

20 WORKS, GOODS, SERVICES ETC TO BE BY CONTRACT

20.1 These standing orders are made under Section 81 of the Local Government (Scotland) Act, 1973 and shall apply to the making by the Council or on their behalf of all contracts. For the avoidance of doubt, the term “contract” includes any form of agreement, written or underwritten, to which the Council is a party which creates rights and responsibilities for any of the parties involved.

20.2 The standing orders are subject to any overriding requirements of:-

- a) EU Directive 2014/24/EU on public procurement; EU Directive 2014/23/EU on the award of concession contracts; and any Scottish legislation implementing these Directives (the “EU Procurement Rules”)
- b) The Procurement Reform (Scotland) Act 2014 and all regulations and guidance made under and in terms of that Act (the “Procurement Reform Rules”); and
- c) The relevant provisions of the Treaty on the Functioning of the European Union particularly the principles of equal treatment, non-discrimination and transparency (the “Treaty Principles”).

20.3 All contracts let by or on behalf of the Council, regardless of whether any such contracts are otherwise exempt from the application of these standing orders, shall be subject to an obligation on the Head of Finance & ISS to seek best value for the Council and to be able to demonstrate fairness, non-discrimination, equal treatment and transparency in the contract procedure.

Chief Officials may award contracts valued at less than £50,000 without using any of the methods in 20.3 below but in so doing must be able to demonstrate Best Value. Normally, this will involve adhering to the following guidelines in the Procurement Policies and Procedures Manual:-

- For Contracts between £1,000 and £5,000, a minimum of three electronic quotations should be obtained; and
- For Contracts between £5,000 and £50,000, a minimum of three written quotations should be obtained.

Non-competitive action for contracts less than £50,000 may be approved by Chief Officials but only in the exceptional circumstances detailed within the Council's Procurement Policies and Procedures Manual.

20.2 Tenders below an estimated contract value of £50,000 can be received and opened in the Division responsible for the contract but must be

opened in the presence of the Chief Official or the Head of Service and not by an officer involved in the preparation of the specification.

- 20.3 For contracts valued at over £50,000, Chief Officials cannot award contracts unless tenders have been invited using one of the following methods:-
- (a) a notice in the European Journal (for contracts over a certain value);
 - (b) public advertisement (for contracts between £50,000 and the European threshold and where the expense is warranted);
 - (c) a select list of contractors compiled from the Council's Approved Lists of Contractors; or
 - (d) by another method approved by the Cabinet.
- 20.4 For all contracts over £50,000, Chief Officials must accept the most economically advantageous tender in accordance with the tender evaluation criteria previously established for that contract.
- 20.5 For all contracts over £50,000, Chief Officials may in exceptional circumstances, as detailed in the Procurement Policies and Procedures Manual, issue a tender to one nominated contractor. All requests to proceed with such non-competitive action must be approved by the Director, Corporate Resources in advance, after discussion with the Leader of the Council.
- 20.6 For contracts over £50,000, tenders must be received by the Director, Corporate Resources (Council Secretariat) and opened in the presence of a Member of the Council.
- 20.7 All tenders must be invited, received, opened and evaluated in accordance with the Council's Procurement Policies and Procedures Manual.