

## PART B CONTRACT STANDING ORDERS

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### Introduction:

A.1 These Contract Standing Orders are part of the County Council's Constitution and establish the framework for the administration and control of the County Council's Procurement arrangements.

A.2 These Contract Standing Orders are supported by Procurement Rules approved by Cabinet, and Procurement Instructions to be issued by the Director of Law and Democracy. An obligation to comply with Contract Standing Orders includes compliance with all Procurement Rules and Procurement Instructions as approved or issued from time to time.

### Definitions:

A.3 In these Standing Orders, unless otherwise stated:-

**'Chief Officer'** means the Chief Officer of the Directorate responsible for the contract in question or such senior officer of that Directorate to whom the Chief Officer may have delegated in writing the powers in question. The term Chief Officer includes the Chief Executive and such other officers as the County Council may from time to time decide.

**'Contract'** means any agreement, however expressed, by which the County Council agrees to carry out or acquire or sell any works, goods, services or utilities for payment or otherwise.

**'EU Procurement Regulations'** means the Public Contract Regulations 2006 together with relevant E U Directives, case law and guidance issued from time to time.

**'Framework Agreement'** means an agreement or other arrangement which establishes the terms (in particular the terms as to price and, where appropriate, quality) under which the Provider will enter into one or more contracts or a series of contracts with the County Council or other Public Body during the period in which the Framework Agreement applies. A Framework Agreement may also be referred to as a 'Call Off Contract' a 'Continuous Contract' or a 'Standing Offer'.

**'lowest tender in cost terms'** for acceptance of a tender means either the lowest cost, or where evaluation is not solely based on cost, the most economically advantageous tender score following evaluation.

**'Public Body'** includes any body or organisation who may award a public contract under the Public Contract Regulations 2006.

**'Signing'** a contract includes arrangements for the formal acceptance of a tender, where provided within Procurement Instructions.

**"Supply"** includes obtaining by purchase, lease, hire, rental or any form of credit arrangement whether for monetary value or 'nil' cost to the County Council.

**"Tendering"** means a formal procedure for obtaining written offers (tenders) for supply.

Headings and words in *italics* do not form part of these Standing Orders and are included purely to assist interpretation.

### **Review Arrangements:**

A.4 These Standing Orders will be reviewed by the County Council at least once every two years after consideration by the Cabinet and on the recommendation of the Audit Committee.

## **B. Scope and Application**

B.1 These Standing Orders apply to all contracts for works, or the supply or sale of goods, services or utilities by or to the County Council. Save as authorised in accordance with paragraphs B3 and B4 below and the Procurement Rules these Standing Orders may not be waived or dis-applied.

B.2 These Standing Orders also apply where the County Council:

- a) is acting as the Lead or Accountable Body in a partnership or other joint arrangement, or
- b) where the County Council appoints or nominates a sub contractor in connection with any Contract.

B.3 They do not apply to:

- a) contracts of employment;
- b) contracts relating to interests in land;
- c) contracts entered into by schools using delegated budgets;
- d) contracts placed by the Chief Financial Officer in relation to Treasury Management (*delegated to him under Table 11 in Appendix 1 of the Constitution*); or

- e) contracts placed by the Chief Financial Officer investing money or assets of the Staffordshire County Pension Fund (*delegated to him under Table 11 in Appendix 1 of the Constitution*).

B.4 They may be suspended at the discretion of the relevant Chief Officer, to the extent of the inconsistency with a particular contract, where:

1. a contract or sub-contract is being let on behalf of a Public Agency *eg the Department of Transport*, and any provision of these Standing Orders is inconsistent with the mandatory requirements of that Agency, and
2. a contract or sub contract is being entered into as a joint arrangement with another Public Body and any provision of these Standing Orders is inconsistent with the mandatory requirements or Standing orders of another Public Body who is taking the lead on the procurement, and
3. a contract or sub-contract which is governed by nationally negotiated Conditions of Contract under the auspices of one or more professional institutions, *for example ACE building contracts* and any provision of these Standing Orders is inconsistent with a provision contained in those Conditions of Contract,
4. the County Council is in accordance with the Procurement Rules entering into a Framework Agreement negotiated by another Public Body .

## **C. Legal Requirements**

C.1 The Chief Officer when making or proposing a contract on behalf of the County Council shall:

- (a) comply with all relevant statutory or other legal requirements including EU Procurement Regulations, and
- (b) comply with these Contract Standing Orders, and
- (c) comply with the Council's Financial Regulations (*Appendix 7 of this Constitution*), and
- (d) comply with the Procurement Rules and Procurement Instructions.

C.2 There shall be written evidence of every contract.

C.3 Every contract to which these Contract Standing Orders apply and which exceeds a value as determined in the Procurement Rules shall:-

- (a) be in writing; and
- (b) be in such form as the Director of Law and Democracy may require; and

- (c) either be sealed on behalf of the County Council or signed on behalf of the County Council in accordance with Section G.

C.4 If a contract is not one to which paragraph C3 applies, a Chief Officer may, after consultation with the Director of Law and Democracy as necessary, decide the form of the contract and tender documentation required but shall not decide on such documentation in a form to which the Director of Law and Democracy objects, or which is not in compliance with the Financial Regulations, Procurement Rules and Procurement Instructions.

C.5 Subject to paragraph C6, except in those instances where paragraph B.4 applies a Chief Officer shall include a copy of the County Council's Conditions of Contract in the documentation sent to prospective providers/tenderers prior to the contract being made.

C.6 The Director of Law and Democracy may make provision in Procurement Instructions for standard Terms and Conditions in respect of particular types of contracts and in respect of contracts under the value of £100,000 to be made available in to prospective providers and tenderers, electronically or on the County Council web site.

C.7 No increase in the amount payable by the County Council will be permitted except as specifically provided for within the Procurement Rules.

### **Contracts involving credit arrangements**

C.8 A Chief Officer shall not, without the approval of the Chief Financial Officer enter into a contract for the supply of goods or services under any lease, hire, rental or any other credit arrangements.

### **Record Keeping**

C.9 Chief Officers shall ensure that in accordance with the County Council's document retention policies under the Freedom of Information Act 2000 all contracts and related records are retained for inspection for such period as may be specified in those policies to show that the provisions of these Standing Orders have been complied with. For the avoidance of doubt this includes, but is not limited to, decisions to suspend Contract Standing Orders, decisions in respect of the Procurement Rules, Procurement Instructions and any exercise of delegated powers.

C.10 The Director of Law and Democracy may make provision in the Procurement Instructions for certain types of contracts to be retained in accordance with specific requirements as to the manner or location of retention

### **Use of Consultants**

C.11 Any Consultant who is responsible to the County Council for the preparation and/or supervision of a contract on its behalf shall, subject to any limitations on authority in his appointment:

- (a) comply with these Standing Orders as though he were a Chief Officer subject to the modification that the procedure to be followed for inviting,

opening and accepting tenders shall be approved in advance by the Chief Officer concerned; and

- (b) at any time during the carrying out of the contract, produce on request to the Chief Financial Officer or any officer authorised by the County Council all the records maintained by him in relation to the contract; and
- (c) On completion of a contract, transmit all records relating to the contract to the Chief Officer concerned.

#### **D. Duration of Contracts**

D.1 No contract shall be for a duration of longer than four (4) years unless provided for within the Procurement Rules.

#### **E. Obtaining Tenders**

E.1 A Chief Officer must always obtain, open and evaluate tenders in accordance with the Procurement Rules and Procurement Instructions prior to awarding a contract for works or the supply of goods, services or utilities.

#### **F. Accepting Tenders**

F.1 The Chief Officer may accept the lowest tender in cost terms whatever the value of the contract.

F.2 No tender which is not the lowest tender in cost terms shall be accepted unless acceptance is in accordance with the Procurement Rules.

F.3 A Chief Officer may only negotiate with a tenderer if such negotiations are in accordance with the Procurement Rules.

#### **G. Signing and Sealing Contracts**

G.1 The provisions of this Section G shall not be delegated by the Chief Officer other than to a Deputy Chief Officer or other officer directly accountable and reporting to the Chief Officer

G.2 A Chief Officer may sign any contract up to the value of £100,000.

G.3 Contracts up to the value of £300,000 may be signed by:

- a) the Director of Law and Democracy, and
- b) the Director for Place and Deputy Chief Executive in respect of contracts for works, or
- c) the Director of Children's Services and the Director for People and Deputy Chief Executive in respect of contracts for the care or educational placement of an individual or a recognised group of individuals.

G.4. Contracts over the values set out in paragraphs G. 3 must be signed by two Chief Officers, unless otherwise provided for in the Procurement Instructions one of whom shall include the Director of Law and Democracy.

G5. The Director of Law and Democracy shall determine which contracts shall be under seal.

## **H. Sales**

H.1 Surplus goods and materials belonging to the County Council may be sold by the Chief Officer subject to compliance with Procurement Instructions.

H2. The Procurement Instructions may allow for the provision of works, goods and services to a third party.

## **I. Officers' Decision making and Interests in Contracts**

I.1 Every Officer taking any decision in respect of a contract shall comply fully with County Council's Integrity Policy Statement and the County Council's Local Code of Conduct for Employees.

I.2 Every Officer who has a pecuniary interest in a contract shall notify The Director of Law and Democracy who shall make a record in a book to be kept for the purpose, under Section 117 of the Local Government Act 1972, and the book shall be open during office hours to the inspection of any Member of the Council.