order of priority. No officer, member or the Executive has any authority to waive any matter contained within law;
- 1.4 These rules ensure competition, provide protection against inappropriate use of Council funds, look at full life costs of any purchase, assist legislative compliance and deliver best value by the Council supported by our policies and codes of practice;
- 1.5 The procedure to be followed is determined in bands of whole life cost (recurring procurements based on four years of value) across the entire Council "Aggregate value". The spend must not be fragmented in any way to circumvent the appropriate procedure. The budget must be appropriately approved by the relevant officer of the Council prior to spending. Where an exact value is not known then the decision should be based on the estimated value.
- 1.6 The procedure is:
  - 1.6.1 Utilise an existing corporate contract wherever available (for more information refer to our website); or
  - 1.6.2 When no corporate contract is available, follow the procedure illustrated in Table 1.

Table 1

<b>Value Band</b>	<b>Estimated whole life spend value (excluding VAT)</b>	<b>Required Procedure</b>
i)	£ 0 - £4,999	No formal written quotation required.  Spend should be made by purchase card wherever possible.
ii)	£5,000 to £19,999	One written quotation.
iii)	£20,000 and £99,999	A minimum of three competitive written quotations  One quotation from a local (Islington) supplier, as long as a suitable supplier is available.  All contracts within this value band must be highlighted to the Strategic Procurement Team without exception by email.
iv)	£100,000 or above	Contact Strategic Procurement Team who will look at the availability of an existing suitable consortium or framework arrangement.  If one is not available: a formal tender process with a minimum of four written competitive tenders.  All contracts within this value band must be referred to the Strategic Procurement Team without exception by email.  Note: European advertising requirements will have to be complied with for most tenders in this category (see 2.2).

1.7 Recruitment of consultants requires the completion of a business case in line with the online guidelines provided by the Strategic Procurement Team. The business case should be completed by the client commissioning officer. The commissioning client officer is the person in the Council responsible for identifying and specifying the need(s) for the contract. Initial approval of the Business Case is required from the client commissioning officer's Corporate Director. A panel consisting of the Strategic Procurement Team, Finance

and the Chief Executive's Team will assess the business case. The client commissioning officer will then be informed whether or not they can procure their consultant or whether more information is needed for a decision to be reached.

## **2. Value Based Procedures**

- 2.1 All contracts with an estimated value excess of £100,000 must be advertised as a minimum on the Islington Council website. The advert must include details of the price/quality weighting for evaluation (where Most Economically Advantageous Tender (MEAT) is used) and the specific breakdown/composition of the cost/quality criteria unless otherwise authorised by the Head of Strategic Procurement (or their authorised representative). Weighting cannot be amended during the tender process;
- 2.2 The European Procurement Regulations apply to all contracts although which specific rules apply will depend on the value and subject matter of the contract. Specific advertising and tender process requirements apply to spend on some contracts with a value estimated to exceed thresholds of £156,442 whole life value for supplies/services and £3,927,260 for works. In the case of services contracts the Strategic Procurement Team shall determine whether the service is Part A or Part B under the regulations as more limited rules apply to Part B services. Services that are Part A require an advertisement in the Official Journal of the European Union (OJEU) and an Award Notice within in OJEU. Whilst it is not a statutory requirement for an advertisement to be placed in OJEU for Part B services or services which are below the threshold, officers shall recognise it is still a legal requirement to demonstrate a contract has been sufficiently advertised. The requirement to advertise is also to comply with the principles of equal treatment, non-discrimination and transparency in the adopted procedure which apply to all contracts. All Part B services require an Award Notice to be placed in OJEU;
- 2.3 Contracts exceeding £500,000 or where directed by the Corporate Director of Resources must be signed as a deed by the Corporate Director of Resources or their authorised representative (contracts below this threshold where no alternative instruction has been provided shall be signed by two Authorised Officers of the Council). Contracts must be signed prior to works commencing, services starting or goods being delivered unless otherwise agreed in writing by the Corporate Director of Resources and recorded in the contract file. The Legal Services Contract Team will supply the wording for any Letter of Intent. Letters of intent represent a risk to the Council and should only be used where absolutely unavoidable;
- 2.4 Contracts exceeding £500,000 procured through a central purchasing body need to be approved in advance by the Information Technology Strategy Board and/or the other applicable board as determined by the Head of Strategic Procurement or their nominated representative;
- 2.5 Contracts of all values in Housing and Adult Social Services and Children's Services need to be notified to Housing, Adult Social Service and Children's

Procurement Board. The Board will give appropriate direction to officers when required. This does not replace the requirement to inform the Strategic Procurement Team.

### **3. Exceptions to the Procurement Procedure**

- 3.1 When procuring goods and services from an approved central purchasing body such as the London Contracts and Supplies Group or Office of Government Commerce (OGC) the financial thresholds of the Procurement Rules do not apply. In these instances the procedures laid out in the existing contract or framework prevail, which may require a mini competition (or quotation exercise) to be completed.
- 3.2 Exceptions to the Procurement Rules, other than use of an approved central purchasing body, will only be approved with significant mitigating circumstances.
- 3.3 Exceptions to the Procurement Rules will only be considered on the basis of a written report “a waiver” produced in advance of procurement activity. The waiver should set out good operational and financial reasons and be based on value for money principles. The waiver must invite comments from Legal Services, Strategic Procurement and Finance.
- 3.4 Corporate Directors (and Service Directors and Heads of Service where appropriately authorised) can agree exceptions for Value Bands i), ii) and iii) contracts up to their delegated authority levels with a written waiver report.
- 3.5 Corporate Directors (and Service Directors where appropriately authorised) can agree exceptions for Value Band iv) contracts up to their delegated authority levels with a written waiver report.
- 3.6 Only the Executive can agree exemptions in the case of Value Band iv) contracts where the value exceeds the Corporate Director’s delegated authority.
- 3.7 The Executive does not have authority to waive or override the requirements of European or national law.
- 3.8 Examples of exceptions, such as an emergency where serious financial loss or loss of life may be concerned, or when the goods, works or services are of an exclusive proprietary nature should be outlined in the waiver report.

### **4 Risk and Insurance Financial Management**

- 4.1 All Value Band iv) procurements must have a risk assessment completed by the client commissioning officer in line with the Council’s standard processes which should include the financial and legal risks of the proposed procurement;

- 4.2 All contracts where there is direct advice and/or design services provided by a contractor, including all Consultancy arrangements, must include a requirement for Professional Indemnity Insurance;
- 4.3 All contractors must have and maintain Public Liability insurance and Employers Liability insurance of £5,000,000 or more in addition to any other insurance recommended by the Insurance Section of the Council for Band Value iii) procurements. Band Value iv) procurement insurance values should be checked with the Insurance Section. (Note: sole traders with no employees are excluded from Employers Liability)
- 4.4 Corporate Directors and (where they have appropriate authorisation) Service Directors and Heads of Service may agree an exception to insurance values for public liability and professional indemnity up to Band Value iii). A Corporate Director or authorised Service Director may agree a variation to an insurance value at Band Value iv). All variations to agreed insurance levels must be made in discussion with the Insurance Section and the Corporate Director of Resources (or their authorised representative). All variations must be recorded in writing in the contract file.
- 4.5 All potential Contractors to the Council shall have a financial appraisal undertaken prior to being awarded a Value Band iv) contract.
- 4.6 The Strategic Procurement Team shall complete the financial appraisal for Value Band iv) procurements unless otherwise agreed by the Head of Strategic Procurement (or their nominated representative). The Strategic Procurement Team shall use a specialist external provider recognised within the industry or approved internal scheme. In the event of any doubt as to the Contractor's financial viability, or any non-availability of an external report, the Commissioning Officer's finance contact shall provide expert advice. Consideration may still be made of the Contractor if the risk is deemed acceptable by Corporate Directors (or authorised Service Directors).
- 4.7 Financial appraisals are not required when contracting directly with other local authorities, the Police, Primary Care Trust, National Health Service, Her Majesty's Prison Service or the Fire Brigade (or European equivalents in all cases). Such organisations are underwritten by Central Governments and thus are deemed financially viable at all times.
- 4.8 Where there is doubt as to the financial viability of a contractor but the Council has either no acceptable alternative provider or has decided to accept the level of risk then additional form of security to a level determined between legal and financial services shall be provided such as:
- 4.8.1 a Parent Company, Ultimate Holding Company or Holding Company guarantee where their finance prove acceptable;
- 4.8.2 a Director's Guarantee or Personal Guarantee where their finances prove acceptable;
- 4.8.3 a Performance Bond, retained funds or cash deposit;

- 4.8.4 any other security as determined by finance and/or legal services.
- 4.9 A Corporate Director can decide, in writing, that a contract can be awarded for a total contract value up to £5,000,000, without the tenderer needing to provide the level of security specified by finance and/or legal services. A record of this decision and the reason(s) for it must be kept in the contract file.
- 4.10 All documents inviting tenders must contain a statement that the contractor may need to provide security of performance and the level of security that may be required.
- 4.11 Before a contract is awarded, the Executive must approve the award of a contract where the contractor cannot provide security of performance for contracts with a total contract value of more than £5,000,000. The report seeking approval of the Executive must set out the reason why it is proposed that the contract should be awarded despite the absence of security and what measures are to be taken to manage the risk.

## **5 E-Procurement**

- 5.1 The Council recognises the following E-Procurement procurement activities, including sourcing, ordering, receiving goods and making payments to achieve Best Value in line with the Procurement Rules and Council Policies:
- 5.1.1 Corporate purchase cards;
- 5.1.2 Electronic tendering;
- 5.1.3 Electronic auctions;
- 5.1.4 Purchase-to-pay systems;
- 5.1.5 Consolidated Invoicing.
- 5.2 Assistance for using e-auction may be obtained from the Strategic Procurement Team. Where e-auction is used appropriate authorisation in accordance with normal contract values to select for award the best bid may be secured in advance of the e-auction;
- 5.3 An electronic signature is acceptable to make a contract legally binding. However contracts must still be printed by the commissioning client officer and appropriately signed or sealed to comply with Council procedures.

## **B – POLICY REGULATIONS, INDIRECT RULES**

### **6. Equalities and Diversity**

- 6.1 It is mandatory to complete an Equalities Impact Assessment for all tenders prior to the specification being completed or a contract number being issued. A copy of the Impact Assessment shall be passed to the Strategic Procurement Team following consultation with the Equalities Team.
- 6.2 Contract Clauses inserted for the express improvement of an Equalities strand must be approved by the Legal Contracts team and reported to the Strategic Procurement Manager.
- 6.3 Contractors may be encouraged to undertake appropriate equalities training.
- 6.4 Contractors will be required to sign the Equalities Cohesion Charter in future tender documentation, all variances to this must be approved by the Head of Strategic Procurement (or their authorised representative).

### **7. Corporate Priorities**

- 7.1 All contracts shall support the priorities set out in the Sustainable Communities Strategy.
- 7.2 The Sustainable Communities Strategy may change from time to time. For further information refer to the website or contact the Chief Executive's Team.

### **8. Green Procurement**

- 8.1 The Council has made a commitment to green procurement. Council officers shall support this commitment by:
  - 8.1.1 Specifying products which do not harm the environment or which reduce our negative environmental impact wherever possible;
  - 8.1.2 Considering environmental alternatives positively when awarding contracts where the difference in cost is up to 10% or £70,000 (whichever is the greater) more for an environmental alternative and the environmental benefits are considered to justify the additional cost, after taking into account all the evaluation criteria. Where the difference in price is more than 10% or £70,000 the Corporate Director or (where appropriately authorised) the Service Director may approve the award after full consideration of all the relevant factors;
  - 8.1.3 Recognising sustainability and buying environmentally friendly products is part of continuous improvement for best value. All examples shall be highlighted to the Strategic Procurement Manager;

- 8.1.4 Considering ancillary costs such as energy usage and maintenance as part of the evaluation process;
- 8.1.5 Seek to minimise the negative effect on the environment of the goods and services that we buy and to promote and embed the principles of sustainability into procurement activity across the council through the completion of a green risk assessment.
- 8.2 The full Green Procurement Rules are available on the Council website.

## **9 Freedom of Information Act 2000**

- 9.1 The Freedom of Information Act 2000 came into force on 1 January 2005. The act gives people the right to see information that is held by any public organisation. It is intended to make public authorities more open and responsible for their actions. The act recognises that there are some valid reasons for withholding information. Contractors must be asked to complete a Freedom of Information Schedule identifying any confidential or commercially sensitive information in their tender response.

## **10. Conduct**

- 10.1 Officers shall conduct themselves in line with the Procurement Code of Conduct available on the Council's internet pages. Officers must not accept any gift or reward before, during or after a tender process beyond nominal value. Officers must declare any personal interest(s) in a contract prior to any involvement in a contract the Council is/are considering or a contract that has already commenced.

## **11 The Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE)**

- 11.1 Whenever a new contractor is appointed to take over an existing service, the employees of the original contractor (or the Council, if the service was previously provided in-house) may be affected by transferring the services to another provider. If so, you must make sure TUPE issues are considered. You must get legal advice from the Corporate Director of Resources before asking for tenders or quotations. This may also apply where a service is being re-configured and will in future be covered by a number of providers.

## **C – RESPONSIBILITIES**

### **12. Value for Money Board**

- 12.1 The Value for Money Board will review any value for money report(s) provided by the Strategic Procurement Team and other departmental operational procurement teams to identify potential areas of efficiency improvement;
- 12.2 The Value for Money Board do not have a role in the decision making process on tenders but may offer advice or views from alternative sections on economy, efficiency and effectiveness. For example, potential areas where procurement/s could promote or improve sustainability;
- 12.3 The Value for Money Board will record minutes of the successes of the Council's procurement activities highlighted to them.

### **13. Procurement Representatives Responsibilities**

- 13.1 The Procurement Representatives shall:
  - 13.1.1 Keep an awareness of what procurement activity is happening within departments;
  - 13.1.2 Act as a conduit of best practice for Procurement;
  - 13.1.3 Provide information for reports and input for newsletters;
  - 13.1.4 Maintain the forward plans for respective departments
  - 13.1.5 Provide a first line information source on where to find procurement information

### **14. The Executive Responsibilities**

- 14.1 The Executive shall:
  - 14.1.1 provide Corporate Directors with responsibility to sign for Revenue spend over £500,000 and Capital spend over £1,000,000 (Revenue and Capital Spend is more particularly defined within the main Financial Regulations);
  - 14.1.2 approve contract amendments where the amendment exceeds £500,000 or is above Corporate Director approval;
  - 14.1.3 approving awards without performance security where the contract exceeds £5,000,000.

## **15. Chief Executive Responsibilities**

- 15.1 The Chief Executive is responsible for making sure that Corporate Directors carry out their responsibilities under these rules and for acting or appropriately delegating where a Corporate Director is not able to carry out these responsibilities.

## **16. Corporate Directors' Responsibilities**

- 16.1 A Corporate Director has responsibility for all contracts awarded by their department. His/her responsibilities include:
- 16.1.1 making sure that the Procurement Rules are followed;
  - 16.1.2 awarding contracts paid for using revenue money of up to £500,000 and contracts paid for using capital money of up to £1,000,000;
  - 16.1.3 awarding contracts paid for using revenue money over £500,000 where the Executive has provided prior approval;
  - 16.1.4 awarding contracts paid for using capital money over £1,000,000 where the Executive has provided prior approval;
  - 16.1.5 making sure the Council achieves value for money;
  - 16.1.6 taking immediate action if someone breaks the Procurement Rules;
  - 16.1.7 making sure proper and detailed records of all contracts are kept;
  - 16.1.8 making sure a record is kept when it is decided that these procurement rules do not have to be followed;
  - 16.1.9 making sure arrangements are in place for opening tenders and keeping them safe;
  - 16.1.10 making sure that the Council's corporate seal is placed on any document that needs to be 'sealed and executed' as a deed, and that where a document does not need to be sealed that it is signed by two authorised officers;
  - 16.1.11 agreeing an amendment to a contract where the value of the amendment is up to 10% or £500,000 of the original contract value (whichever is the highest);
  - 16.1.12 agreeing to waive security of performance on a contract up to £5,000,000;

- 16.1.13 deciding to accept a contract with lower levels of insurance cover and to accept a contract without professional indemnity insurance;
- 16.1.14 in cases where the EU regulations requiring advertisement in OJEU do not apply, agreeing not to advertise a tender with a completed waiver form;
- 16.1.15 in cases where the EU regulations do not require a specified process to be followed in respect of the procurement, agreeing to negotiate a contract direct with a completed waiver form; and
- 16.1.16 keeping a register of all contracts for their service and having all contracts duplicated on the corporate contracts database with an official number.

## **17 Finance Responsibilities**

17.1 The finance department shall:

- 17.1.1 provide guidance to officer on procurement implications to associated budgets where multiple departments could be affected;
- 17.1.2 commit the budget to being available for any procurement activity; and
- 17.1.3 comment on all reports for the Corporate Management Board, Joint Board or Executive Reports.

## **18 Legal Contracts Team Responsibilities**

18.1 The Legal Contracts Team shall:

- 18.1.1 provide advice on the EU regulations, the Procurement Rules and client responsibilities to commissioning officers;
- 18.1.2 prepare conditions of contract and associated documents to include in the tender documents in a timely manner;
- 18.1.3 advise on any legal issues arising in relation to the contract and the procurement process.
- 18.1.4 review any proposed Contractor terms and conditions at the request of the Commissioning Officer;
- 18.1.5 advise on, and where required negotiate on behalf of the Commissioning Officer, amendments to the conditions of contract.

## **19 Commissioning Officer Responsibilities**

19.1 Commissioning Officers (officers leading on a procurement) shall:

- 19.1.1 follow the Procurement Rules;
- 19.1.2 follow the Green Procurement Rules;
- 19.1.3 complete an Equalities Impact Assessment, Environmental Impact Assessment and Risk Assessment for each procurement;
- 19.1.4 get a contract number from the Strategic Procurement Team for all contracts with a total contract value of £20,000 or above;
- 19.1.5 instruct the Legal Contract Team in good time to prepare, or give advice on, all terms and conditions;
- 19.1.6 notify Democratic Services and write appropriate reports needed by the Executive;
- 19.1.7 ensure resources are in place to manage the let contract;
- 19.1.8 ensure there is sufficient budget for the contract;
- 19.1.9 seek legal advice when terminating a contract and/or withholding payments; and
- 19.1.10 ensure a minimum of one contract review per annum. This is to ensure the quality of the service and to promote continuous improvement.

## **20. Strategic Procurement Team Responsibilities**

20.1 The Strategic Procurement Team shall:

- 20.1.1 review the Procurement Rules and associated policies and documentation;
- 20.1.2 maintain a repository of skills and expertise to provide procurement advice;
- 20.1.3 support Commissioning Officers when going out to tender with an appropriate level of advisory support, examining options available to the commissioning officer in light of procurement best practice and legislation;
- 20.1.4 liaise with the Legal Contracts Team to assist in ensuring that all the advice provided and procedures being followed are legally compliant;
- 20.1.5 provide information for statistical purposes and return for the audit commission and European Union.

## **D – Procurement Administrative Process**

### **21 Quotations**

- 21.1 All quotations for Value Band ii) and iii) must be received in a written format of formal letter quotation, facsimile, email or catalogue and based on a written statement of needs;
- 21.2 All quotations for Value Band ii) and above should have formal terms and conditions as prepared by legal services, unless legal services provides exemption to those conditions.

### **22 Minimum Criteria**

- 22.1 Contractors must be suitably qualified in terms of their:
  - 22.1.1 financial position (subject to section 4 of the Procurement Rules);
  - 22.1.2 professional, technical (capability and capacity) and managerial ability;
  - 22.1.3 references, personnel and organisational track record;
  - 22.1.4 health and safety policy and arrangements;
  - 22.1.5 environmental policy and arrangements where they relate to the subject matter of the contract; and
  - 22.1.6 equalities policies.
- 22.2 Probity - tenders from organisations found guilty of contracting fraud, such as 'cover pricing' will not normally be considered
- 22.3 The Council operates a pre qualification questionnaire to ensure Contractors meet these conditions.

### **23 Award Criteria**

- 23.1 All contracts must have award criteria at both pre qualification and tender stages. The award conditions should be documented in the application documents. Contractors assessed against these criteria are entitled to have access to their results and records must be kept of these results.
- 23.2 Tenders can only be awarded against the following criteria:
  - 23.2.1 lowest cost to the Council/Partner;
  - 23.2.2 highest income to the Council/Partner;
  - 23.2.3 most economically advantageous tender, where considerations other than price also apply.

23.3 All award criteria should be published in the tender advert.

## **24 Invitations to Tender**

24.1 All invitations to tender must include:

- 24.1.1 a description of the requirements with enough detail to allow the tenderer to make a competitive offer (a specification);
- 24.1.2 a requirement for tenderers to declare that they have not given the tender content and price to any other organisation (unless if necessary in confidence, such as the tenders' subcontractors, with prior authorisation);
- 24.1.3 a requirement for tenderers to fully fill in and sign all tender documents (electronically signed by return for e-tenders);
- 24.1.4 a statement that tenders are put forward at the tenderer's expense;
- 24.1.5 a list of the award criteria and the scoring/weighting system;
- 24.1.6 if the tender is being returned by post, a statement that no tender will be considered unless it is enclosed in a sealed envelope or container which has the word 'tender' followed by the contract name, but no other name or mark showing who sent it;
- 24.1.7 a statement that tenders sent by fax or e-mail will only be considered and accepted by the Council with the authority of the Head of Strategic Procurement (or their representative);
- 24.1.8 how any pricing mistakes discovered in the tender will be dealt with;
- 24.1.9 statement that the Council can recover costs from the cancellation of any contract in the event the Contractor should offer, agree to offer or provide an officer, member or person associated with the Council, partner or its agent an inducement or reward in respect of a contract;
- 24.1.10 a statement that we do not have to accept the lowest tender, or indeed any tender.

## **25 Putting Tenders Forward**

- 25.1 Officers should sufficiently prepare in advance for procurement processes to allow for European Directive timescales.
- 25.2 Emailed and fax tenders may only be used with the express consent of the Head of Strategic Procurement (or their representative);

25.3 All intentions to seek tenders must be notified to the Strategic Procurement Team in writing including title, estimated annual value, contract length and commissioning office (or responsible officer if different).

## **26 Receiving and Opening tenders**

26.1 Each tender received must be:

26.1.1 recorded with the date and time it was received;

26.1.2 kept in a safe place; and

26.1.3 recorded in the tender record log in the Strategic Procurement Team.

26.2 All non-electronic tenders must be opened in the presence of a Tender Opening Panel (TOP). The TOP must be made up of at least two officers, one of whom should be the commissioning officer;

26.3 Contracts estimated over the EU threshold must have a member of the Strategic Procurement Team on the TOP;

26.4 Tenders should be through the electronic e-tendering system managed by Strategic Procurement when/wherever possible. When opening electronic tenders, all tenders must be opened at the same time;

26.5 Tenders received after the set time for receiving them, but before the TOP has begun opening them, may be opened and then considered only if all members of the TOP agree that it is appropriate to do so.

26.6 Tenders received after the TOP has begun opening tenders "late tenders" will not be considered unless specifically agreed by the Head of Strategic Procurement (or his representative) or are for land/building property purchases. Tenders received late and not to be considered will be returned;

26.7 All tenders opened by the TOP will be evaluated in a timely manner against the advertised award conditions;

26.8 All extensions to tender return dates must be authorised by the Head of Strategic Procurement (or his representative);

26.9 Errors or matters of ambiguity in tenders should be highlighted to the Head of Strategic Procurement (or his representative) to decide whether an extension is appropriate for satisfactory return of bids.

## **27 Negotiation**

27.1 A Corporate Director can decide that a contract should be awarded by post-tender negotiation (discussions after tenders have been received), subject to EU and national legislation, when:

- 27.1.1 No tenders are received following a competitive tendering exercise or there are only inappropriate/invalid tenders and the conditions have not been substantially altered;
- 27.1.2 contractors could not be short listed either for having not met the pre qualification requirements after a public advertisement or there is no response to an advertisement.
- 27.2 Negotiations must be carried out by at least two (2) senior officers, at least one of whom is a Corporate Director or their representative. Corporate Directors are responsible for the actions of the people they have nominated.
- 27.3 Negotiations must be fully minuted and the actions agreed by both parties;
- 27.4 Where a Corporate Director wishes to adopt the negotiated route prior approval must be obtained from the relevant Finance Officer, the Head of Strategic Procurement (or his delegated representative) and the Director of Legal Services.

## **28 Awarding Tenders**

- 28.1 The Commissioning Officer must prepare a contract award report for any every contract over £20,000, and keep that report on the contract file. More guidance is available from Strategic Procurement but the report must include:
  - 28.1.1 an introduction and summary of the requirement;
  - 28.1.2 outcomes, efficiencies and savings as a consequence of award;
  - 28.1.3 chosen procurement route and justified options discounted;
  - 28.1.4 length of arrangement including any extension options
  - 28.1.5 criteria against which the contractor was selected;
  - 28.1.6 the make up of the project team, noting any Member involvement;
  - 28.1.7 the estimated value/actual value for the life of the contract;
  - 28.1.8 dates and information regarding previous tendering in the case of a recurring procurement;
  - 28.1.9 pre tender assessment information;
  - 28.1.10 confirmation that a Risk Assessment, Equalities Impact Assessment and Environmental consideration has been provided;
- 28.2 The Commissioning Officer must write to the successful bidder telling them that the Council has accepted their offer, and to the

unsuccessful bidders telling them that the Council has not accepted their offers including in both cases their evaluation scores and the score of the winning tender(s) at the same time;

- 28.3 Tenders awarded in line with the EU regulations must be notified that the Council will accept the successful tender as long as no objections are raised by any of the unsuccessful bidders during the ten (10) day appeal period;
- 28.4 The Contract must not be signed until the ten (10) day standstill period has passed without objection;
- 28.5 The successful Contractor must not commence work until the contract has been signed in line with Section A above.

## **29 Keeping records**

- 29.1 The Commissioning Officer's department must keep:
  - 29.1.1 successful contract files for twelve (12) years after the end of the contract for all sealed contracts;
  - 29.1.2 successful contract files for six (6) years after the end of the contract for all other contracts;
  - 29.1.3 unsuccessful contract files for two (2) years.

## **30 Contract Management**

- 30.1 A record of all contract amendments and variation orders (orders to amend contracts) must be issued in writing;
- 30.2 Commissioning Officers must file a copy of every variation order in the contract file highlighting any risk to their relevant manager and any other affected department.

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Note: These rules will be updated by the Strategic Procurement Team to accommodate changes in the thresholds mentioned, therefore it is essential to ensure you have the latest version.

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