

CONTRACT PROCEDURE RULES

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INTRODUCTION AND DEFINITIONS

1 INTRODUCTION

- 1.1 The Council is required to make standing orders in respect of contracts pursuant to Section 135 of the Local Government Act 1972. These Contract Procedure Rules ("the Rules") are the standing orders required by that Act and form part of the Council's Constitution.
- 1.2 These Rules apply to all officers of the Council and any companies and/or organisations within the Council's control and as part of the Council's Constitution it is the duty of all officers whatever their terms of employment to ensure they dully understand these rules before commencing any procurement or contract activity.
- 1.3 The purpose of these Rules is to provide a clear set of rules for the procurement by the Council of goods, services and works. They are intended to ensure a framework of openness, integrity, and accountability and to uphold the probity and transparency of any procurement process conducted by the Council.
- 1.4 Purchasing decisions and processes are important because the money involved is public money. The Rules are intended to help to ensure that the Council obtains value for money and to objectively demonstrate that the Council is fulfilling its fiduciary responsibilities.
- 1.5 These Rules do not provide guidelines on what is the best way to purchase works, goods and services. They set out minimum requirements to be followed. *Further information and guidelines are set out on the intranet pages and in the LGSS Procurement Best Practice Guide.*

2 DEFINITIONS

- 2.1 In these Rules the following terms have the following meanings:
 - ❑ **"Approved List"**: A list of Suppliers who have satisfied the Council as to their legal, financial and technical capacity to undertake contracts for the Council and who may therefore be invited to quote or tender for appropriate contracts;
 - ❑ **"Authorised Officer"**: A person with appropriate delegated authority to act on behalf of the Council
 - ❑ **"Contracts Finder"**: A service provided by the Crown Commercial Service and referred to in the Regulations, that enables Suppliers to search for information about contracts.
 - ❑ **"EU Regulated Contract"**: A contract for services, supplies (goods) or works which has a value above the relevant EU Threshold.
 - ❑ **"EU Threshold"**: The financial thresholds set out in the EU Directives on public procurement

- ❑ **“Framework Agreement”**: An agreement between one or more contracting authorities and one or more Suppliers which fixes the terms and conditions under which the Supplier will enter into specific contracts (call off contracts) with a contracting authority.
- ❑ **“ITT”**: Invitation to Tender.
- ❑ **“OJEU”**: Official Journal of the European Union.
- ❑ **“Regulations”**: The UK regulations implementing the EU Directives on public procurement
- ❑ **“RFQ”**: Request for Quotations.
- ❑ **“SQ”**: A Selection Questionnaire.
- ❑ **“Supplier”**: Any person or body of persons providing or seeking to provide goods, services or works to the Council.
- ❑ **“Value for Money”**: The optimum combination of whole life costs and benefits to meet the Council’s requirements.

PART 2: SCOPE AND COMPLIANCE

3. BASIC PRINCIPLES AND COMPLIANCE

3.1 All procurement activity and contracts must:

- ❑ Achieve value for money when spending public money
- ❑ Be consistent with the highest standards of integrity
- ❑ Ensure fairness and transparency in awarding public contracts
- ❑ Ensure that the Council complies with all legal requirements
- ❑ Ensure that non-commercial considerations do not influence any contracting decision
- ❑ Support the Council’s corporate aims and policies.

3.2 The Rules **will apply** to all contracts made by the Council including all purchase orders, concessions and contractual arrangements entered into by or on behalf of the Council except for the specific types of contracts listed in 3.3 below. In addition, any change in the law which affects these rules must be observed until these Rules are revised.

3.3 The Rules **will not apply** to the following:

3.3.1 Contracts of Employment.

3.3.2 Contracts relating solely to the purchase or sale of interests in land (including leasehold interests).

- 3.3.3 Contracts where the Council is to be reimbursed through an insurance policy and the requirements of the insurer are complied with.
- 3.3.4 Goods, works or services procured in a genuine emergency (eg. Natural disasters such as flooding or fires).
- 3.4 Any other exemption from any of these Rules may be made by direction of the Council, Cabinet, Committee, or as authorised by Rule 4 below (Exemptions). A record of any such exemption from any of the provisions of the Rules together with the specific reasons therefore shall be included within the minutes of the Council, the Cabinet or such committee by which the exemption was made, or, the documentary requirements of Rule 4 followed.

4 EXEMPTIONS

- 4.1 Exemptions to any of these Contract Procedure Rules shall only be given in exceptional circumstances and only with the prior formal written approval of the Monitoring Officer and Chief Finance Officer, after submission of a report by the Authorised Officer formally justifying such validation and providing an adequate audit trail in respect thereof.
- 4.2 The requirement for the Council to procure contracts in accordance with these Rules may only be waived in the following circumstances:
 - 4.2.1 For Low Value Contracts and High Value Contracts (but not EU Regulated Contracts), the work, supply or service is required as a matter of urgency and a delay would be likely to lead to financial loss, personal injury or damage to property;
 - 4.2.2 Where proprietary or patented goods, services or works sold only at a fixed price from one supplier or being of a specialist nature where no reasonable satisfactory alternative is available; or
 - 4.2.3 Where necessary as a result of unforeseen emergencies which the Chief Executive or the Borough Secretary considers would involve immediate risk to persons, property or serious disruption to Council services.

5 CONDUCT

- 5.1 The highest standards of probity are required of all employees and Members involved in the procurement, award and management of any Council contracts. Members must comply with the Northampton Borough Council Code of Conduct for Councillors and employees must comply with the Northampton Borough Council Employees' Code of Conduct.
- 5.2 All Council Members, employees and third parties, including consultants and temporary agency staff engaged on the Council's behalf must avoid conflicts between their interests and the interests of the Council.
- 5.3 If Members, employees or any others acting on behalf of the Council have an interest, whether financial or personal, in a contract or proposed contract which might, or might be perceived to,

compromise their impartiality and independence they should declare it in writing to the Borough Secretary as soon as they become aware of the interest. This requirement is in addition to any specific requirements of the Employees' Code of Conduct and the Code of Conduct for Councillors.

- 5.4 Members and employees may not accept gifts and/or hospitality from Suppliers or potential Suppliers or from firms or organisations with whom the Council has had, is having or may have any dealings of any kind, except in accordance with the Code of Conduct for Councillors or the Employees' Code of Conduct,.
- 5.5 The Authorised Officer responsible for any procurement must comply with all these Rules and any public procurement legislation, a failure to do so could result in disciplinary action.
- 5.6 The Authorised Officer must ensure the security and confidentiality of all procurement documentation supplied at all stages of a procurement activity and ensure a written record is kept of all minutes of meetings and decisions and actions taken throughout a procurement process.

6 APPROVED LISTS

The Council may maintain, or have maintained on its behalf, Approved Lists. Quotations and Tenders for contracts which are not subject to the Regulations must be invited from Suppliers included on such Approved List except in such circumstances referred to in these Rules.

7 FRAMEWORK AGREEMENTS

- 7.1 Where the terms of a Framework Agreement provide for direct purchase without competition and the terms of such call-off are sufficiently precise, the Authorised Officer may purchase under that agreement without opening such purchase to competition.
- 7.2 In situations where the terms laid down in the Framework Agreement are not sufficiently precise to make a direct award on the terms of the Framework Agreement as specified, the officers concerned must hold a mini-competition in accordance with the provisions of the Framework Agreement as follows:
 - ❑ Inviting all organisations within the Framework Agreement who are capable of executing the subject of the contract to submit a written response to the quotation or tender
 - ❑ Fixing a time limit, which is sufficiently long so as to allow tenders for each specific contract to be submitted, taking into account such factors as the complexity of the contract.
 - ❑ Tenders should be submitted in writing and their content remain confidential until the stipulated time limit for reply has expired

- The Authorised Officer shall award each contract to the bidder who has submitted the best tender on the basis of the award criteria set out in the tender documents for the Framework Agreement

7.3 Any Framework Agreement procured by the Council shall be tendered in accordance with these Rules and the Regulations if applicable. Where the Council has already entered into such a Framework Agreement or is able to call off from existing Framework Agreements procured through joint procurement arrangements, then it may utilise the same without entering into a separate procurement by following the procedure set out in the Framework Agreement.

8 JOINT PROCUREMENT

8.1 Any joint procurement arrangements with other Local Authorities or public bodies including membership or use of purchasing consortia shall be carried out in accordance with the Regulations and the lead authority's Contract Procedure Rules.

8.2 Approval shall only be given to take part in such joint procurement arrangements where the joint procurement arrangement assures compliance with the Contract Procedure Rules as referred to in 8.1 above.

9 CONSULTANTS

9.1 Any consultants and/or temporary/agency staff used by the Council shall be appointed in accordance with these Rules.

9.2 The Chief Executive, a Director or the Borough Secretary must give approval for the appointment of any consultant or temporary/agency staff.

9.3 Where the Council uses consultants and/or temporary/agency staff to act on its behalf in relation to any procurement, then the relevant Authorised Officer shall ensure that such staff carry out any procurement in accordance with these Rules. The Authorised Officer shall also ensure that the performance of such staff is monitored.

9.4 No consultant or temporary/agency staff shall make any decision on whether to award a Contract or to whom a Contract should be awarded.

10 DISPOSAL OF ASSETS

Where the estimated value of an asset or collection of assets is £50,000 or more, or where the Council, Cabinet (or Cabinet Member if delegated powers apply), or committee determine, the disposal of land, property, plant and equipment shall be either by the invitation of tenders by public notice or public auction except where an independent valuer with relevant qualifications certifies that an alternative method of disposal will better achieve the Council's aims and objectives.

10.1 All such disposals shall comply with the provisions in these Rules.

PART 3: REQUIREMENTS FOR ALL PROCUREMENTS

11 DELEGATED AUTHORITY

- 11.1 Any procurement carried out on behalf of the Council may only be undertaken by employees with the appropriate delegated authority to carry out such tasks (Authorised Officers). Such Authorised Officers shall be informed by their Director of the extent of any delegated authority and any applicable financial thresholds for each procurement.
- 11.2 Within approved budgets, Authorised Officers may authorise other employees to place orders against Framework Agreements which have been entered into by the Council.
- 11.3 Any contract award decision which constitutes a Key Decision (as defined in the Council's Constitution) or which otherwise falls above the relevant threshold levels or which involves any potential transfer of the Council's employees to a Supplier shall be referred for a decision from the Cabinet, unless forming part of a previous approval by the Council, Cabinet or other relevant Committee.

12 PRE-PROCUREMENT PROCEDURE

- 12.1 Before commencing any procurement, it is essential that the Authorised Officer leading the procurement has identified the needs of the Council and fully assessed any options for meeting those needs. The size, scope, term and specification of goods, services and works required must be decided in advance of the procurement process.
- 12.2 Before undertaking a procurement the Authorised Officer shall:
 - 12.2.1 consider all other means of satisfying the Council's needs (including recycling and re-use where appropriate);
 - 12.2.2 consider whether there is an appropriate Framework Agreement which could be used; and
 - 12.2.3 establish a business case for the procurement.
- 12.3 Before commencing any proposed procurement process the Authorised Officer shall:
 - 12.3.1 consult the relevant Cabinet Member where the procurement impinges significantly and directly on the public or may be considered controversial or is likely to have significant budgetary implications or involve the transfer of employees;
 - 12.3.2 consult the Council's procurement advisors or Borough Secretary where the value of any contract is likely to be in excess of **£25,000**;
 - 12.3.3 assess the risks associated with the purchase and how to manage them

- 12.3.4 consider what procurement method is most likely to achieve the objectives
- 12.3.5 consult the Council's procurement advisers where the value of any contract is likely to be less than £25,000 to enable maximum use of core supply agreements; and
- 12.3.6 consult with the Borough Secretary in respect of any Regulations and any other legal or related issues.

12.4 The Authorised Officer shall have regard to any advice, procedures and requirements arising from such consultation and in particular to the need for requirements and formalities associated with these Rules and Regulations and to be carried out with advice from the Borough Secretary.

13 ESTIMATING THE CONTRACT VALUE

- 13.1 For the purposes of these Rules the value of any contract shall be a genuine pre-estimate of the value or consideration for the contract as a whole over the entire contract period (excluding VAT) including extensions and options.
- 13.2 The Council should make the best use of its purchasing power by aggregating purchases wherever possible and should consider the use of lots. Goods, services or works shall not be split in an attempt to avoid the applicability of these Rules or the Regulations.

14 ELECTRONIC QUOTATIONS AND TENDERS

- 14.1 Wherever practical Quotations and Tenders should be issued and submitted by electronic means using the services and advice of the Council's procurement advisors...
- 14.2 For procurements for EU Regulated Contracts, the procurement process shall be conducted by electronic means and free and unrestricted access should be given to the procurement documents in accordance with Regulation 53 of the Regulations (subject to measures taken to protect the confidential nature of information).

15 SUITABILITY

- 15.1 The Council shall only enter into a contract with a Supplier if it is satisfied as to the Supplier's:
 - 15.1.1 suitability to pursue a professional activity;
 - 15.1.2 economic and financial standing; and
 - 15.1.3 technical and professional ability.
- 15.2 Technical ability includes the Supplier's quality management systems, staff and technical resources, health and safety and environmental management systems where relevant and proportionate to the performance of the contract. In addition with regard to technical ability, the Council may impose extra requirements to ensure that the supplier possesses the

necessary staff and technical resources and experience to perform the contract to the Council's required standard.

- 15.3 For all Low Value Contracts and all High Value Contracts which are below the EU Threshold for Services and Supplies, a two stage procedure in which limited numbers of Suppliers are pre-qualified must not be used. The SQ should not be used for these procedures. Instead, the Council may ask suitability assessment questions and all Suppliers meeting the Council's minimum selection criteria in respect of those questions must have their Quotations or Tenders evaluated.

PART 4: PROCUREMENT PROCEDURES

16 CATEGORIES OF CONTRACT

- 16.1 For the purposes of these Rules contracts have been categorised according to value: Please see table below:

Goods, Services of Works Contract Value			Type of enquiry/tender/contract	Advertise	Documents	Approval
From (£)	To (£)					
0	1,999	Low value	No quotation required	Optional	Any	Authorised Officer
2,000	24,999	Low value	Written quotations from a minimum of three suppliers A faxed or e-mailed quotation will be acceptable	Optional	Any	Authorised Officer
25,000	99,999	Low value	Written quotations from a minimum of three suppliers. The enquiry must use the Council's procurement advisor RFQ template and should contain a form of the Council's Terms and Conditions which needs compliance	Contracts Finder	Council RFQ, Council Terms and Conditions	Director/Borough Secretary
100,000	EU Threshold	High value	Invitation to Tender. Minimum 3 bids	Contracts Finder	Procurement Invitation to Tender and Council Terms and Conditions	Director/Borough Secretary

EU Threshold		EU	Invitation to Tender Must follow The Regulations	OJEU/ Contracts Finder	Procurement Invitation to Tender and Council Terms and Conditions	Director/ Borough Secretary
Framework	N/A	Various	Follow the terms and conditions of the relevant framework Agreement	No	Framework Agreement Terms and Conditions	High value Director/ Borough Secretary

17 LOW VALUE PROCUREMENT (BELOW £100,000) - QUOTATIONS

- 17.1 The number and nature of any competitive quotations required for contracts or orders with an estimated value of below £100,000 are detailed within the tables above.
- 17.2 Where applicable, competitive quotations should be sought from Suppliers selected from an Approved List where one exists, in accordance with these Rules.
- 17.3 Where the Approved List does not have any Suppliers of the relevant services, goods or works or has insufficient potential Suppliers, tenders should be sought from other Suppliers in accordance with these Rules.
- 17.4 To consider following discussion - advertising requirements for low value contracts
- 17.5 If a Low Value Contract opportunity is advertised, the contract opportunity must also be published on Contracts Finder. Details of the contract award decision must also be published on Contracts Finder.
- 17.6 To consider following discussion - Quotation documentary requirements and evaluation. Refer back to selection above re separate qualification stage and below threshold provisions.
- 17.7 All quotations shall be evaluated in accordance with the criteria notified in advance to Suppliers submitting quotations.
- 17.8 Quotations for Low Value Contracts may only be accepted by employees with the requisite delegated authority and only after the Authorised Officer has ensured that the relevant budget holder has sufficient funds in place to sustain the contract.
- 17.9 Where the risk in a specific procurement is perceived to be high, then that procurement shall be treated as a High Value Procurement regardless of the value.
- 17.10 Any procurement which may involve a transfer of staff shall be treated as a High Value Procurement.

18 HIGH VALUE PROCUREMENT (GREATER THAN £100,000)

- 18.1 For procurements valued at £100,000 or above, a tender shall be conducted in accordance with these Rules.
- 18.2 Tenders for High Value contracts can be invited in accordance with these Rules or the Authorised Officer shall invite tenders by way of a Contract Notice detailing the Council's requirements. The Contract Notice must be published in at least one web based portal (save where specific circumstances render the portal requirement inappropriate) and on Contracts Finder.
- 18.3 Prior to the commencement of the tender procedure the Authorised Officer shall develop a procurement approach, which shall set out the information requirements required by the Council and any national regulations and/or code of practice.
- 18.4 The Tender must be run in accordance with Part 5 below.

19 EU REGULATED CONTRACTS

- 19.1 Where an estimated value of a contract exceeds the relevant current EU threshold then the contract shall be tendered in accordance with the Regulations. Under the Regulations, the contract may be tendered under the Open, Restricted or, in the exceptional circumstances set out in the Regulations the Competitive Dialogue Procedure or Competitive Procedure with Negotiation or innovation partnerships. A call for competition in the prescribed form (Contract Notice or Prior Information Notice) shall be published in the OJEU.
- 19.2 The Regulations set out the minimum timescales for the receipt of expressions of interest, tenders and standstill periods.
- 19.3 The provisions in Part 5 of these Rules also apply to EU regulated procurements.

PART 5: TENDERS – HIGH VALUE AND EU REGULATED

20 TENDERS

- 20.1 This Part 5 of the Rules applies to the procurement of High Value Contracts and EU Regulated Contracts only. It does not apply to Low Value Contracts.

21 INVITATION TO TENDER

- 21.1 The ITT (or appropriate equivalent invitation document) shall include details of the Council's requirements for the particular contract including:
- a description of the services, goods or works being procured;

- the procurement timetable, including the return date and time, which shall allow a reasonable period for applicants to prepare their tenders;
- a specification and instructions on whether any variants are permissible;
- the Council's Terms and Conditions of Contract, which must be approved by the Borough Secretary in writing;
- the evaluation criteria, sub-criteria, including all weightings and sub-criteria weightings;
- the pricing mechanism and instructions for completion;
- if relevant, whether the Council is of the view that TUPE may apply;
- the form and content of any method statements to be provided;
- rules for submission of tenders;
- an assessment of whether a Performance Bond and/or Parent Company Guarantee (if applicable) shall be required from the preferred tenderer;
- the appropriate type of insurance required for the contract (employee liability, public liability, professional indemnity etc.) and the level of insurance required for the contract (such details to be provided in consultation with the Council's Risk Manager); and
- any further information which will inform or assist tenderers in preparing tenders.

21.2 The ITT or other tender documents shall state the nature and purpose of the contract for which tenders are invited, specify the last date and time when tenders will be received, state that the Council reserves the right not to accept any tender or to accept the lowest tender. In addition, the ITT and any other tender documents will state that all tenderers will pay their own costs which are not recoverable.

22 SUBMISSION AND OPENING OF TENDERS

22.1 Tenders shall be submitted in accordance with the requirements set out in the ITT. Any tenders received:

22.1.1 must be submitted either:

- (a) via an approved electronic tendering system that meets the criteria specified;
or
- (b) by post addressed to the Borough Secretary in a sealed envelope endorsed with the word 'tender' followed by the subject matter to which it relates. The envelope shall not be marked in any way that allows the identity of the tenderer to be determined. Tenders shall be kept in a safe place by the

Borough Secretary and remain unopened until the time and date specified for their opening;

22.1.2 A late tender will not be accepted or considered unless the Borough Secretary has given specific written approval after taking all relevant circumstances into account and considering the legal implications of accepting a late tender and consulting with the relevant officers.

22.2 Postal tenders shall be opened by the Authorised Officer and at least one other employee nominated by the Borough Secretary. An immediate record must be made of the tenders received including names, addresses and the date and time of opening. An electronic audit trail of electronic tenders must be maintained.

23 ERRORS IN TENDERS

23.1 Where an error or discrepancy is found in a tender before acceptance, details of it may be given to the Supplier and they shall be given an opportunity of confirming or withdrawing their offer.

23.2 In the case of genuine errors discovered before acceptance, the tenderer may be given the chance to correct the error, but no other adjustment, revision or qualification is permitted in respect of such errors.

24 TENDER EVALUATION

24.1 Where appropriate, the Authorised Officer shall form an evaluation team with responsibility for evaluating Tenders.

24.2 Tenders shall be awarded on the basis of most economically advantageous tender to the Council.

24.3 The evaluation criteria shall be predetermined and set out in the ITT. Tenders shall be evaluated in accordance with those criteria and with the relevant Regulations (where relevant).

25 BONDS, GUARANTEES AND INSURANCE

25.1 For High Value Contracts and EU Regulated Contracts, the Chief Finance Officer and the Borough Secretary shall consider as part of the selection stage assessment and evaluation process whether a Performance Bond and/or a Parent Company Guarantee (if applicable) shall be required from the preferred tenderer.

25.2 The Authorised Officer shall consider in consultation with the Council's Risk Manager the appropriate type (e.g. employee liability, public liability, professional indemnity etc.) and level of insurance requirements for each contract.

26 ACCEPTANCE OF TENDERS

- 26.1 In the case of High Value Contracts the Chief Executive or the Borough Secretary in conjunction with the Director concerned shall have power to accept the most economically advantageous tender if payment is to be made by the Council **provided that** such tender does **not** exceed or fall short of the approved estimate as the case may be.
- 26.2 In the case of High Value Contracts, no acceptance shall take place until the Council, Cabinet (or Cabinet Member or senior Officer if delegated powers apply), the committees, sub-committee, or Monitoring Officer and Chief Finance Officer in exercise of their powers under these Rules shall have considered a report from the Authorised Officer or other relevant person indicating their recommendation and objectively justifying this, regard being taken in such evaluation both to the Regulations in respect of the most economically advantageous tender in respect of such contract and also the general duty on the Council to procure value for money as reflected (if applicable) in any individual conditions of tender. .In addition, it is important to ensure that where Council, The Cabinet or a Committee of the Council, have considered a process for the award of a high value contract, the appropriate senior officer and elected member delegations, where considered necessary, are in place and recorded in the appropriate minute of the relevant Council meeting, i.e. Full Council, Cabinet or committee.
- 26.3 An acceptance letter for all contracts exceeding £100,000 in value shall only be issued by the appropriate Director.

27 POST-TENDER NEGOTIATION

- 27.1 Where a procurement is conducted pursuant to the Regulations through either the Open or Restricted procedures, no post-tender negotiations are permitted. The Council may however seek clarification from Suppliers where appropriate.

28 DEBRIEFING

- 28.1 The Authorised Officer responsible for each Tender shall provide appropriate information to unsuccessful tenderers on written request, consulting the Council's procurement advisors on the form and content of such information where necessary.
- 28.2 The Authorised Officer in consultation with the Council's procurement advisors will impose a stand still period in accordance with the statutory regulations and advised best practice.

29 CONTRACT AWARD NOTICE

- 29.1 For EU Regulated Contracts, the Council's procurement advisors shall publish a Contract Award Notice in the OJEU within the relevant timescales appropriate thereto.
- 29.2 Notices of the contract award decision should be published on Contracts Finder for all High Value Contracts and EU Regulated Contracts.

PART 6: ALL CONTRACTS

30 LETTERS OF INTENT

- 30.1 Letters of Intent shall only be used in exceptional circumstances as follows:
- 30.1.1 where a tenderer is required to provide services, goods or works prior to formal written acceptance by the Council; or
 - 30.1.2 where the Council's form of tender does not include a statement that until such time as a formal contract is executed, the Council's written acceptance of a tender shall bind the parties into a contractual relationship.
- 30.2 Letters of Intent may only be issued by the Borough Secretary after the Authorised Officer has obtained any necessary consents to do so and the legal and financial implications have been carefully considered.
- 30.3 Where an error or discrepancy is found in a tender before acceptance, details of it may be given to the Supplier and they shall be given an opportunity of confirming or withdrawing their offer.
- 30.4 In the case of genuine errors discovered before acceptance, the tenderer may be given the chance to correct the error, but no other adjustment, revision or qualification is permitted in respect of such errors and if considered necessary the Borough Secretary can be consulted.

31 TENDER EVALUATION

- 31.1 Where appropriate, the Authorised Officer shall form an evaluation team with responsibility for evaluating Tenders.
- 31.2 Tenders shall be awarded on the basis of most economically advantageous tender to the Council
- 31.3 The evaluation criteria shall be predetermined and set out in the ITT. Tenders shall be evaluated in accordance with those criteria and with the relevant regulations (where relevant)

32 BONDS, GUARANTEES AND INSURANCE

- 32.1 For High Value Contracts and EU Regulated Contracts, the Chief Finance Officer and Support and the Borough Secretary shall consider as part of the selection stage assessment and evaluation process whether a Performance Bond and/or a Parent Company Guarantee (if applicable) or any other form of security shall be required from the preferred tenderer.
- 32.2 The Authorised Officer shall consider in consultation with the Council's Risk Manager the appropriate type (e.g. employee liability, professional indemnity etc.) and level of insurance requirements for each contract.

33 CONTRACT TERMS AND CONDITIONS

All contracts shall be entered into on the Council's Terms and Conditions, and subject to all regulations presently in force, which shall be included with each Quotation or Tender. Exceptions to this must be approved by the Borough Secretary.

34 EXECUTION OF CONTRACTS

- 34.1 In the case of contracts for the supply of goods, services, or the execution of works of a value or amount in excess of £250,000 and the award of which is specifically a Key Decision requiring an individual validation as such by the Cabinet or the Council, it shall be a further requirement for the purposes of Section 135 of the Local Government Act 1972 any further relevant regulations NOT ONLY that such contracts SHALL BE IN WRITING BUT be either under the seal of the Council or shall be signed on behalf of the Council by any two of the following Officers, namely the Borough Secretary, the Chief Executive, the Chief Finance Officer or a senior solicitor who is also authorised by the Borough Secretary PROVIDED THAT for the avoidance of doubt, formal contracts exceeding £100,000 in value shall be signed by one of the foregoing.
- 34.2 Electronic signatures may be used in accordance with the Electronic Signature Regulations 2002 provided the sufficiency of security arrangements has been approved by the Borough Secretary.

35 RECORDS OF QUOTATIONS, TENDERS AND CONTRACTS

- 35.1 The Authorised Officer with delegated authority in respect of a particular procurement shall maintain a list of all quotations or tenders received.
- 35.2 The Authorised Officer must notify the Council's procurement advisors of the details of the award of every contract above £20,000.
- 35.3 A contracts register of all Contracts awarded above £20,000 shall be maintained by the Council's procurement advisor. The contracts register may be maintained electronically.
- 35.4 For all EU Regulated Contracts, the Authorised Officer must maintain a written and detailed report of the procurement and retain sufficient documentation to justify decisions made during that procurement in accordance with these Rules and relevant statutory regulations.

36 NOMINATED AND NAMED SUB-CONTRACTORS

- 36.1 If a sub-contractor, supplier or sub-consultant is to be nominated or named to a main Supplier, quotations or tenders for that sub-contract must be invited in accordance with these Rules and the terms of the invitation shall be compatible with the main contract.
- 36.2 The terms of the invitation shall require an undertaking by the sub-contractor that, if it is selected, it will be willing to enter into a contract with the main Supplier on terms which

indemnify the main Supplier against its own obligations under the main contract in relation to the services, works or goods included in the sub-contract and enter into an agreement to indemnify the Council in such terms as may be prescribed.

- 36.3 The relevant Director, or other authorised person, shall nominate to the main Supplier the person whose tender is, in their opinion, the most satisfactory and offers the best value, provided that, where the tender is other than the lowest received save where an award is made in accordance with pre-determined criteria and detailed in writing the circumstances shall be reported and recorded as provided by these Rules.

37 CONTRACT EXTENSION

- 37.1 Any contract may be extended in accordance with its terms. Any further extensions shall require the approval of Cabinet (or senior Officer or Cabinet Member if delegated powers apply), relevant Committee or be otherwise authorised in accordance with these Rules and must also comply with the Regulations if applicable.
- 37.2 The Authorised Officer shall always be satisfied that an extension will achieve Value for Money and is reasonable in all the relevant circumstances. Such extension must be approved in writing by the Borough Secretary.

38 TERMINATION OF CONTRACT

The Borough Secretary must be consulted with regard to any termination or proposed termination of any Contract.

39 REVIEW AND AMENDMENT OF CONTRACT PROCEDURE RULES

These Rules shall be reviewed on a yearly basis and form part of the Council's Constitution and can only be amended by the Council on recommendation from the Council's Constitutional Review Working Party or in exceptional/urgent circumstances by a written report to Council from the Council's Chief Executive and/or Borough Secretary.