

APPENDIX 16 CONTRACT STANDING ORDERS

1. CSO 1 - COMPLIANCE

- 1.1 The Local Government Act 1972 (Section 135) requires that Local Authorities make Standing Orders in respect of contracts for the supply of goods, services and materials or the execution of works to ensure competition and regulate the manner in which tenders are invited.
- 1.2 Procurement decisions are among the most important decisions a manager will make because the money involved is public money and the Council is concerned to ensure that high quality goods, works and services are provided. The Council's reputation is equally important and should be safeguarded from any imputation or dishonesty or corruption.
- 1.3 Every contract made by the Council or on its behalf should comply with European Procurement rules, these Contract Standing Orders and Financial Standing Orders.
- 1.4 For these reasons failure to comply with Contract Standing Orders when letting contracts will fall within the scope of the Councils Officer Code of Conduct and / or Disciplinary Code. Employees have a duty to report breaches of Contract Standing Orders to a Strategic Director, Head of Procurement, Head of Internal Audit, Monitoring Officer or the Section 151 Officer.
- 1.5 These Contract Standing Orders apply to all contractors for the supply of goods, services and works including the appointment of consultants. **(Download a copy of the Guidance on the Procurement of Consultants <http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/Guidance-on-the-Procurement-of-Consultants.pdf>)**
- 1.6 Schools are required to comply with the Local Management of Schools – Scheme of Delegation. **(<http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/Local-Management-of-Schools-Scheme-of-Delegation.pdf>)**
- 1.7 The Head of Procurement is authorised to make changes to the linked operational procedures.
- 1.8 Should the Head of Procurement be unavailable, the Deputy Chief Executive will allocate the Head of Procurements duties detailed to another officer.

1.9 All Procurement Exercises shall comply with the Council's Policies regarding the Wales Procurement Policy Statement, the Well-being of Future Generations (Wales) Act 2015 and the Welsh Language.

2. CSO 2 – DECLARATIONS OF INTERESTS

2.1 Employees are required to complete a Code of Conduct declaration on appointment or change of role which shall be reviewed and signed by their Strategic Director. Employees are required to notify any changes in circumstances to their Strategic Director.
<http://swoop.torfaen.gov.uk/Intranet/Document-Library/HRPolicies/CodeofConductforEmployees.pdf>)

3. CSO 3 – EXEMPTIONS FROM CONTRACT STANDING ORDERS

3.1 Exemptions from the requirements of these Contract Standing Orders are to be exception and not the rule. Exemptions will not be granted as a matter of administration convenience and must be supported by documented and evidenced reasons as to the legitimate need for the exemption to be granted.

3.2 Where an exemption is sought from tendering or price testing, the report must justify the use of an alternative method of selection so that propriety value for money and compliance with EU legislation can be demonstrated, and it will also include reasons such as:

3.2.1 that only one provider is able to carry out the work or service or to supply the goods for technical or artistic reasons or because of exclusive or proprietary rights;

3.2.2 that time limits required for tendering cannot be met for reasons of extreme urgency and which (in EU cases) were unforeseen and unattributable to the Council;

3.2.3 that additional goods, works or services are required which, through unforeseen circumstances, were not included in the original contract and which either are strictly necessary for the completion of the contract or, for technical or economic reasons, cannot be carried out separately without great inconvenience; and

3.2.4 that goods are required as a partial replacement for or addition to existing goods or installations and obtaining them from another provider would result in incompatibility or disproportionate technical difficulties in operation or maintenance.

3.3 Exemptions and contract award are to be granted as follows: **(Download a copy of the Exemption from Contract Standing Orders Form <http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/Exemption-from-Contract-Standing-Orders-Form.docx>)**

Net Value Range (£)		Exemption and contract Granted by
From	To	
£0	£10,000	An exemption is not required.
£10,001	£75,000	Relevant Strategic Director after consultation with the Head of Procurement (or their delegated representative *).

£75,001	£150,000	Relevant Strategic Director after consultation with Monitoring Officer, Section 151 Officer and Head of Procurement (or their delegated representative) *.
£150,001	£1,000,000	Relevant Strategic Director in consultation with the relevant Executive Member and, after consultation with the Monitoring Officer, Section 151 Officer and the Head of Procurement. (or their delegated representative *).
£1,000,000	£2,000,000	Relevant Strategic Director in consultation with the relevant Executive Member, Leader and Chief Executive and after consultation with the Monitoring Officer, Section 151 Officer and the Head of Procurement . (or their delegated representative *).
£2,000,000	Unlimited	Cabinet or Pensions Committee

** Head of Procurement*

*Agreeing reduced number of tenders up to and over £150K (exemptions)
Consultation on Chief Officer reports up to and over a £5M*

Senior Category Manager

*Agreeing reduced number of tenders up to £150K (exemptions)
Consultation on Chief Officer reports up to £5M*

Category Manager

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Consultation on Chief Officer reports up to £1M*

3.4 Each Strategic Director will report to the relevant Overview and Scrutiny Committee of the Exemptions granted at the next available meeting.

4. CSO 4 – ESTIMATES OF CONTRACT VALUE FOR SUPPLIES, SERVICES AND WORK

4.1 The Strategic Director shall record an estimate net (ie excluding VAT) sum in writing of the likely expense of executing the work, or the provision of goods or services. **(Download a copy of the Estimate of Contract Value Form <http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/Estimate-of-Contract-Value-Form.docx>)**

4.2 The timeframes over which estimated costs apply are as follows:

4.2.1 If it is a construction project, the total costs over the full life-time of the project;

4.2.2 If it is a fixed-term service contract, the total costs over the full fixed-term of the service provided; or

4.2.3 If it is an indefinite life service (e.g. something the Council intends to buy over a number of years, or you are not sure when it will end), the costs you would expect to pay over the first 4 years of that service being provided.

4.3 Where the value is, or may be, equal to or greater than the relevant OJEU tendering threshold, the Council should also have regard to the EU valuation rules which are similar to the above, but more detailed. **(Download a copy of the EU Valuation guidance <http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/EU-Valuation.doc>)**

4.4 ***No procurement may be artificially split to avoid compliance with these Contract Standing Orders and European Union procurement directives.***

5. CSO 5 – OBTAINING QUOTATIONS / TENDERS FOR CONTRACTS

- 5.1 Contracts under £75,000 net value must follow the following process as a minimum: **(Download a copy of the Selection of Suppliers or Approval not to Advertise on Sell 2 Wales guidance <http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/Selection-of-Suppliers-or-Approval-not-to-Advertise-on-Sell-2-Wales.docx>)**

Net Value Range (£)		Number of Quotations		Advertising on Sell 2 Wales		Requirements
From	To	To Seek	To be Obtained	Mandatory	Optional	
£0	£10,000					Obtain value for money and maintain records and raise Purchase Order. You should at the very least obtain one quotation and wherever possible obtain more than one quotation to be able to demonstrate obtaining value for money. It may be difficult to demonstrate obtaining value for money without having two or more quotations.
£10,001	£25,000	3	2		√	Advertise on Sell2Wales (or superseded system) or select firms from Sell2Wales.
£25,001	£75,000	3	2	√		Advertise on Sell2Wales (or superseded system) or seek approval from the Head of Procurement . (or their delegated representative *).not to advertise and seek and obtain quotations.

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- 5.2 Tenders between £75,001 and EU Tendering Threshold will be advertised on Sell2Wales and will be invited on the e-tendering system approved by the Section 151 Officer. The invitation to tender documentation, including specification, evaluation criteria/weightings, must be approved in writing by the Head of Procurement. **(Download a copy of the written procedures for e-tendering guidance**

<http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/Written-Procedures-for-e-Tendering.doc>) and **EU Thresholds**
(<http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/EU-Thresholds.doc>)

5.3 The Head of Procurement should be consulted prior to any contract exceeding the current EU tendering threshold prior to commencing the tendering process. **(Download a copy of the EU Thresholds guidance**
<http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/EU-Thresholds.doc>)

5.4 Contracts which are not required to be tendered are:

5.4.1 Contracts under £10,000.

5.4.2 Contracts for which an exemption from tendering has been granted.

5.4.3 Purchases or sales by auction. **(Download a copy of the purchases or sales by auction guidance**

<http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/Purchases-or-sales-by-auction.doc>)

5.4.4 Contracts for the sale of land.

5.4.5 Contracts for the engagement of Counsel.

5.4.6 Orders placed under a corporate framework arrangement or contract arranged by the Head of Procurement. **(Download a copy of the Corporate framework arrangements/contracts arranged by the Head of Procurement**

<http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/Corporate-frameworkarrangementscontracts-arranged-by-the-Head-of-Procurement.doc>)

5.4.7 Orders placed under any other Framework Arrangements (eg Regional or national frameworks) that has been approved by the Head of Procurement. Not all Framework Contracts are the same, thus the advice of the Head of Procurement shall be sought before proceeding.

5.4.8 Orders placed with such consortia / Central Purchasing Bodies as may be approved by the Head of Procurement provided he/she is satisfied that the purchasing arrangements of the consortia / Central Purchasing Bodies in question comply with EU and UK legislation and provide value for money. **(Download a copy of the Approved Consortia/Central Purchasing Bodies**

<http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/Approved-ConsortiaCentral-Purchasing-Bodies.doc>)

5.4.9 Individual Social Care Contracts which are established through the Council's Care Management Process.

6. CSO 6 – PRE TENDER / QUOTATION ENQUIRIES

6.1 Enquiries of providers may be made before tenders or quotations are invited in order to:

6.1.2 establish whether the goods, works or services the Council wishes to purchase are available and within what price range;

6.1.2 prepare tender documents, price estimates and contracts;
 6.1.3 establish whether particular providers wish to be invited to tender or quote.

6.2 In making enquiries:
 6.2.1 No information will be disclosed to one provider which is not then disclosed to all those of which enquiries are made or which are subsequently invited to tender or quote; and
 6.2.2 No provider will be lead to believe that the information they offer will necessarily lead to them being invited to tender or quote or be awarded the contract.

7. CSO 7 – RECEIPT OF TENDERS

7.1 Tenders shall be received on the e-tender system approved by the Section 151 Officer. **(Download a copy of the written procedures for e-tendering <http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/Written-Procedures-for-e-Tendering.doc>)**

8. CSO 8 – OPENING OF TENDERS

8.1 Tenders shall be opened on the e-tender system approved by the Section 151 Officer. **(Download a copy of the written procedures for e-tendering <http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/Written-Procedures-for-e-Tendering.doc>)**

9. CSO 9 – ALTERATIONS

9.1 Where examination of tenders reveals arithmetical or copying errors present in the documents submitted at the time of tender these shall be corrected. If the correction has the effect that the tender is no longer the most competitive tender then the next tender in competitive order is to be examined and dealt with in the same way.

9.2 Where examination of tenders reveals errors or discrepancies (other than outlined in 10.1) which would affect the tender figures(s) in an otherwise successful tender, the tenderer is to be given details of such errors and discrepancies but no other information and afforded an opportunity of confirming their offer.

9.3 If the tenderer withdraws, the next tender in competitive order is to be examined and dealt with in the same way. Any exception to the procedure outlined above may be authorised by the Monitoring Officer and Section 151 Officer after consideration of a report by the Strategic Director concerned.

10. CSO 10 – ACCEPTANCE OF TENDERS

10.1 Contracts which have been subject to a tendering exercise are to be awarded as follows: **(Download a copy of the Acceptance of Tenders Form <http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/Acceptance-of-Tenders-Form.docx>)**

Net Value Range (£)		Who can Award Contracts?
From	To	
£0	£75,000	Contract awarded on the basis of lowest price or using most economically advantageous criteria (price and quality), which were

Net Value Range (£)		Who can Award Contracts?
From	To	
		either detailed in the advertisement or in the Invitation to Quote may be awarded on behalf of the Council by a relevant Strategic Director.
£0	£75,000	Not awarded on the basis of lowest price or most economically advantageous tender shall be awarded on behalf of the Council by the relevant Strategic Director in consultation with the relevant Executive Member and, after consultation with the Head of Procurement. . (or their delegated representative *).
£75,001	£150,000	Contract awarded on the basis of lowest price or using most economically advantageous criteria, which were either detailed in the advertisement or in the Invitation to Tender may be awarded on behalf of the Council by a Strategic Director in consultation with the Head of Procurement. . (or their delegated representative *).
£75,001	£150,000	Not awarded on the basis of lowest price or most economically advantageous tender shall be awarded on behalf of the Council by the Cabinet or sub committee appointed by the Cabinet or Pension Committee for that purpose.
£150,001	£1,000,000	Awarded on the basis of lowest price or most economically advantageous tender may be Awarded by Strategic Director in consultation with the relevant Executive Member and, after consultation with the Monitoring Officer, Section 151 Officer and the Head of Procurement. . (or their delegated representative *).
£150,001	£1,000,000	Not awarded on the basis of lowest price or most economically advantageous tender shall be awarded on behalf of the Council Cabinet or sub committee appointed by the Cabinet or Pension Committee for that purpose.
£1,000,000	£2,000,000	Awarded on the basis of lowest price or most economically advantageous tender may be awarded on behalf of the Council by a Strategic Director in consultation with the relevant Executive Member, Leader and Chief Executive and, after consultation with the Monitoring Officer, Section 151 Officer and the Head of Procurement. . (or their delegated representative *).
£1,000,000	£2,000,000	Not awarded on the basis of lowest price or most economically advantageous tender shall be awarded on behalf of the Council by the Cabinet or Pension Committee or sub committee appointed by the Cabinet for that purpose.
£2,000,001	Unlimited	All contracts to be awarded on behalf of the Council by the Cabinet or Pension Committee or sub committee appointed by the Cabinet for that purpose.

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10.2 No contract may be awarded unless the expenditure involved has been included in the approved budget or has been otherwise approved by or on behalf of the Council.

10.3 All contracts over the value of £50,000 must be recorded on the Council's Contract Register.

11. CSO 11 – Standstill Period

- 11.1 Standstill periods should be used in accordance with the guidance note.
(Download a copy of the standstill period guidance
<http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/Standstill-Period.doc>)

12. CSO 12 – LIQUIDATED DAMAGES, PERFORMANCE BONDS & INSURANCE

- 12.1 Every contract for the execution of works which exceeds £75,000 in value or amount shall provide for liquidated damages to be paid by the contractor in case the terms of the contract are not duly performed.
- 12.2 Where contracts exceed £250,000 in value the Head of Procurement shall be consulted to determine whether a performance bond or a parent guarantee should be used. (Download a copy of the Performance Bond Requirement
<http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/Performance-Bond-Requirement.docx>)
- 12.3 Where construction projects exceed £250,000 the Project Officer shall liaise with the Insurance Manager to determine if the existing insurance arrangements in place are adequate. Separate bespoke insurance must be purchased for all construction projects over £500,000.

13. CSO 13 – FORM OF CONTRACT

- 13.1 A form of contract should be in place before the commencement of the work or supply of goods or services as follows:

Net Value Range (£)		Form of Contract
£0	£75,000	Standard form of contract or otherwise approved by the Chief Legal Officer.
£75,001	Unlimited	Form of contract to be agreed with the Chief Legal Officer.

14. CSO 14 – EXECUTION OF CONTRACTS

- 14.1 Contracts should be executed as follows:

Net Value Range (£)		Execution by:
From	To	
£0	£75,000	Signed for and on behalf of the Council by the Chief Legal Officer or duly authorised officer except where: The Strategic Director shall consider in consultation with the Chief Legal Officer whether, having regard to the need for extension of the period of limitations, a Contract should be attested Under Seal.
£75,001	Unlimited	Made under the seal of the Council.

15. CSO 15 – Contract Extension

- 15.1 Any contract may be extended or varied in accordance with its terms. Where the terms do not expressly provide for extension, contracts subject to the regulations may be extended by negotiation in accordance with the provisions of Contract Standing Order 3 – Exemptions from Contract Standing Orders.

15.2 Any extension, where the terms do not expressly provide for extension, must be:

15.2.1 Fully documented and approved in accordance with Contract Standing Order 3 – Exemptions from Contract Standing Orders. **(Download a copy of the Exemption from Contract Standing Orders Form <http://swoop.torfaen.gov.uk/Intranet/ToolsAndResources/Contract-Standing-Orders/Documents/Exemption-from-Contract-Standing-Orders-Form.docx>)**

15.2.2 Take into account:

- Probity;
- Best value / value for money principles; and
- Openness, fairness and transparency.

Note: Working links to the identified documents are available for officers through the Council intranet. Other enquiries on these should be directed to the Monitoring Officer or the Head of Procurement.