

# Agenda

## PROCUREMENT TASK & FINISH GROUP

**Date:** Wednesday 24 November 2010  
**Time:** 10.00 am (pre-meeting for Members at 9.45am)  
**Venue:** Mezzanine Room 2, County Hall, Aylesbury

Agenda Item	Time	Page No
1 APOLOGIES FOR ABSENCE AND CHANGES IN MEMBERSHIP	10.00am	
2 DECLARATIONS OF INTEREST		
3 MINUTES The minutes of the meeting held on 11 November 2010 to be confirmed as a correct record.		1 - 8
4 NATIONAL CONTEXT OF PROCUREMENT	10.05am	9 - 10

**Contributors:**

- Andrew Culver, Head of Corporate Procurement, Communities and Local Government (CLG)
- Deborah Heenan, Deputy Director, Local Transformation, Improvement & Efficiency Support (LTIE)

**Context:** Andrew and Deborah will provide a 10 minute presentation on the national context of procurement, followed by a question and answer session.

**Purpose:** To enable members to gain an understanding of the national procurement context in terms of central government's direction of travel for local authorities; and practice elsewhere. This will enable members to consider the implications of the national procurement context for Buckinghamshire County Council.



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**Papers:** Pen portrait of Andrew Culver

**5      PROCUREMENT AT SURREY COUNTY COUNCIL      11.05am      11 - 12**

**Contributors:**

- Laura Langstaff, Procurement and Commercial Manager, Surrey County Council

**Context:** Laura will provide a 10 minute presentation, followed by a question and answer session. Surrey County Council has been invited to attend as its category management approach is at a more advanced stage than at Buckinghamshire County Council.

**Purpose:** To enable members to gain an understanding of procurement processes at Surrey County Council, with a view to considering learning for practice at Buckinghamshire County Council.

**6      CONTRACT STANDING ORDERS      12.05pm      13 - 32**

**Contributors:**

- Graham Collins, Commercial Manager, Finance & Commercial Services Team/or Caroline Wood, Procurement Manager (Performance Enhancement)

**Purpose:** To provide members with a brief update on the changes made to the contract standing orders as agreed by the Regulatory and Audit Committee on 18 November 2010.

**Papers:** Report to Regulatory and Audit Committee, *Changes to Contract Standing Orders*, 18 November 2010. The track changes reflect the proposed changes.

**7      CHAIRMAN'S UPDATE ON REVIEW PROGRESS      12.20pm**

**Purpose:** To update members on writing to organisations on their experiences of procurement; and future witnesses.

**8      DATE OF NEXT MEETING**

The next meeting will take place on Monday 13 December at 2pm in Mezz Room 1. **Please note – there will be a pre-meeting at 1.45pm to discuss lines of questioning.**

This is the final evidence session. Cora Carvey, Chief Executive of Community Impact Bucks will attend, followed by Frank Downes, Cabinet Member for Resources, alongside Gillian Hibberd, Strategic Director Resources.

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If you would like to attend a meeting, but need extra help to do so, for example because of a disability, please contact us as early as possible, so that we can try to put the right support in place.

*For further information please contact: Liz Wheaton on 01296 383856  
Fax No 01296 382538, email: [ewheaton@buckscc.gov.uk](mailto:ewheaton@buckscc.gov.uk)*

## **Members**

Mr D Anson MBE  
Mrs M Aston  
Mr H Cadd  
Mrs L Clarke  
Mrs M Clayton

Mr S Kennell  
Mr M Phillips (C)  
Ms J Puddefoot  
Mr R Reed  
Mr B Roberts



# Minutes

## *PROCUREMENT TASK & FINISH GROUP*

**MINUTES OF THE PROCUREMENT TASK & FINISH GROUP HELD ON THURSDAY 11 NOVEMBER 2010, IN MEZZANINE ROOM 2, COUNTY HALL, AYLESBURY, COMMENCING AT 1.04 PM AND CONCLUDING AT 3.25 PM.**

### **MEMBERS PRESENT**

Mr D Anson MBE, Mrs M Aston, Mrs L Clarke, Mrs M Clayton, Mr T Egleton, Mr S Kennell, Mr M Phillips (C), Ms J Puddefoot, Mr R Reed and Mr B Roberts

### **OFFICERS PRESENT**

Mr R Ambrose, Mr G Collins, Ms P Hook, Ms S Turnbull and Mrs E Wheaton

### **1 APOLOGIES AND CHANGES IN MEMBERSHIP**

Apologies were received from Hedley Cadd.

Trevor Egleton, Chairman of the Overview & Scrutiny Commissioning Committee, attended the meeting as an invited guest.

### **2 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **3 CHAIRMAN'S INTRODUCTION**

Martin Phillips, Chairman of the Task & Finish Group, explained to Members that the main purpose of the review is to better understand how the procurement process works at County level and whether the County Council receives value for money through its procurement of services across the County.

### **4 PRESENTATION BY GRAHAM COLLINS, COMMERCIAL MANAGER, FINANCE & COMMERCIAL SERVICES TEAM**

The Chairman introduced Graham Collins, Commercial Manager in the Finance & Commercial Services team. He then introduced his colleagues, Richard Ambrose, Head of Finance and Commercial Services and Patricia Hook, Senior Procurement Manager.



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Graham Collins started by telling Members that he joined the County Council three months ago and he said that the strengths and weaknesses of the procurement process which were identified as part of a recent review are now being addressed through the transformation process but he stressed that it is still early days.

Graham provided Members with a definition of what is meant by procurement which is the “process of acquiring goods, works or services from third parties and in-house providers”. He explained that as part of the procurement process, there is a need to look at whether the goods and services can be provided more effectively in-house rather than through an external supplier. He went on to provide Members with a definition of commissioning which is “the cyclical process by which public bodies assess the needs of people in an area, determine priorities, design and source appropriate services, and monitor and evaluate their performance.” He said that these are the definitions used by the National Audit Office.

During the discussion, Members asked the following questions and raised the following points.

**How do you ensure that you are not silo working?**

The service portfolios are set up to align with external suppliers so that working in categories reduces silo working. Where there is a common need, then there would be just one procurement process and thereby creating economies of scale. Graham explained that the team has a long way to go before this is achieved but he said that the processes are constantly under review.

**A Member expressed concern about the issue of value for money issue. If the decision is to use internal resources, how do the County Council know that they are receiving value for money if they have not tested the market.**

[Trevor Egleton joins the meeting]

Graham explained that the procurement team do undertake market testing and the external responses are compared to the existing internal costs. He said that the County Council itself makes the decision and his role is to ensure that the best option is taken up. Richard Ambrose then provided Members with an example of some soft market testing which is taking place within Support Services at the moment. He said that the aim is to be as efficient as possible internally before comparing the service area to the market to ensure cost-effectiveness.

Graham went on to say that the team do benchmark the services against other agencies which informs their decision-making process.

**A Member expressed concern that there appeared to be a lot of re-inventing the wheel.**

**A Member acknowledged that it made sense to have a single contract but expressed concern about sub-contractors and how they are managed in the process.**

Graham said that if the risks outweigh the benefits, then the County Council would not proceed. Quality standards are written into the contract specification.

**A Member provided an example where the service area wrote the specification and came to the conclusion that it was better to provide the service in-house. It was then tested externally and it was found that the service could be even better served outside of the County Council. The Member felt that there needs to be a change in staff culture and this needs to be carefully managed.**

Graham responded by saying that in a mixed economy, a balanced approach is called for. He went on to say that the highest performing authority has the best decision-making.

**A Member said that whilst they were not a great advocate of outsourcing, they appreciated that in this economic climate, it needed to be considered.**

**A Member cited an example where outsourcing had not been successful in relation to paying salaries to teachers.**

Graham said that the whole process needs to be managed properly and all contracts should be looked at and reviewed regularly.

Graham continued with his presentation and made the following points.

- Out of the £206 million which is spent on external expenditure, 50% of this is spent within the County.
- 11,000 supplier contracts are worth less than £1 million which demonstrates the diverse nature of the suppliers that are used by the County Council.
- All invoices over £500 are now shown on the website.
- There are around 180,000 invoice transactions per year of which 28% are from small businesses and 25% from medium-sized businesses which demonstrates that over half of the invoices come from SMEs.
- The organisational transformation, which was signed off by the AOP Board, began in May 2010. As a result, AFW Brokerage and the Domiciliary Care team are now integrated.
- There is an increased focus on project management and delivery of savings projects.
- Interim resources have been deployed to fill critical short term gaps. A recruitment campaign is due to be launched.
- There have been difficulties in building the team and there has been a need to bring in external expertise to fill in the gaps.
- The new organisational structure has been designed to address the historic strengths and weaknesses which were identified as part of the review.
- The delivery model provides an end-end commercial service and the strengths identified in the review focussed on contract letting and brokerage and P2P. There is a need now to focus on building the capability in strategic planning and category management & sourcing projects.
- Work is now taking place to address the weaknesses. A Commercial Board has been established and is providing effective commercial scrutiny for all projects over £500k. The Board has met around 7-8 times and is made up of representatives from across the County Council.
- All procurements over £100k are visible and managed centrally.
- Category management work has commenced including – residential and nursing care, fleet maintenance and temporary labour.
- A Contract Management Framework has been proposed and is due to be implemented shortly across all the service areas.
- e-Sourcing system has been implemented for larger procurements and an e-procurement system is in-place and is managed on-line.
- Once the staffing gap has been filled, then better services can be bought and higher quality services will be delivered. There are currently difficulties in attracting high calibre staff in a challenging marketplace.
- It is still early days – currently in year 1 of a 3 year journey.
- There are pockets of good practice but it is not universal across the County. The level of commercial awareness across the organisation is developing but is inconsistent at present.
- The target is to compare favourably to key external benchmarks and more market testing of the County Council's services will take place in future.

During discussion, Members asked the following questions.

**How many invoices are over £500?**

Graham explained that a vast majority of invoices are over this amount but he could not provide the exact number at the meeting.

**Would it be possible to have a clearer organisational structure chart?**

Graham agreed to circulate a clearer diagram after the meeting.

**Action: Graham Collins**

***Addendum: an organisational structure has now been circulated to Members.***

**In terms of recruitment, are you looking for specialists from outside the County Council or are you looking at the skill-base of people who are already employed by the County Council?**

Graham explained that he has been speaking to HR and they are aware of the skills required within the team. No-one has been identified yet.

**How will you ensure that the inconsistent approach to contract management which was identified as a weakness is addressed? This is key to managing the whole process.**

Graham explained that the Contract Management Framework is due to be signed off by the AOP Board shortly and this will assist with addressing this weakness.

**Who is responsible for monitoring the progress of contract management in future?**

Graham responded by saying that the County Council owns the contract and the team will ensure that contract management is undertaken effectively and that monitoring is a regular part of the process. The paper which accompanies the proposed Framework does make recommendations on ownership of managing the contract.

**Do County Council officers have sufficient contract management skills to undertake the proposed new framework effectively or are external specialists required to carry out the work?**

An auditing project is currently underway to look at this but on the surface it appears that in some areas it is not being done well or in a consistent way.

**Who sits on the Commercial Board?**

Gill Hibberd is the Chairman, Rita Lally, Richard Ambrose, Chris Munday, Jim Stevens and Frank Downes, who is the Member representative on the Board.

**Are the guidelines in line with the County Council's constitution?**

Graham responded that they are. Approving standing orders on-line will be going to the Regulatory and Audit Committee soon for their consideration and approval.

**Can you clarify what is meant by "commercial outcomes".**

Graham explained that it is about making the right choices in how the County Council delivers its services and it's about making the best use of resources and skills.

**Why is spend per buyer considered a suitable criteria? Surely it should depend on what you are buying?**

Graham said that this is to ensure that the comparisons are made against similar organisations. The aim is to try and increase the spend per buyer so that there are less buyers in future. He went on to say that this is just one of many indicators that are used.

**Is there a contingency plan developed as part of the process? Is the County Council locked into all their contracts or is there room for flexibility?**

Graham explained that it depends on the terms and conditions set out in the contract. Most contracts provide an opportunity for re-negotiation but it does depend on other



organisations and what they are going through at the time. Patricia Hook went on to say that the team does look at how quickly they could switch suppliers, if required.

**When re-launching a service are the transitional costs built-in? For example, changes in employment rights.**

Graham said that there is provision for transitional costs at the time of starting a contract. If there has been a change to the risk profile, then there has to be a change in the contract arrangements.

**A Member expressed concern over whether the transitional costs are realistic.**

Graham explained that the transitional costs are reflected in the contract stage before it is awarded so there is transparency over these costs.

**A Member asked for clarity regarding the 3% figure quoted in the presentation.**

Graham said that it is 3% of £206 million total external expenditure.

**Is risk management part of the process when looking at the content of the contract?**

Graham explained that it comes back to post-contract management and he felt that some of it is not currently being undertaken in a systematic way.

**How do you ensure that the County Council is the supplier's preferred client and that the best deal is being brokered for the Council?**

Graham said that it comes down to getting the contract right at the outset. There needs to be good communication, on a consistent basis, between the contractor and the supplier.

**Why do some suppliers provide the same service to other organisations at a cheaper cost?**

Graham responded by saying that it is about engaging with a supplier and transferring knowledge and good practice.

**Does the County Council use the services of procurement specialists to speak to contractors?**

Graham said that they were used in the pilot work on the domiciliary care project.

**How do you measure performance?**

There are a number of performance indicators which are reported on a regular basis to the AOP Board by the Finance team. Graham said that he would be happy for these to be reported to the Task & Finish Group as well.

**Action: Graham Collins**

**What can the County Council do to ensure the supplier is financially sound? What guarantees can the Council provide?**

Patricia Hook explained that in most cases there are two stages in a tender process. The first stage is the pre-qualification questionnaire which asks for a set of the supplier's financial accounts and asks for details of referees and a list of all current major contracts. Patricia went on to say that the team would then make contact with the referees and select, at random, a couple of major clients to speak to. More robust analysis takes place at stage 2 of the process and questions such as "what would the County Council's business mean to you?" are asked at this stage. She said that the team has the facility to run regular credit checks on suppliers at any time.

**A Member felt that in some cases, suppliers see the Council's letterhead and put their prices up. How do you investigate costs?**

Graham explained that the team looks at the costs category by category and if there is evidence of over-pricing, then the team would look into it. Patricia went on to say that the

Council's tend to have a reputation as being difficult to do business with and suggested that this area could be looked into to try and ascertain the reasons for this.

## **5 SCOPE OF REVIEW**

Sara Turnbull took Members through the proposed timetable and speakers for the forthcoming meetings.

- A Member commented that it would be useful to have a presentation from an external supplier to understand more about what they expect from the contractor.
- A Member said that we should not assume that prices will increase on an annual basis.
- A Member felt that a good arrangement with a contractor should be on a gain and pain basis.
- A Member asked whether commercial specialists write the contracts.
- A Member expressed concern about the quality of the sub-contracting and how that could reflect on the County Council. A Member explained that the standards are set within the contract itself and once the contract has been awarded, it would be the responsibility of the supplier to deliver the service to the specified standard. If the supplier does not reach the desired standard, then they are in breach of the contract.
- A Member felt that all contracts should be constantly monitored and a better system for contract management needs to be introduced.
- A Member expressed concern about the level of training given to officers in handling contracts and felt that there needs to be a change in culture amongst officers.
- A Member said that it would be useful to receive feedback from existing suppliers and also feedback from an unsuccessful supplier.
- A Member asked whether it would be beneficial to gain the views of those in the voluntary sector to see whether there were any areas of concern as they felt that communication might be a major concern.

[Steve Kennell leaves the meeting at 2.50pm]

- A Member asked whether the contracts are realistic and felt that monitoring contracts was a very important issue.

## **6 KEY QUESTIONS**

The following key questions were asked and points raised:

- When is the Contract Management Framework going to be implemented by the service areas?
- Who sits on the Commercial Board and the AOP Board?
- Who scrutinises the contracts before they are awarded?
- Contract Management training was seen as a major issue so what level of expertise exists at officer level.
- How many contractors have we got?

- How much does each invoice cost the County Council – eg. how much does it cost to chase an invoice? This area would highlight the level of efficiency in the procurement process.
- We should be looking at our savings and costs by comparison to other local authorities.
- What are the key indicators which are used to determine whether a contract is successful or not and what criteria are used?
- Would it be possible to see a copy of one of the County Council's contracts to see the content?
- How well does the County Council work with the District Councils in terms of sharing information on suppliers?
- Is the County Council making contact with other neighbouring authorities such as Oxfordshire County Council or Hampshire to see whether more economies of scale could be obtained?
- How are complaints dealt with?
- Are Green issues considered when looking at who to award the contract to – for example, carbon footprint.
- To what extent do we use local suppliers and does this achieve value for money?
- Do we treat charities any differently? If smaller businesses find it hard to be competitive, would there be a way of making it easier for them.
- Contract Management is the most important element in the process and needs to be an integral part of the specification.
- How are the tenders assessed and what criteria are they using to score the tenders?
- Can we see a copy of the pre-qualification questionnaire.

[Lesley Clarke leaves the meeting at 3.15pm]

## **7 DATE OF NEXT MEETING**

The date of the next meeting is Thursday 18 November at 1pm in the Large Dining Room, Judges Lodgings, Aylesbury.

**CHAIRMAN**



## **Pen Portrait of Andrew Culver**

Andrew went into Procurement as a graduate trainee with Racal Defence and then with more senior procurement roles with defence contractors, Hunting PLC and Philips where he tendered and managed hi tech multi million pound sub assemblies work as outsourcing back office functions.

Andrew spent two years with Wang UK leading a profit margin lead office consumables division with a focus on importing and merchandising.

In 1994 and in complete contrast Andrew then joined the Investment Bank Morgan Stanley in London, establishing their first procurement function, changing the way they bought goods and services, influencing and advising on e'commerce and again outsourcing back office and operational functions.

In 1999 was promoted to Global Head of Procurement and led a team of 100 staff from New York, delivering e'sourcing and procurement technology, centralising procurement, taking out duplication in three diverse sister companies, being a catalyst for operational change and delivering savings.

On his return to London in 2006 Andrew led an outsourcing commercial department for a subsidiary of Deutsche Poste and in 2008 joined the Department for Communities and Local Government (CLG) as Head of Procurement.



## **Pen portrait of Laura Langstaff**

Laura is currently the Procurement and Commercial Manager at Surrey County Council, with specific responsibilities for Adults Social Care and Childrens Services, where over £6.3m of procurement savings have been delivered in 2010/11 to date against a target of £12m for the year.

More recently, Laura has also also taken a lead for the IT, HR and Corporate categories as well as Strategic Development , the team responsible for our 'non-Category' based procurement activities, such as performance management, business analysis, service delivery plans, audit and the Procure to Pay (P2P) process.

Before joining Surrey County Council in April this year, Laura was the Head of Procurement at London Borough of Ealing, responsible for managing a department of over 25 procurement staff, introducing a new structure for the Strategic Procurement team, bringing together the previously separate Accounts Payable team and creating a new P2P function.

At Ealing Laura also had responsibility for the newly created Business Support Centre, delivering a print & reprographics function, post services, and invoice, parking & housing benefits processing to the whole Council.





## Regulatory & Audit Committee

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<b>Title:</b>	<b>Changes to Contract Standing Orders</b>
<b>Date:</b>	18 November 2010
<b>Author:</b>	Head of Legal and Democratic Services
<b>Contact officer:</b>	Linda Forsythe, Deputy Head of Legal & Democratic Services, Tel 01296 383640
<b>Electoral divisions affected:</b>	All

### Summary

Part 4h of the Council's Constitution sets out its Contract Standing Orders. It is a legal requirement under Section 135 of the Local Government Act 1972 for the Council to have these in place. They were last amended on 28 September 2006.

It has now been requested that the Contract Standing Orders be amended in order to enable the Council to use E-sourcing technology in its procurement process. This technology will be used throughout the tendering and quotation periods and will enable relevant officers to communicate with individual or numerous suppliers in a fair and transparent manner.

By adopting the revised Contract Standing Orders, the Council will be acting in line with the best practice of other local authorities. The new system will provide a clear audit trail throughout the procurement process and enable electronic communication with suppliers. The system offers various modules for electronic tendering and contract management, including supplier sourcing, advertising the requirement, issuing requests for quotes and invitations to tender and other related tender documents, with supplier completion and submission of the tender/quote return, and a closed tender box.

### Recommendation

**The Committee are asked to consider the report and authorise the Head of Legal and Democratic Services to make proposed changes to the Contract Standing Orders as shown on Appendix 1.**

**Supporting information to include the following if a decision is being requested:**



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### **Resource implications**

The work involved by officers in agreeing a new form of Contract Standing Orders has been carried out within existing staffing levels. The E-sourcing technology has already been purchased by Procurement. There are no other anticipated additional costs involved in using the revised Contract Standing Orders.

### **Legal implications**

The Head of Legal and Democratic Services has approved the proposed changes to the Contract Standing Orders. The Head of Finance and Procurement has also approved the proposed changes.

### **Other implications/issues**

None.

### **Feedback from consultation, Local Area Forums and Local Member views (if relevant)**

Not applicable.

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### **Background Papers**

None.

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**BUCKINGHAMSHIRE COUNTY COUNCIL  
STANDING ORDERS RELATING TO CONTRACTS  
(effective from 28 September 2006)**

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**Appendices**

- **1 – Cabinet Member Confirmation of an Exemption Made by Head of Service**
- **2 - Cabinet Member Exemption Form in Exceptional Circumstances**
- **3 - Sealing Form**

## 1. Basic Principles

- 1.1 These Orders apply to all Council contracts with the exception of employment contracts.
- 1.2 They are required by law and failure by an Officer to comply may result in disciplinary action being taken against them.
- 1.3 They lay down the minimum requirements. A more detailed procedure may be appropriate for a particular contract.
- 1.4 A contract includes the following:-
  - any contract for goods, works or services, including disposals
  - any order for goods, works or services
  - a grant given or received by the Council
  - a contract managed by consultants
  - a contract appointing consultants
  - any partnership arrangement
  - contracts relating to the disposal or purchase of land and buildings.
- 1.5 Purchasing and disposal procedures must:
  - Achieve best value for public money spent
  - Be consistent with the highest standards of integrity
  - Ensure fairness in allocating public contracts
  - Comply with legal requirements
  - Ensure that non-commercial considerations do not influence any contracting decision
  - Support the Council's corporate and service aims and policies
  - Comply with the Council's Procurement Strategy and Value for Money Strategy
  - Comply with Financial Regulations and Health and Safety requirements
  - Be able to demonstrate that the Council's interests have not been prejudiced or exposed to undue or unmanaged risks

1.6 The Council will use E-Sourcing where appropriate. The Council's E-Sourcing system will be an online solution for the procurement and quotation process, allowing electronic tendering and contract management. Where the E-Sourcing system is used, it may be applied to supplier sourcing, advertising the requirement, issuing requests for quotes and invitations to tender and other related tender documents, supplier completion and submission of the tender/quote return. It will also provide an electronic closed tender box. In addition, the E-Sourcing system may be used to communicate with individual or all suppliers throughout the process, in a fair and transparent manner.

**Deleted:** and with the prior written consent of the Head of Finance and Head of Legal and Democratic Services. In this case Standing Orders 11.6 and 13 are amended accordingly.

## 2. Responsibilities of Officers

## **2.1. Officers**

- (a) Every Officer dealing with contracts must have written authority to do so. This can be in their job description or in written delegated authority from a Head of Service.
- (b) Officers responsible for purchasing and disposal must comply with these Standing Orders relating to Contracts, the Financial Regulations and the Code of Conduct together with all UK and European Community legal requirements.
- (c) Officers must comply with the guidance in the Council's Procurement Guidelines and Contracts Manual.
- (d) Officers must use any relevant Corporate Contract which is already in place.
- (e) Officers must keep the records to show a clearly documented audit trail as set out in the Contracts Manual. The Officer has a duty to produce such records when requested to do so by an authorised Officer.
- (f) Officers must ensure that agents and consultants acting on their behalf comply with the requirements referred to in Standing Order 2.1(b) above. Such consultants must not make any decision as to whether to award a contract or who a contract should be awarded to.
- (g) Officers must take all necessary legal, financial and professional advice.

## **2.2 Heads of Service**

Heads of Service must:

- (a) Have delegated powers for the contract or ensure that the project has the formal approval of Committee, Cabinet or Cabinet Member.
- (b) Ensure that there is full budgetary provision for the contract and that the sources of funding are fully detailed before starting the contract process.
- (c) Ensure that no tender is accepted where it exceeds the approved budget/cash limit by more than 10% unless prior written approval is obtained from the relevant Cabinet Member.
- (d) Ensure that expenditure is fully contained within the approved budget/cash limit unless prior approval has been obtained from the Committee, Cabinet or Cabinet Member.
- (e) Ensure that they have issued appropriate staff with written delegation of the role that they may take in the contracting process on behalf of the Council.

- (f) Ensure that their staff comply with these Standing Orders relating to Contracts.
- (g) Keep a register of contracts over £50,000 showing:
  - the estimated value
  - the name of the contractor
  - the subject matter of the contract; and
  - the name of the Officer responsible for the contract

(h) In September of each year send to the Procurement Service a copy of the register referred to in paragraph (g) above

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(j) Unless the contract value is more than £150,000 and is kept by Legal and Democratic Services, each Head of Service will be responsible for the safekeeping of all signed contracts within his/her service area and for notifying the Procurement Service.

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### 2.3 Competitive Dialogue

(a) Before the commencement of any Competitive Dialogue Procedure a full Business Case must be signed off by all the following officers: the Head of Finance and Commercial Services, the Head of Legal and Democratic Services and the Project Sponsor.

Deleted: Strategic Director,

(b) The Business Case referred to above must include details of the Project Team including the Project Manager, a Schedule showing all the stages of the Procedure leading to the award of contract and the agreed Budget for the total cost of the Competitive Dialogue Procedure.

### 3. Partnerships

Officers considering a partnership arrangement must before starting the contract process obtain advice from Legal and Democratic Services and the Procurement Service. They will advise on the partnership options available to ensure a workable partnership including appropriate governance arrangements.

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### 4. Exemptions

- 4.1 Exemptions are subject to the requirements set out in this Standing Order. An exemption allows a contract to be placed by direct negotiation with one or more suppliers rather than in accordance with **Standing Order 8**. Exemptions under this Standing Order cannot be granted if EU Regulations apply.
- 4.2 If an Officer requires an exemption from one or more Orders in an emergency, a Head of Service can provide this. The Head of Service must report it within 14 days to a Cabinet Member on the Emergency Exemption Form at

**Appendix 1.** An emergency means a situation involving risk of injury or loss of life or risk to the security or structural viability of a property.

4.3 If an Officer requires an exemption from one or more Orders where there is no emergency and the estimated value is below the European threshold, this requires the prior approval of a Cabinet Member on the Exemption Form at **Appendix 2.** Approval will be given in exceptional circumstances only, such as:

- (a) special expertise or manufacturing capacity is required for which only one source has been identified. In this case a written quotation shall be obtained from that source.
- (b) special expertise or manufacturing capacity is required which is only available from such a limited number of sources that competitive tendering is impractical. In this case all sources shall be invited to provide quotations.

## **5. Requirements for all contracts**

5.1 Every contract must be in writing and must clearly state:-

- the goods, works or services to be provided
- the agreed programme of delivery
- the price and terms of payment
- all other terms that are agreed
- exit procedures, for when the contract comes to its natural end, and
- termination procedures for early termination of the contract including when the contractor has not fulfilled his contractual obligations.

5.2 Every contract must comply with Financial Regulations and corporate procurement guidance, including EU Procurement regulations, where necessary.

## **6. Steps Prior to Letting a Contract**

6.1 Before letting a contract, an Officer must:

- (a) Estimate the total value of the contract. For example, if the subject matter of the procurement is worth £15,000 over 5 years, the total value of the contract will be £75,000.
- (b) Ensure that the contracting process is not used to create separate contracts in order to avoid the requirements of Contract Standing Orders or the requirements of the EU procurement regulations.
- (c) Ensure that there is sufficient budgetary provision for the goods or services required.
- (d) Identify whether there is an existing corporate contract already in place.



- (e) Take into account the outcome from any strategic service review, if appropriate
- (f) Define the objectives of the contract
- (g) Provide evidence in writing that the risks that are associated with the contract have been assessed and suitable arrangements have been or can be put in place to manage them.
- (h) Evaluate what procurement method is most likely to achieve the Council's objectives, including internal/external sourcing, sourcing through a public sector consortium, packaging strategy or collaboration with another organisation.
- (i) Consult users as appropriate about the proposed procurement method and standards for the contract.
- (j) Take into account the whole-life costs of the contract
- (k) Retain evidence that the above steps have been carried out for examination by internal or external auditors.
- (l) Ensure confidentiality when dealing with contractual matters. Officers must not disclose any information regarding tenders to anyone who is not involved in the selection process.
- (m) In circumstances that it is likely that employees will transfer to a new employer as a result of a contract seek advice from Legal and Democratic Services with regard to the application of TUPE (Transfer of Undertakings (Protection of Employment) Regulations 2006.

## **7. Requirements to Ensure Competition**

7.1 Where the total value of the contract is less than £50,000, Officers may identify potential candidates using the most cost-effective and reasonable methods. This may include reference to advertising, catalogues, business directories etc.

7.2 Where the estimated value of a contract is:

**(a) Less than £10,000**

One written quotation is required. This can be a written confirmation by an Officer of an oral quotation. The aim of the Officer responsible for the contract shall be to obtain the best value for money for the Council.

**(b) Between £10,000 and £50,000**

Three written quotations must be requested. The aim of the Officer responsible for the contract shall be to obtain the best value for money for the Council.

**(c) Between £50,000 and the European Union thresholds**

The Officer responsible for the contract must comply with one of the following options:-

- (i) follow a publicly advertised competitive tender process (**See Standing Order 8**)

or

- (ii) select a contractor from an approved list of contractors by inviting bids from at least three. (**See Standing Order 9**)

In both (i) and (ii) the Officer must use the Council’s conditions of contract or appropriate professional institute conditions of contract or a contract which has been approved by an Officer in Legal and Democratic Services.

**(d) Over the European Union thresholds** which as at 1 January 2010 are:

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	£	
Works	<u>3,927,260</u>	<b>Deleted:</b> 3,611,474
Supplies	<u>156,442</u>	<b>Deleted:</b> 144,459
Services	<u>156,442</u>	<b>Deleted:</b> 144,459

Contracts must be advertised according to EU procurement law (further guidance can be found in the Contracts Manual). The Officer responsible for the contract must before starting the contract process obtain advice from an Officer in both the Procurement Service and Legal and Democratic Services.

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**(e) Any Value**

The Officer responsible for the contract may use a Framework or Consortium Agreement but before starting the contract process must seek advice from the Procurement Service.

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**8. Competitive Tendering Process**

8.1 Where the total value of the contract is more than £50,000, Officers must ensure that potential candidates are asked to provide sufficient detail to:

- (a) ensure that they are financially stable
- (b) ensure that they have appropriate technical ability to undertake the sort of contract they wish to be considered for

- (c) check their health and safety record

Officers must be able to demonstrate documentary evidence that (a) to (c) above have been checked.

- 8.2 Where the total value of the contract is more than £50,000 and there is no Approved List or Corporate Contract for the contract, Officers must invite tenders by public advertisement. The minimum requirement for advertisement is placing an advert on the public website within the Bucks contracts' section.
- 8.3 Officers must be able to justify a period of less than four weeks for potential tenderers to receive and submit their expressions of interest for the contract. However, where EU Regulations apply, the relevant OJEU time limits apply.

## **9. Creation and Maintenance of an Approved List**

- 9.1 As an alternative to advertising contracts, Officers may use approved lists to select tenderers. However, approved lists cannot be used where the total value of the contract exceeds the EU procurement threshold.
- 9.2 When the list is first created, and every three years afterwards, an advertisement must be placed on the Council's website and at least one appropriate journal stating the Council's intent to create an approved list.
- 9.3 Potential candidates for the list must be asked to provide details, which will enable the Council to:
  - (a) ensure that they are financially stable
  - (b) ensure that they have appropriate technical ability to undertake the sort of contract they wish to be considered for
  - (c) check their health and safety record
- 9.4 The list will be the responsibility of the appropriate Head of Service.
- 9.5 An accredited government scheme subject to approval by the Procurement Service is also considered to be an approved list for the purpose of these Standing Orders relating to Contracts.

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## **10. Standards and Award Criteria**

- 10.1 Officers must ensure that the award criteria are selected which are appropriate to the contract.
- 10.2 Officers must design award criteria to ensure best value for money for the Council.

10.3 The pre-agreed criteria for assessing the bid must not be changed after tender proposals have been opened.

## **11. Invitations to Tender/Quotations**

11.1 The Officer must ensure that Invitations to Tender and Invitations to Quote include a specification. The specification must describe clearly the Council's requirements in sufficient detail to ensure the submission of competitive bids which may easily be compared.

11.2 The Invitation to Tender or Invitation to Quote must state that the Council is not bound to accept any Quotation or Tender.

11.3 All candidates invited to tender or quote must be issued with the same information at the same time and subject to the same terms. Any additional information or amendments to the specification must be provided to the candidates on the same basis.

11.4 Officers who undertake procurement of works, goods and services with a total value of less than £50,000 must ensure that they follow the quotation procedures within the Contracts Manual.

11.5 In cases where it can be demonstrated that there are insufficient suitably qualified candidates to meet the competition requirements set out in **Standing Order 7**, all suitably qualified candidates must be invited.

11.6 The Invitation to Tender or Invitation to Quote must specify the award procedure and forbid submission of tenders/quotes by any electronic means (ie by fax or e-mail) unless tenders are requested from and are received by the corporate E-Sourcing system in accordance with paragraph 1.6.

11.7 Unless the tendering process is by using an approved list, all Invitations to Tender must be publicly advertised.

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## **12. Shortlisting**

12.1 Where approved lists are used, the responsible Officer and the relevant Head of Service may undertake the shortlisting in accordance with the relevant criteria.

12.2 Shortlisting must be undertaken with regard to financial and technical standards and other criteria relevant to the contract including the award criteria.

12.3 In the case of contracts let under the EU Procedure, the advice of an Officer within Legal and Democratic Services or the Procurement Service must be sought.

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12.4 Where appropriate, Officers may decide not to shortlist and to send Invitations to Tender and evaluate all submissions.

### **13. Submission, Receipt and Opening of Tenders/Quotations**

13.1 Candidates invited to bid must be given adequate time in which to submit a quotation or tender. At least four weeks must be allowed for submission of tenders and the EU Procedure sets out specific time periods.

13.2 Subject to the discretion of the relevant Head of Service invitations to quote and invitations to tender may be issued and received by electronic means using the corporate E-Sourcing system in accordance with paragraph 1.6.

13.3 Except where tenders are being managed through the corporate E-Sourcing system:

- a) All tenders submitted to the County Council shall be in a sealed, plain envelope marked 'TENDER'. There must be no indication on the outside of the envelope of who the sender is. The envelope should be clearly addressed to the Head of Legal and Democratic Services and should indicate the subject of the contract.
- b) The Head of Legal and Democratic Services shall be responsible for the safekeeping of tenders until opening. Receipt of each tender must be initialled and dated by the receiving Officer.
- c) A record must be made at the time of opening the tenders showing the name and address of the tenderers, the date and time of opening and the amount tendered. All those present at the tender opening shall sign the record as evidence that it is correct.

### **14. Clarification Procedures**

14.1 After the tender opening, it may become apparent that one or more of the potential contractors that have submitted bids have misinterpreted the specification. If it is clear that this is a result of an error or ambiguity in the specification, the responsible Officer must consult the Head of Legal and Democratic Services as to whether all the contractors should be provided with revised specifications and given the opportunity to revise their tender.

### **15. Tender Evaluation**

15.1 Confidentiality of tenders/quotations and the identity of tenderers must be maintained at all times. Information about one tenderer's response must not be given to another tenderer.

15.2 This includes the situation when one part of the Council is tendering for a contract with another part of the Council. In such a situation, there must be a clear division between the two parties, with no advantage ensuing for the internal candidate.

15.3 Officers must evaluate and award the contract in accordance with the award criteria in the Invitation to Tender. The Officer responsible for evaluating the tenders should complete a tender evaluation sheet recording the details of the

tenders and the process for selecting the winner. This Officer must be someone other than the person who is going to sign the contract.

- 15.4 The reasons for the selection of the successful candidate should be recorded on the evaluation report. The Officer carrying out the evaluation must sign the report. Authorisation to award the contract must be given in writing by an Officer who has written delegated authority to do so.

## **16. Award of Contract**

- 16.1 All candidates must be notified in writing, simultaneously and as soon as possible, as to the outcome of the tender exercise.
- 16.2 In the case of those contracts which have been let using the EU procurement procedure, a statutory standstill of 10 days must apply between the notification of the tenderers and the successful candidate signing the contract, to allow for the decision to be challenged by the unsuccessful candidates.
- 16.3 The contract can only be signed by an Officer who has written delegation to do so.

## **17. Sealing a Contract**

- 17.1 Where a contract has a bond or guarantee or is over £150,000 it shall be sent to Legal and Democratic Services with the attached Sealing Form (**Appendix 3**) and shall be sealed on behalf of the Council.
- 17.2 Any contract under £150,000 shall be signed by a Head of Service or an Officer with written delegated authority to sign from a Head of Service.

## **18. Post Contract Monitoring**

- 18.1 During the duration of a contract, the designated project manager, or, where no project manager has been appointed, the Officer signing the contract must monitor the contract/contractor in respect of:
- performance
  - compliance with the specification and the contract
  - cost
  - user satisfaction
  - risk management; and
  - in accordance with corporate procurement guidance.
- 18.2 Officers must seek advice from Legal and Democratic Services if payments to a contractor are to be withheld or there is any other problem with the contract which may result in early termination.

## **19. Termination of Contract**

19.1 An Officer shall not terminate a contract over £50,000 prior to its expiry date without first obtaining advice from an Officer in both the Procurement Service and Legal and Democratic Services.

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## **20. Technical Amendments**

20.1 The Head of Legal and Democratic Services has the authority to make technical amendments when necessary, to ensure that these Standing Orders relating to Contracts remain consistent with legislation, the Council's organisation and structure and generally with best practice. These amendments shall be subject to consultation with the Head of Finance and Commercial Services and the Chief Internal Auditor.

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## **21. Land and Property**

21.1 This Standing Order relates to the acquisition and disposal of land and property including leases which are for a fixed term of more than seven years.

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21.2 All valuations and negotiations shall be the responsibility of the Head of Property Services. Anyone undertaking the negotiations on his/her behalf must have appropriate written delegation and must be a qualified Member of the Royal Institution of Chartered Surveyors or equivalent.

21.3 All valuations prepared for the purpose of a transaction must be accompanied by evidence of the values or comparable properties in the locality, where possible, or evidence of recent, similar transactions carried out the Council.

## **Acquisitions**

21.4 No purchase of land or property (freehold or leasehold) may be made without the prior approval of an Officer delegated to do so by the Council's Scheme of Delegation. In order to do this the information detailed below must be provided for this Officer:

- (a) a complete description of the land or property that is being considered for purchase,
- (b) the reason for the purchase,
- (c) any information that may affect the value of the property or land, including structural and environmental reports,
- (d) the proposed purchase price or rental value together with evidence of the prices for similar properties in the location, and evidence that there is sufficient budget to cover all costs, and
- (e) any other terms and conditions.

The Officer must retain all of this evidence for six financial years after the acquisition has been completed.

## Disposals

- 21.5 Land and buildings owned by the Council shall not be disposed of without the prior approval of an Officer delegated to do so by the Council's Scheme of Delegation. If the estimated value (combined value where more than one property is to be disposed of) of the property is greater than £500,000, a decision on the sale will need to be made by Members through the key decision process.
- 21.6 Whichever authority is being sought, the following information must be provided:
- (a) a complete description of all the land and/or property to be included in the disposal,
  - (b) confirmation from the Head of Legal and Democratic Services that the title of the land and/or property is owned by the Council
  - (c) the reason for the sale and any restrictions which this may impose,
  - (d) a report on any information which is held by the Council in the previous use of the land which may affect its value (eg if the site were contaminated),
  - (e) the estimated value of the land and/or property together with evidence of comparable properties in the location or by reference to other recent, similar Council transactions
  - (f) in cases where land and/or property is being sold as potential housing development, evidence that planning applications will be obtained prior to the completion of the disposal in order to obtain the best possible price for the land,
  - (g) recommendations on the following:
    - (i) issues that need to be resolved before marketing the land and/or property can commence
    - (ii) the preferred method of disposal (private treaty/public auction/formal tender)
    - (iii) the title to be transferred
    - (iv) the minimum price that the Council is prepared to receive together with an asking price.
- 21.7 Where it has been decided that the disposal of the land and/or property will be by formal tender, **Standing Order 8** above relating to tenders shall be applied.



## **22. Asset Disposals (other than Land or Property)**

- 22.1 (a) A check should be made to determine whether there is a corporate policy or contract for the disposal of the stock (eg IT equipment should be disposed of through the IT Section). If a policy or contract is in place, this should be used.
- (b) Office equipment and furniture should first be advertised on the "Office Equipment" section of the Intranet, and communicated to Schools and other establishments of the County Council. Where this method of disposal is unsuccessful, the goods may be sold according to the paragraphs below.
- (c) Where the estimated value of the goods is no more than £2,500 the disposal can be authorised by the Head of Service. If the estimated value is more than £2,500 then the Strategic Director needs to approve the disposal.
- (d) Disposal must be either by public auction or by obtaining three quotes from suitable contractors.
- (e) The Officer responsible for the disposal must ensure that the Council is receiving value for money, and that the contractor used is reputable. Evidence of this must be retained by the responsible Officer.

EMERGENCY EXEMPTION FORM  
CONTRACT STANDING ORDER 4  
CABINET MEMBER CONFIRMATION OF AN  
EXEMPTION MADE BY HEAD OF SERVICE

Description of Contract :

Value of Contract: :

Name of Contractor :

Which Contract Standing  
Order was exempted :

Date of exemption (must be within  
the last 14 days) :

Give reasons – this must involve  
risk of injury or loss of life or risk  
to the security or structural  
viability of a property :

THIS FORM MUST BE SIGNED BY THE HEAD OF SERVICE WHO ALLOWED  
THE EXEMPTION AND A CABINET MEMBER

**SIGNATURE OF HEAD OF SERVICE**

**POSITION**

**DATE**

**SIGNATURE OF CABINET MEMBER**

**CABINET MEMBER FOR**

**DATE**

[A copy of this form duly completed must be sent to the Procurement Service](#)

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**EXEMPTION FORM  
CONTRACT STANDING ORDER 4  
CABINET MEMBER EXEMPTION  
IN EXCEPTIONAL CIRCUMSTANCES**

**Description of Contract :**

**Value of Contract: :**

**Name of Contractor :**

**Which Contract Standing  
Order is to be exempted :**

**Give reasons :**

THIS FORM MUST BE SIGNED BY THE OFFICER RESPONSIBLE FOR THE  
CONTRACT AND A CABINET MEMBER

**SIGNATURE OF OFFICER**

**POSITION**

**DATE**

**SIGNATURE OF CABINET MEMBER**

**CABINET MEMBER FOR**

**DATE**

[A copy of this form duly completed must be sent to the Procurement Service](#)

**SEALING FORM  
CONTRACT STANDING ORDER 17  
FOR CONTRACTS OVER £150,000  
OR WITH A BOND OR GUARANTEE**

**TO:** Room 120, Legal and Democratic Services, 3<sup>rd</sup> Floor, Old County Offices, Aylesbury

**FROM:** ..... (Name) ..... (Position)

**DATE:**

**Value of Contract** :

**Bond or Guarantee** : yes/no (please indicate)

**Cabinet Member Report dated** :

**or Head of Service signature** :

**or Delegated Officer signature** :

[For a contract to be sealed you must supply the date of the Cabinet Member Report authorising the contract OR the signature of an Officer with delegated power to enter into the contract]