

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

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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.

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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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(i) 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.

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(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	3,927,260	Deleted: 3,611,474
Supplies	156,442	Deleted: 144,459
Services	156,442	Deleted: 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, 3rd 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]