

## Section D2

### Procurement Standing Orders

#### Rules to be followed when buying on behalf of East Sussex Fire Authority

1. **Introduction**
  - 1.1 Legal status of these Procurement Standing Orders
  - 1.2 Key Principles
  - 1.3 Compliance
  - 1.4 Scope
  - 1.5 Roles and Responsibilities
  - 1.6 Category Strategies
2. **Finding and contracting with suppliers**
  - 2.1 Purchase Orders
  - 2.2 Using Procurement Cards
  - 2.3 Temporary Staff, Consultants and Professional Services
  - 2.4 Contract Value Calculation
  - 2.5 Grants
  - 2.6 Bribery, Corruption, Canvassing and Collusion and Publicity  
Bribery and Corruption  
Canvassing and Collusion and Publicity
  - 2.7 Financial Thresholds for Procurement and Contracting  
Summary table
3. **Procurement methods**
  - 3.1 Tenders over Regulatory Thresholds
  - 3.2 Use of Selection Questionnaires (SQs)
  - 3.3 Evaluation
  - 3.4 Collaboration with other public bodies
  - 3.5 Approved or 'Select' Lists
  - 3.6 Framework agreements and Dynamic Purchasing Systems (DPS)
  - 3.7 Responsible Procurement
  - 3.8 Voluntary Ex-Ante Transparency Notice (VEAT)
  - 3.9 Developing Local suppliers
  - 3.10 Commercial Confidentiality and Intellectual Property
4. **Waivers and Emergencies**
  - 4.1 Waivers
  - 4.2 Emergency Purchases
5. **Liability and Security**
  - 5.1 Insurance Liability



- 5.2 [Financial Security](#)
  - 5.3 [Document Retention periods](#)
  - 6. [Managing Contracts](#)**
    - 6.1 [Contract Performance](#)
    - 6.2 [Contract Award Notices](#)
    - 6.3 [Contracts Register](#)
    - 6.4 [Contract Modifications and Extensions](#)
      - [Extensions](#)
      - [Other Modifications](#)
    - 6.5 [Contract Novation](#)
  - 7. [Paying our suppliers](#)**
    - 7.1 [Invoice Payments](#)
    - 7.2 [Payment Terms](#)
  - 8. [Disposing of surplus goods](#)**
- Appendix 1 [Policies and Guidance relevant to these Orders](#)

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## **1. Introduction**

Procurement is the act of acquiring goods, services and works from third parties. Procurement is a much broader term than simply 'purchasing'.

The procurement process spans the whole cycle from the initial identification of needs through to managing the end of a contract (or the end of the useful life of an asset) and all stages in between.

The policy of the Authority is to conduct responsible procurement activity, in accordance with its legal obligations, in a way that aligns to accepted procurement best practice, for the purpose of delivering value for money, in a fair, open and transparent way.

The Procurement Standing Orders (referred to as the 'Orders' from this point on) set out the governance arrangements by which the Authority conducts and authorises the procurement of goods, works and services. They are the framework by which the Authority will procure and manage the relationship with suppliers for the duration of any contractual relationship.

Budget Managers are accountable for all procurement in their respective area of responsibility. Anyone who buys on behalf of the Authority, including staff, contractors and consultants, is responsible for following these Orders. Functions delegated to particular officers under these Orders may be carried out by other officers specifically authorised by them for that purpose.

These Orders must be considered along with the Authority's Financial Regulations, Schemes of Delegation, the ESFRS Procurement Card Policy and the Responsible Procurement Policy.

**Note:** In these Orders, 'You' means anyone who needs to buy from an external supplier. 'Regulatory Threshold' means any relevant threshold applicable to procurement by UK law or regulation.

### **1.1 LEGAL STATUS OF THESE PROCUREMENT STANDING ORDERS**

As a good practice measure, the Authority has determined to make these Procurement Standing Orders, which are published as part of the Constitution.

The Procurement Manager is the custodian of these Orders and is responsible for keeping them under review.

The Orders reflect procurement legislation, public sector policy and best practice. These are subject to change from time to time and will be reviewed annually, to ensure they remain current. The Combined Fire Authority will consider and approve significant changes to the Orders following consideration by the Senior Leadership Team. Minor changes will be made with the approval of the Procurement Manager.

## **1.2 KEY PRINCIPLES**

These Orders are based on the following key principles:

- a) To ensure that the Authority meets its statutory duty to deliver **best value for money** and creates healthy competition and markets for the Goods, Services and Works purchased
- b) To promote **transparency and market competition**, and to comply with transparency and reporting requirements and standards
- c) To assist and guide staff to ensure **compliance with the law, rules and procedures** which govern the spending of public money
- d) To ensure that public money is spent **legally and fairly**
- e) To support our responsible procurement considerations, to meet our environmental sustainability and social value objectives, our public sector equality duty and to encourage local small businesses

## **1.3 COMPLIANCE**

All staff and any external contractors empowered to form contracts on behalf of the Authority must comply with these Orders at all times. If you breach them this may lead to disciplinary action under the Code of Conduct. The Procurement Manager will report any breaches of these Orders to the Assistant Director Resources/Treasurer on a quarterly basis.

Every contract made by the Authority or on its behalf must comply with legislation, regulation, these orders and the Authority's Financial Regulations.

Where there is a difference between current legislation governing procurement and these Orders, the legislation prevails. Where these Orders appear to conflict with other Authority- determined rules, the Assistant Director Resources/Treasurer determines which takes precedence.

## **1.4 SCOPE**

Apart from the exceptions listed below, these Orders cover all spend with external suppliers regardless of how they are funded or which systems are used to place orders with suppliers.

These Orders do not apply to the following items:

- a) Contracts for the acquisition or lease of land and/or real estate;
- b) Contracts for permanent or fixed term employment;
- c) Works or orders placed with utility companies;
- d) Non-trade mandatory payments to third parties, such as insurance claims, pension payments, payments to public bodies;
- e) Awarding of grants;
- f) Any contract relating to the engagement of Counsel or other legal specialists;
- g) A declared emergency as defined by the Civil Contingencies Act 2004 and authorised by the Chief Fire Officer and Chief Executive or a nominated officer in their absence.

## **1.5 ROLES AND RESPONSIBILITIES**

Delivery of best practice procurement and sound commercial outcomes relies on staff from different parts of the Authority working effectively together.

Understanding the respective roles and responsibilities of all those that play a part in procurement is an important aspect of ensuring high quality outcomes.

Set out below are the high level roles and responsibilities of the principal stakeholders in the procurement process.

### **1.5.1 The Procurement Department**

The Procurement Department provides support and guidance relating to all aspects of commissioning, procuring and contracting for goods, services and works.

The team will support our internal customers with any aspect of procurement. The Financial Thresholds prescribe the routes which must be followed and the **level of anticipated spend** informs the extent to which the Procurement Department must be involved. Their responsibilities include:

- a) Ensuring that all purchasing activity is conducted in line with these Orders;
- b) Developing a procurement strategy to help the Authority meet its objectives;
- c) Development and maintenance of Category Strategies;
- d) Development and maintenance of the Procurement Action Log for pipeline activities;
- e) Resource planning to deliver the Action Log;
- f) Giving support and training for all those involved in procurement;
- g) Working with teams to develop commercial and procurement approaches for requirements;
- h) Managing specific tender processes;
- i) Giving information on existing agreements and guidance on procurement procedures (including legal obligations);
- j) Guiding the selection of the right suppliers or service providers on quality, delivery, service and price to meet requirements;
- k) Guidance on contract management (or management of the most significant contracts) with contracted suppliers, defining the principles governing the relationships and performance monitoring;
- l) Monitoring and reporting procurement performance;
- m) Maintaining knowledge of the supplier marketplace;
- n) Maintaining contract management arrangements;
- o) Documenting effective change control mechanisms to support the contract management arrangements.
- p) Determining the minimum levels of Insurance Liability required during the term of a contract

### 1.5.2 **Internal Customers**

The role of the customer is important in defining the goods or services that are being purchased on behalf of the Authority. Alongside the professional procurement advice provided by a procurement specialist, budget holders and subject matter experts from the key buying areas, Internal Customers will have a significant input into the procurement process.

The term "customer" is used to describe the individual 'you' (or team) with responsibility for formulating the requirement i.e. the goods, services or works required.

Their responsibilities include:

- a) Identifying requirements and communicating their needs to Procurement;
- b) Consulting with Procurement Department at the earliest opportunity in strategic planning for acquisitions of goods or services or works from third parties;
- c) Ensuring there is adequate budget/funding in place for the whole life cost where this can be reasonably assessed, to make the proposed purchases;
- d) Ensuring all purchases are compliant with the Orders and delegated financial authority;
- e) Ensuring the Authority's Procurement Department is informed and involved at the earliest opportunity;
- f) Adequately defining user's needs, identifying minimum standards and desirable elements;
- g) Ensuring appropriate documentation is produced to support procurement, as required (e.g. project plan, risk register, terms of reference, decision logs, evaluation criteria, business case, waiver request);
- h) Ensure compliance with relevant legal obligations relating to the goods, services or works to be purchased e.g. environmental/health and safety etc;
- i) Ensure any conflict (or potential conflict) of interest is declared, recorded and managed;
- j) Where appropriate, prepare a business case for approval;
- k) Contribute to drafting the tender specification;
- l) Contribute to development of the category strategy and associated risk assessment;
- m) Be involved throughout the life cycle of the contract at pre-planning, selection, award, implementation, review and onward contract management;
- n) Provide technical expertise and input to support the bid assessment fairly and transparently;
- o) Prepare the technical recommendation in any bid assessment report providing evidence if necessary;
- p) Creating and authorising purchase orders in a timely manner
- q) Reviewing and approving Procurement Card transactions in a timely manner

Staff should not deal directly with bidders or potential bidders before or during the Procurement process without the full involvement of and/or approval by the Category Specialist or the Procurement Manager.

Anyone who buys from suppliers is responsible for:

- a) Complying with these Orders and all relevant policies
- b) Purchasing from existing contracts where they are in place
- c) Ensuring there is adequate budget available for any purchase
- d) Raising and ensuring a purchase order or Procurement Card purchase is approved before the requirements are delivered to the Authority
- e) Ensuring specifications meet the defined need and requirements and properly take into account equality and diversity as well as Responsible Procurement implications
- f) Ensuring that HR is consulted and the appropriate approval is obtained in respect of the engagement of any temporary workers or consultants outside of any agreed corporate contract

Contracts are to be managed within Business Areas, supported by their Category Specialist, either by a dedicated contract manager or by a nominated officer who has these responsibilities as part of a broader role.

## **1.6 CATEGORY STRATEGIES**

To enable the Authority to maintain an accurate oversight of procurement activity across the Service, the Procurement Department are responsible for the development of an annual Procurement Action Log, which will identify the following:

- a) For each Department, all contracts which are due for extension, renewal or replacement in the coming financial year, and the notice required for this
- b) The aggregate contract value across the life of the contract
- c) The agreed budget allocated for the year in question
- d) The procurement activity required
- e) The expected start date for procurement
- f) The expected start date of any new contract or extension
- g) Whether there is an option to extend the existing contract or not
- h) Whether the spend is capital, revenue, or a combination

The Action Log will be developed and agreed with the Assistant Director or delegated officer, of the relevant categories on an annual basis, as part of the budget setting cycle.

Procurement must maintain a proper audit trail of all approvals and decisions and track the delivery of savings and benefits in line with the Category Strategies, as agreed with the relevant Assistant Director or delegated officer.

## **2. Finding and contracting with suppliers**

### **2.1 PURCHASE ORDERS**

Once you have found the right supplier in accordance with these Orders, you must not make verbal commitments but must raise a Requisition in order for a Purchase Order to be raised via the SAP Financial Management system. This must be approved in accordance with the Authority's Financial Regulations before it is sent to the supplier and before any goods or services have been received.

### **2.2 PROCUREMENT CARDS**

The Authority makes use of Procurement Cards as the preferred route for all low value or one off purchases, up to a value of £5,000, in a wide range of situations.

You must use purchase cards only as set out in the 'ESFRS Procurement Card Policy', unless otherwise agreed in writing by Procurement, or in emergency circumstances (see also section 4.2).

The How to Buy area within the Procurement pages on the intranet, details all pre-contracted suppliers for varied commodities and should be the first port of call for Procurement Card purchases.

<https://esfrsorg.sharepoint.com/sites/ESFRSIntranet/SitePages/One-Stop-Shop.aspx>

### **2.3 TEMPORARY STAFF, CONSULTANTS AND PROFESSIONAL SERVICES**

Procurement works closely with HR to manage the Authority's temporary workforce needs. This applies to any appointment that is outside the Authority's direct employment. No temporary worker, agency or consultant may be procured or engaged outside of existing contract or framework arrangements without prior approval from HR.

A consultant is a person (not an employee), agency or firm engaged for a limited period of time on a project or requirement specific basis to carry out a specific task or tasks which meet a desired set of outputs or outcomes. A consultant provides subject matter expertise, support and/or experience to the Authority either because it does not possess the skills or resources in-house or requires an independent evaluation/assessment to be made.

This definition excludes:

- a) Agency staff, interim or role specific duties which should be sourced through the Authority's corporate contract;
- b) Routine services e.g. maintenance, cleaning and security;
- c) Professional services e.g. architects, structural engineers, legal counsel or training services.

Temporary & agency staff, and other consultants or contractors, must abide by the terms of their contract with the Authority and follow the Authority's Code of Conduct and Conflict of Interest Policy.

## **2.4 CONTRACT VALUE CALCULATION**

Contract value means the estimated aggregate or recurring value payable in pounds sterling exclusive of Value Added Tax over the entire contract period including any extensions of the contract.

**Where the contract period is not fixed or the requirement finite, the estimated value of the contract must be calculated by multiplying the monthly spend value by 36.**

Where an existing contract is being extended, the aggregate value includes the amount spent to date plus the expected forward value.

Contracts must not be artificially underestimated or disaggregated into two or more separate contracts with the intention of avoiding the application of these Orders or legislation.

In the case of Framework Agreements or Dynamic Purchasing Systems the contract value must be calculated to include the total estimated value, net of VAT, of all the contracts envisaged to be awarded for the total term of the Framework Agreement or the Dynamic Purchasing System.

## **2.5 GRANTS**

The making of grants is not subject to these Orders.

## **2.6 BRIBERY, CORRUPTION, CANVASSING AND COLLUSION AND PUBLICITY**

### **Bribery and Corruption**

You must comply with the Authority's Anti-Fraud, Bribery and Corruption policy and the Code of Conduct and Conflict of Interest Policy. You must

not accept gifts from contactors or potential contractors, including those who have previously worked for the Authority, service users, clients or suppliers. You must not invite or accept any gift or reward in respect of the award or performance of any contract.

### **Canvassing and Collusion**

All Invitations to Tender must include a requirement for tenderers to complete fully and sign a form of tender including certificates relating to canvassing and non-collusion. Every contract must contain a clause entitling the Authority to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation if the contractor or his representative has practiced collusion in tendering for the contract or any other contract with the Authority.

### **Publicity**

The Authority does not participate in any publicity relating to any of its contracts or purchases. Contracts will include that suppliers do not advertise or publicly announce that they are undertaking work for the Authority. This is to ensure suppliers are assured we operate under a fair, consistent and equal approach for all potential bidders. If the Authority is made aware of any such advertising on websites or company literature the supplier will be contacted and requested to remove such references.

## **2.7 FINANCIAL THRESHOLDS FOR PROCUREMENT AND CONTRACTING**

For each proposed purchase of goods, services or works, you must estimate the total, whole life cost and apply the relevant PSO threshold for the associated value.

All purchasing activity, including extensions and variations to Contracts, are subject to the procedures defined below, relevant to aggregated value of the procurement.

Contracts must not be artificially underestimated or disaggregated into two or more separate contracts with the intention of avoiding the application of these Orders or legislation.

There may be occasions where the business need, the anticipated cost, or the level of risk associated with a requirement does not fit neatly within the prescribed routes and the specified thresholds. Where this occurs, Internal Customers are required to contact the Procurement Department, who will advise the most appropriate approach.

**The Public Contracts Regulations 2015** set out procedures which must be followed before awarding a contract **when its value exceeds our own PSO thresholds**, unless it qualifies for a specific exclusion - e.g. on grounds of national security.

The regulatory thresholds currently in force, as of 01 January 2020 are as follows & refer to whole life cost, excluding VAT:

Supplies and Services (except subsidised services contracts) £189, 330
Works (including subsidised works contracts) £4,733, 252
Light Touch Regime for Services £663, 540 (specific criteria apply – the Procurement Manager will determine)

**Section 3 describes the mandatory procedure if the contract value meets or exceeds the thresholds described above.**

The PSOs describe four routes to market and where Procurement must be involved, according to the associated internal thresholds:

Route 1 – Self Serve: Up to £5000 - Procurement Card or Requisition: Procurement Cards are the preferred route for all low value or one off purchases, up to a value of £5,000.
Route 2 – Self Serve: Up to £10,000 – Obtain 1 Quotation - this route is for unregulated procurements which are low risk, non-repetitive and valued anywhere up to £10,000. The quotation must be forwarded to Procurement with the associated requisition.
Route 3 - Assisted Procurement: £10,001 to £50,000 – Obtain 3 Quotations - this route mandates assistance from the Procurement Department. Procurement will provide standard documentation and processes for the Internal Customer to follow, including publication on Contracts Finder at £25,000 and above.
Route 4 – Formal Procurement: This route is for requirements valued over £50,000. The Procurement Department will lead the sourcing exercise in conjunction with Internal Customer inputs.



**Section D2  
Procurement Standing Orders**

**2.7. SUMMARY TABLE**

A	B	C	D	E	F	G	H	I	J
Aggregate value including	Purchase Card permitted?	Procurement Method?	How should you approach the market?	Who leads the procurement?	Must the contract be formally advertised?	What type of contract is required?	Who must approve the contract award?	Who signs the contract on the Authority's behalf?	Contract Award Notice needed?
<b>£0 to £5000</b>	Yes if within rules & guidance and card limits	Direct purchase	Self -Serve - directly with card or Purchase Order	Internal Customer	No	Standard PO Terms apply	N/A - Budget Holder approves the purchase	N/A - Budget Holder approves purchase	No
<b>£5001 to £10,000</b>	No	Minimum of 1 quotation	Self -Serve – Procurement can assist	Internal Customer	No	Standard PO Terms apply	Budget Holder or Delegated Person	Budget Holder	No
<b>£10,001 to £50,000</b>	No	Minimum of 3 Quotations	Via Procurement	Procurement	Yes - via Contracts Finder above £25,000	Standard Terms and Conditions and any additional in line with agreed level of risk and complexity	Budget Holder or Delegated Person	Budget Holder or Delegated Person	Yes as required by Contracts Finder
<b>£50,001+</b>	No	Full competitive tender exercise or as prescribed by the Public Contracts Regulations 2015 or purchase via a framework	Via Procurement	Procurement	Yes – via Find A Tender as required by Contracts Finder &/or Public Contracts Regulations	Standard Terms and Conditions and any additional in line with agreed level of risk and complexity	Budget Holder or Delegated Person in line with Financial Regulations	Budget Holder or Delegated Person in line with Financial Regulations. Over £500k - sealed as a deed via Legal Services	Yes – as required by contracts Finder &/or Public Contracts Regulations

### **3. Procurement methods**

#### **3.1 TENDERS OVER REGULATORY THRESHOLDS UNDER THE PUBLIC CONTRACTS REGULATIONS 2015**

Procurement is responsible for selecting the most appropriate route to market.

#### **3.2 USE OF SELECTION QUESTIONNAIRES (SQS)**

Procurement will apply minimum standards of experience, reputation and economic standing to suppliers to test their suitability to bid for an Authority contract.

Procurement must use the Authority's standard Invitation to Tender Questionnaire and adhere to statutory guidance for all procurements of contracts above the relevant Regulatory Threshold.

All the methods and criteria used for assessing the suitability of suppliers must be transparent, objective and non-discriminatory.

#### **3.3 EVALUATION**

Tenders over Regulatory Thresholds are evaluated based on the identification of the 'Most Economically Advantageous Tender (MEAT)'. This takes price into account, alongside quality and responsible procurement considerations, but does not require the tender to be awarded to the lowest priced bidder.

The weighting given to the considerations, including in relation to Responsible Procurement considerations will be determined by the Category Specialist in consultation with Internal Customer.

Where written quotations are invited for contracts below regulatory thresholds MEAT should also be used, but where no clear quality criteria are specified then the Procurement Manager can determine that an assessment can be made based on price. The relevant Budget Manager can accept the most economically advantageous tender, or the lowest cost tender, where such a contract award criterion is being used.

For all tenders over Regulatory Thresholds, a full record of all key decisions and process in relation to the procurement procedure must be kept in the contract file maintained by the Procurement Department,

including such details as required by Regulation 84 of the Public Contracts Regulations 2015.

#### **3.4 COLLABORATION WITH OTHER PUBLIC BODIES**

The Authority may enter into collaborative agreements for the procurement of goods and services with other public bodies or Central Purchasing Bodies where this offers best value for money. Where this is proposed, you must seek advice from Procurement in the first instance.

#### **3.5 APPROVED OR 'SELECT' LISTS**

The Authority does not operate general 'approved' or 'select' lists of suppliers, instead a formal arrangement must be in place via either a contract, a framework agreement, a dynamic purchasing system or other mechanism compliant with regulations.

#### **3.6 FRAMEWORK AGREEMENTS AND DYNAMIC PURCHASING SYSTEMS (DPS)**

All requirements to use existing frameworks or DPS, or to set up new ones, must be referred to Procurement, who will make appropriate arrangements in consultation with Legal Services as required.

Where the Authority accesses an existing Framework Agreement or DPS, the Framework Agreement or DPS terms and conditions of contract must be used, amended as appropriate, as permitted by the Framework Agreement or DPS and the Regulations.

Before entering into these, due diligence checks must be carried out to demonstrate that the Authority can lawfully access them and that they are fit for purpose and provide value for money.

#### **3.7 RESPONSIBLE PROCUREMENT**

Internal Customers must familiarise themselves with the Responsible Procurement policy.

Responsible Procurement is the act of procuring goods, services, or works in a manner that is considerate of the impact, both positive and negative, that the Authority may have on the environment, the economy, our community and society in general.

The Public Services (Social Value) Act 2012 places an obligation on the Authority to consider the economic, social and environmental well-being of

our area when we award contracts over Regulatory Thresholds. The Authority will specify responsible outcomes that are proportionate and relevant to the procurement and seek to evaluate tenders in accordance with those outcomes.

It will be the joint responsibility of the Responsible Officer in the key buying areas and the relevant Category Specialist to consider and determine, on a contract by contract basis, the potential responsible outcomes that can be delivered through the procurement process and the most appropriate procurement strategy to achieve these.

The following approach will be adopted for all responsible considerations outlined under the Responsible Procurement policy:

1. Understand the relative impact of each element of RP to each contract;
2. Include relevant RP outcomes within the contract specification and terms and conditions;
3. Include relevant RP evaluation criteria with appropriate weighting within the supplier selection process;
4. Manage and measure RP objectives throughout the life the contract.

The Responsible Procurement policy covers all areas of commissioning and procurement within the Authority and will influence the way we procure all goods, works and services. For procurements below £50,000, Procurement will have regard to the resources available to smaller providers who may bid for lower value contracts. Requirements set will apply to sub-contractors.

All suppliers to the Authority are required to comply with all relevant environmental legislation and regulation and any such superseding legislation. The Authority may also introduce from time to time particular local and national policies which support environmental and sustainable procurement and Officers should include these in relevant procurement documentation and procedures.

### **3.8 VOLUNTARY EX-ANTE TRANSPARENCY NOTICE (VEAT)**

Should a VEAT Notice be assessed by the Procurement Manager and Legal Services as being required to manage potential risk to the Authority, this will be approved by the Procurement Manager, in consultation with the

Assistant Director Resources/Treasurer and the Monitoring Officer, and a log of all published VEAT notices maintained by Procurement.

### **3.9 DEVELOPING LOCAL SUPPLIERS**

The Authority is committed to encouraging businesses in East Sussex and the City of Brighton & Hove to compete for contract opportunities in order to support the development of the local economy.

You must use our purchasing power to work with local businesses wherever possible where this provides equal or better Value for Money for the Authority than alternatives. However it must also be noted that the Public Contracts Regulations require that any procurement activity should not discriminate, favour or show bias.

You should carefully review the required specifications of any contract to ensure that small and medium sized enterprises are not being disadvantaged in their ability to tender for goods, works or services with the Authority.

For contracts over Regulatory Threshold, Procurement in conjunction with Internal Customers must also consider whether the contract should be divided into Lots in order that small and medium sized enterprises can bid for local work.

### **3.10 COMMERCIAL CONFIDENTIALITY AND INTELLECTUAL PROPERTY**

If you are discussing developments with suppliers you should take care to ensure that you do not inadvertently share key commercial or confidential information such as budgets, existing pricing from other suppliers, or suggestions for improvements unless you have a Non- Disclosure Agreement (NDA) in place.

This protects the Authority's interests and our intellectual property. Internal Customers are responsible for putting these agreements in place where appropriate, with advice from the Procurement Department, who can provide a commercial advice and support in dealing with suppliers. Where arrangements include the Intellectual property of the Authority, appropriate or relevant contract clause/s must be included.

Intellectual property is a generic term that includes inventions and writings. If these are created by the Authority as a general rule they belong to the Authority not the supplier. Certain activities undertaken by the Authority may give rise to items that may be patentable, for example software development. These items are collectively known as Intellectual Property.

## **4. Waivers and Emergencies**

### **4.1 WAIVERS**

In the event that the application of these orders prevents or inhibits the delivery or continuity of service, a waiver may be sought. A waiver is required for any proposed procurement or contractual action which is not compliant with these Orders.

A waiver cannot be given if it would contravene the Public Contracts Regulations 2015 or any other applicable legislation.

You must obtain approval for a waiver in writing specifically identifying the PSO that is being waived and the reason for which the waiver is sought, including justification and risk. When a waiver is sought, advice from Procurement should be sought at the earliest opportunity. A waiver cannot be granted retrospectively; this is viewed as non-compliance with these Orders.

Any proposal to waive any of the provisions of one or more PSOs in relation to a Contract must be referred by the Internal Customer to the Assistant Director Resources / Treasurer. Except in an emergency, the proposal must be in writing, setting out the reason(s) for the waiver.

The Assistant Director Resources/Treasurer may waive any provision of one or more PSOs in relation to a proposed Contract, except where it contravenes any applicable legislation. Except in an emergency, the Assistant Director Resources/Treasurer shall consult the Monitoring Officer, the Procurement Manager and the relevant Member of the Authority before making a decision.

Procurement must maintain a log of all waivers, and store documentation for waivers within the Contracts Register.

### **4.2 EMERGENCY PURCHASES**

An emergency purchase is only allowed for purchasing outside the hours 0830hrs to 1700hrs, on working days or at weekends and during public holidays.

A declared emergency is as defined by the Civil Contingencies Act 2004 where the goods, services or works are necessary and proportionate for

the protection of life, property or the environment, or to maintain the functioning of local fire and rescue services for which the Authority is responsible.

You can use a Procurement Card, within your allocated limits, to pay. If the supplier does not accept Procurement Cards then you may give a verbal order and raise a formal purchase order the following working day. You must also inform Procurement of any emergency purchases on the following working day.

Where a contract is entered into on behalf of the Authority in the circumstances of a declared emergency, whether orally or in writing this must be reported to Procurement at the earliest opportunity and recorded in the Contracts Register to include:

- a) The name and location of the Officer who authorised the Contact
- b) The value and description of the Contract
- c) The rationale under which the contract has been entered.

## **5. Liability and Security**

### **5.1 INSURANCE LIABILITY**

To protect the Authority, insurance is required throughout the term of the contract, where we use goods, works or services provided by a supplier (including consultancy).

The minimum levels of cover for Public Liability Insurance and Employers' Liability Insurance required, and Professional Indemnity Insurance are set out below.

- a) Public Liability - £7m
- b) Employers Liability - £10m
- c) Professional/Product Indemnity - £1m-£5m (dependent of contract type & subject to risk assessment – Procurement to advise)

In some instances where the contract value, risk or scope may be particularly high, additional levels of cover may be required. Equally, where some contracts may be suitable for micro business, lower levels of insurance may be considered. Any variation from the standard levels above must have the agreement of the Procurement Manager, in consultation with the Risk & Insurance Officer.

### **5.2 FINANCIAL SECURITY**

Procurement must confirm that suppliers are financially robust both prior to contract award and during the life of the contract as appropriate. Details of the requirements or potential guarantees a supplier may need to provide must be set out in the procurement documents.

If there is doubt as to the financial credibility of a supplier but the Authority has decided to accept the level of risk, then additional forms of security to a level determined between the Assistant Director Resources/Treasurer and the Monitoring Officer are required, for example:

- a) a Parent Company, Ultimate Company or Holding Company guarantee where their financial standing proves acceptable;
- b) a Director's Guarantee or Personal Guarantee where finances prove acceptable;
- c) a Performance Bond, retained funds or cash deposit;
- d) any other security (such as escrow arrangements) as determined by the Monitoring Officer.

All documents inviting tenders and contracts issued must contain a statement that the supplier needs to provide security for performance and the level of security needed, financial checks to be applied at tender, plus how financial suitability will be assessed and any checks that will be required during the life of the contract.

Additional documentation, where required, should be stored within the contract file.

### **5.3 DOCUMENT RETENTION PERIODS**

The retention of tenders and contractual documentation is prescribed in the Authority's Retention schedules and the Public Contract Regulations. In summary:

- a) All quotations secured where the threshold requires it must be submitted with the requisitions and will be retained for seven years
- b) All received Tenders must be retained for a minimum of eighteen months following the issue of the Contract Award Notice;
- c) All signed contracts must be retained for a minimum of seven years following contract expiry;
- d) All sealed contracts over £500,000 (including all tender documentation) must be retained for a minimum of seven years following contract expiry.

## **6. Managing Contracts**

Contract management activities will be determined by the complexity and risk profile of the supply and the associated contract.

Foundations for onward contract management must be established during the procurement process, including within the specification and the setting of service levels and key performance indicators within the terms and conditions.

The approach, responsibilities and the nominated contract manager must be determined within the terms and conditions.

The contract documentation will set out the obligations, benefits and performance requirements of the respective parties to ensure that:

- a) The Authority receives the benefits expected from the contract and the contractual relationship throughout the contract's life;
- b) We understand our obligations under the contract and those of the supplier;
- c) We manage the contact in manner which fulfils each party's responsibilities, minimizes risk and maximizes benefits.

Contracts are to be managed by Internal Customers, supported by their Category Specialist, either by a dedicated contract manager nominated within the contract or who has these responsibilities as part of a broader role.

Meetings with key suppliers must be minuted and performance indicators monitored and reported upon by the nominated officer and the Category Specialist, according to the protocols established in the contract.

All purchases above £10,000 must be delivered under a form of contract approved by Procurement.

### **6.1 CONTRACT PERFORMANCE**

Nominated Internal Customers, supported by the Category Specialist, are responsible for the performance of contracts in their area. All Contract Management activities are to be delivered either by a dedicated contract manager or by someone with that responsibility as part of a wider role.

Procurement is responsible for assessing the level of risk, value and complexity of managing a contract once it has been established and will provide support, training and guidance in line with the category model.

## **6.2 CONTRACT AWARD NOTICES**

A full Contract Award Notice must be published no later than 30 days after the award of a contract for all contracts over the Regulatory Threshold values, excluding call-offs from framework agreements. For all contracts called-off from a DPS, the Notice must be published within 30 days of the call-off or be grouped together and published on a quarterly basis within 30 days of the end of each quarter.

For all other contracts under Regulatory Thresholds a simplified Contract Award Notice must be published on the Contracts Finder website for all contracts awarded over a value of £25,000 (including all call-off contracts from Framework Agreements) as soon as is reasonably practicable after the conclusion of the contract.

## **6.3 CONTRACTS REGISTER**

All contracts over £5,000, including any variations or amendments, must be registered and maintained within the Contracts Register, managed by Procurement. The Authority is required by law to publish transparency data about our contracts on a quarterly basis.

## **6.4 CONTRACT MODIFICATIONS AND EXTENSIONS**

### **Extensions**

Contracts that have been originally advertised with extension options can be extended only with the approval of the Budget Holder, in consultation with the Category Specialist,

For contracts with an original estimated value below the Regulatory Threshold, extensions or renewals of an existing Contract which are not included in the contract can, in certain circumstances, be made without triggering a requirement for a new Procurement exercise. This would constitute a waiver and is subject to the waiver procedure described in section 4.1.

For those contracts with an original estimated value over the Regulatory Threshold any extension which is not defined by the original public notice must be referred to Procurement and Legal Services.

### **Other Modifications**

For contracts with an original estimated value over the Regulatory Threshold the agreement of the Procurement Manager is required before any material modifications can be made (save for extensions which are dealt with in the preceding paragraph).

Any extension or modification must have an approved budget allocation. All amendments must then be recorded in writing, signed appropriately and retained with the original contract on the Contract Register.

Procurement can provide guidance as to the circumstances under which contract modifications or extensions are permitted by Regulation 72 in the Public Contract Regulations 2015, or superseding legislation or regulation.

## **6.5 CONTRACT NOVATION**

Where a contractor sells, merges or transfers their business to another organisation, the existing contract(s) the Authority has with that contractor should be novated if this is acceptable to the Authority and permitted by law.

The Procurement Manager should be consulted to approve the novation of a contract to a new supplier and if a novation is agreed, then the revised contract will be recorded on the Contracts Register and the master data updated on SAP.

## **7. Paying our suppliers**

### **7.1 INVOICE PAYMENTS**

Contracts will state that Suppliers must submit all invoices to the Finance Department via email at [csd.finance@esfrs.org](mailto:csd.finance@esfrs.org). No invoices should be received directly by your Department.

All invoices received in Finance must include a Purchase Order number. Invoices without a Purchase Order number will be returned to the supplier.

Suppliers cannot be paid until you have confirmed that the requirement has been satisfactorily delivered. A Purchase Order must be followed by a Goods Receipt Notice before an invoice can be paid. It is the Internal Customer's responsibility to ensure all purchases are notified to Procurement as received to the appropriate value and are fit for purpose.

## **7.2 PAYMENT TERMS**

The standard payment terms are 30 days from the invoice date, with payments made via BACS (electronic bank transfer). If a Supplier has identified themselves as an SME (“small or medium enterprise”), they can be paid on preferential payment terms of 10 working days.

You must obtain the agreement of the Finance Manager for any deviation from the standard payment terms.

Except for conferences or similar arrangements, where payments are agreed in advance, appropriate review of a supplier’s financial stability and standing and due regard for risk in the event of supplier failure must be undertaken and agreed by the Assistant Director Resources/Treasurer, in consultation with the Procurement Manager.

## **8. Disposing of surplus goods**

Disposal of surplus materials, goods or assets (including recycling of materials that have a scrap value), must have adequate defined processes and controls to ensure that the Authority receives proper reimbursement, where appropriate and cost effective.

In principle, for assets being sold with a value of:

Less than £1000	It may be sold to a reputable business or publicised for bids within the Service
More than £1000	By public auction or competitive quotation unless the Treasurer has given prior approval to some other method of disposal

You must seek advice from Procurement when making valuations and the book value of the asset will be primarily used to calculate value. In most cases, it is anticipated that the highest bid received will be accepted.

Where recycling of materials can be progressed to sale or scrap, the Authority may enter into a profit share arrangement with Contractor. Examples are construction, servicing and repair type contracts, where scrap metals or building materials can be re-sold. The contractor will need robust processes to define how they deal with disposal and Authority authorisation to sell scrap value materials or goods.



Care must be taken to ensure that environmental sustainability as well as security and other associated issues and obligations (including those from the Data Protection Act and WEEE Regulations) are considered and complied with when disposing of goods.

## **Appendix 1 – Policies and Guidance relevant to these Orders**

All Staff must follow the Authority policies, in particular those relevant to these Orders, which are listed below:

The Procurement Standing Orders – Guidance for Staff

### The Constitution:

Section D1 General Standing Orders

Section D3 Financial Regulations

Section C2 Scheme of Delegated Functions

### Manuals:

CPS02 02 Disposals of Equipment, Materials and Land

CPS01 01 Delegated Financial Management

CP02 06 ESFRS Purchasing Card Policy

CPS02 ESFRS Procurement Policy

COS02 11 Responsible Procurement Policy

HR02 18 Code of Conduct and Conflict of Interest

CPS06 14 Local Code of Corporate Governance

CPS06 11 Anti-Fraud, Bribery and Corruption Policy

### Procurement in the UK is regulated by:

The Public Contracts Regulations 2015

The Public Services (Social Value) Act 2012