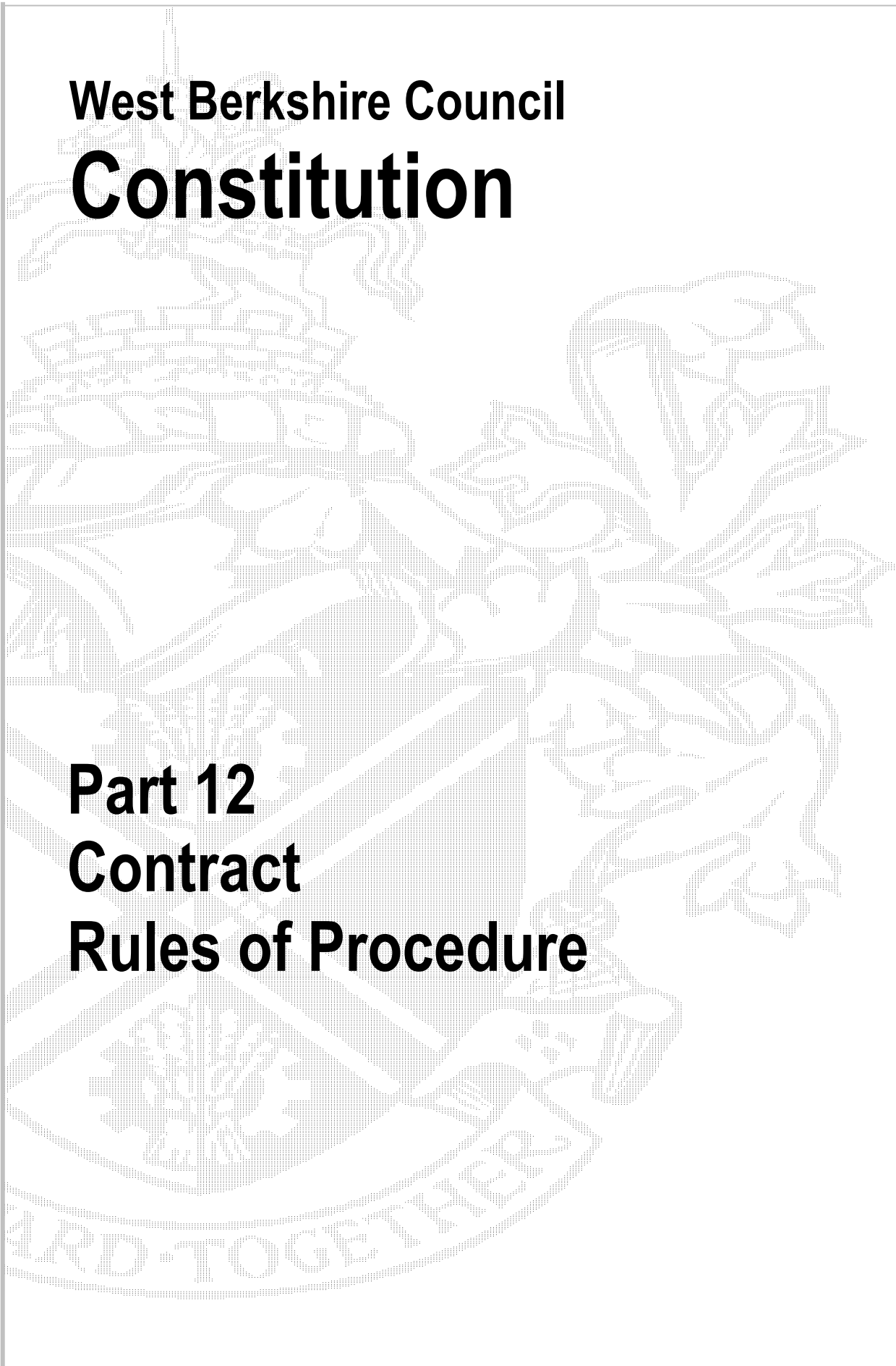


# West Berkshire Council Constitution

## Part 12 Contract Rules of Procedure



## Contents

To be reviewed and added once the document is complete.

## **12.1 Introduction**

### **12.1.1 Application of Rules of Procedure**

Subject to any specific provisions to the contrary, these Rules apply in every case where the Council enters into an agreement with another person for the supply of goods, materials or services to, or the execution of work for, the Council. These regulations apply equally to tenders and quotations.

### **12.1.2 Section 135 of the Local Government Act 1972**

These Contract Rules of Procedure are made under the provisions of Section 135 of the Local Government Act 1972 and govern the making of contracts for and on behalf of the Council. They include provision for competition, and regulate the manner in which tenders are invited.

### **12.1.3 Statutes**

The statutes and statutory instruments that currently affect these Regulations are as follows:

- Local Government Act 1972
- Local Government Act 1988
- Education Reform Act 1988
- Local Government and Housing Act 1989
- Environmental Protection Act 1990
- Local Government Act 1992
- Public Procurement Regulations:
  - Public Supply Contract Regulations 1995
  - Public Works Contract Regulations 1991
  - Public Services Contract Regulations 1993
- The Local Government Act 1999

### **12.1.4 Amendments**

Any amendments to the above or new legislation will be deemed to be included in these Rules without the need for a specific reference here.

### **12.1.5 Purpose of Rules**

These Contract Rules of Procedure apply to all Officers, including those from Amey, and Teachers involved in the letting of orders or contracts for works, services and supplies for the Council, whether funded from Revenue or Capital Sources. They provide a basis for true and fair competition by providing a transparent and auditable procedure, which, if followed, will give confidence that, a fully accountable and unimpeachable contract regime exists within the Council.

These Contract Rules of Procedure have been designed to reduce the volume of work and the need to report to the Executive on contract matters. However, this only works if Members and the District Auditor can be confident that firm procedures and controls exist for the invitation, evaluation, acceptance, managing and monitoring of contracts throughout the Council.

### **12.1.6 Protection of the Council's Legal Position**

These Contract Rules of Procedure protect the legal position of the Council in respect of compliance with EU and UK law and in its contractual dealings with external suppliers and contractors. They protect the interests of Members, Officers and the Citizens of West Berkshire. The Head of Legal and Electoral Services shall have ultimate responsibility for ruling on and interpreting these Contract Rules of Procedure.

### **12.1.7 Seeking Advice**

Officers who may be letting a contract must seek appropriate advice at the earliest possible opportunity. The Head of Resources and Commissioning or nominated Officer shall make arrangements for the provision of this advice. The Head of Legal and Electoral Services, Head of Resources and Commissioning or nominated Officer, the Audit Manager and the Head of Procurement can also advise on contract matters.

### **12.1.8 The Council**

In these Contract Rules of Procedure the expression "the Council" shall be deemed to include reference to the Executive, Select Committees, Regulatory Committees or Area Forums or any person or persons acting in accordance with delegated authority on behalf of the Council. The expression "the appropriate Committee" shall mean the Executive, Select Committees, Regulatory Committees or Area Forums responsible for the contract concerned.

### **12.1.9 Sustainable Sources**

Goods or services which are known to be, or where there is strong evidence to believe they could be, harmful to the environment and where there are other adequate options, will not be used. Wherever practical only materials from sustainable sources will be used.

### **12.1.10 Monitoring Officer**

The Council has designated that the Corporate Director for Strategy and Commissioning be the Monitoring Officer.

### **12.1.11 Large Contracts**

Where the Council is considering embarking upon a contract of substantial size, and is to do so by way of negotiation (whether by way of competitive tender or subsequent to tendering), it shall be the duty of the responsible Head of Service to ensure that such negotiations are authorised by law and by these Contract Rules of Procedure and are from the outset conducted by a team of Officers possessing the professional skills appropriate to the proposed transaction.

### **12.1.12 Preparation of Contracts**

The Head of Service letting the Contract shall ensure that the appropriate technical specification is prepared, this should clearly set out the works, services and supplies which are required by the Council and the manner in which they are to be provided.

The Head of Service must obtain and make full use of all the necessary professional and technical resources to ensure accurate and comprehensive documents are prepared.

### **12.1.13 Provision of Appropriate Expenditure**

A tender must not be invited unless appropriate provision for the expenditure has been included in the Council's approved capital or revenue budget for the year in which the expenditure is to be

incurred (or in budgets approved in draft for the next financial year by the Executive where the expenditure is to be incurred in that year) or unless the alternative financial provision is made by the Council under Financial Regulations. The budget must cover all preliminary and ancillary costs (which should include annual maintenance costs) and should be in the Budget and Policy Framework approved by Council and should be contained in the appropriate Forward Plan.

#### **12.1.14 Failure to Comply with Rules**

Failure to comply with these Contract Rules of Procedure will be viewed by the Council as a breach of the Officers Code of Conduct contained in Part 14 (Codes and Protocols) of this Constitution and may be considered a disciplinary matter.

#### **12.1.15 Transfer of Undertakings (Protection of Employment) Regulations (TUPE)**

All Heads of Service should consult with the Head of Legal and Electoral Services, the Service Head Human Resources and the Head of Resources and Commissioning or nominated Officer before any contract is entered into which affects the employment of the Council's staff or the potential transfer of staff to the Council. Statutory periods of consultation (which must be complied with) apply to **all** contracts affected by TUPE.

#### **12.1.16 Claim Arising from a Contract**

Any claim arising from a contract, that is not clearly within the terms of the contract, must be referred to the Head of Legal and Electoral Services and Head of Procurement for consideration of the Council's legal liability and to the Head of Resources and Commissioning or nominated Officer for financial consideration before any settlement is reached. It is also a reportable event within the scope of the Financial Rules of Procedure and must be reported accordingly. "Claim" here does not mean a variation to the contract that is within budget.

#### **12.1.17 Potential for Loss**

Financial values are irrelevant when considering potential loss to the Council. Heads of Service need to look at potential for loss. The maximum foreseeable loss must be established by a Risk Assessment and an Indemnity must be sought for that (subject to a £5 million indemnity being the minimum acceptable).

#### **12.1.18 Project Appraisal**

A full project appraisal is required for contracts above £100,000 in value Form F018 explains how to complete a full project appraisal and what is expected and is available from the Contracts & Procurement Unit).

## **12.2 Compliance with the Constitution**

### **12.2.1 Compliance with Rules**

These rules consolidate all matters relating to contracts. Every order or contract made on or on behalf of the Council by an Officer of the Council, relating to either income or expenditure, must comply with these Contract Rules of Procedure.

### **12.2.2 Legislation**

The Rules of Procedure shall be subject to Directives 92/50 EEC, 93/36 EEC and 93/37 EEC and any other procedures, which may apply by reason of the United Kingdom's membership of the European Economic Community. The extensive provisions of EU and UK legislation, especially the

EU Public Procurement Directives, the Local Government Planning and Land Act 1980, the Local Government Act 1988 and associated Regulations, the Local Government Act 1999 and other relevant legislation e.g. Transfer of Undertakings and Protection of Employment Regulations (TUPE) apply to many of the contracts placed by the Council and must be complied with. EU and UK legislation will always override the provisions of these rules.

### **12.2.3 Formal Exemption**

The Council can formally exempt itself from any of these rules (Rule 12.8 (Exceptions to Contract Rules of Procedure refers). However, it may not exempt itself from statutory requirements (for example the Public Procurement Regulations referred to in [Rule 12.1.3](#) (Statutes)).

### **12.2.4 Non-Disaggregation of Contracts**

Contracts must not be dis-aggregated in order to avoid these Contract Rules of Procedure or EU Directives. The contract value shall be the total cost of the supply, service or work to be procured over the contract term. If a contract has never been in place, then the aggregate value shall be calculated as the total estimated spend over a period of three years.

### **12.2.5 Time-scales**

Adequate time must be allowed in the plans for letting of contracts to allow for statutory time periods and to fully prepare the tender and contract documentation, e.g. under EU service regulations advertising is a minimum of **37** days and tender preparation period for contractors is a minimum of **40** days. Please also refer to 12.3.5

### **12.2.6 Maintenance of Records**

Adequate records must be maintained by all staff, consultants and agents to demonstrate that the provisions of these Contract Rules of Procedure and legislation have been complied with.

## **12.3 European Law**

### **12.3.1 Seeking Advice**

Advice must always be taken from the Contracts & Procurement Unit in respect of:

- applicability of the regulations;
- producing and advertising EU notices for publication in OJEU (“the European Journal”);
- preparing documents;
- criteria for selection.

Advice from the Head of Legal and Electoral Services or Head of Resources and Commissioning may also be sought with regard to any of the above for which advice is not readily available from the Contracts & Procurement Unit.

### **12.3.2 Public Procurement Regulations**

The Public Procurement Regulations are a trio of legislative measures covering procurement in the public sector with the aim of ensuring free and fair competition amongst the European Service Providers. These legislative measures are: -

- The [Public Supply Contract Regulations](#) (December 1995)

These apply to the procurement of goods by purchase, lease, hire, or rental.

- The Public Works Contract Regulations (December 1991)  
These apply to contracts for the execution of works relating to building or civil engineering activities.
- The Public Services Contract Regulations (July 1993)  
These cover all contracts, which are not covered by the Public Supply, or Public Works Contracts or which are pure Service Contracts. Services under this regulation are classed as either Part A or Part B. The regulations apply in their entirety to Part A services, and only in part to Part B services. If a contract is for both supplies and for services it will be a Supply Contract if the value of supplies is greater than that for services, and a Service Contract if the consideration for the services is greater than the value of the supplies.

Each of the above 3 categories has a different threshold value above which the regulations apply. This threshold is re-valued annually on 31st December and the current year value can be obtained from the Contracts and Procurement Unit.

**[Note: In relation to changes in European Thresholds on Procurement, the Head of Resources and Commissioning will notify Members of changes by means of an article in the Members Bulletin. Officers will receive communications via a briefing a note, an item in Reporter and the intranet]**

### 12.3.3 Public Procurement Regulations - Execution

If the Public Procurement Regulations (set out in Rule 12.3.2 above) apply because the monetary contract exceeds the above-mentioned limits the Authority must “call for competition” in the European Journal. No advert may be placed in any UK trade journal or newspaper prior to the despatch of the advert to be placed in the European Journal (which will be placed electronically by the Contracts & Procurement Unit. All public notices and advertisements issued by the Council in respect of procurement shall be approved by the Contracts & Procurement Unit who will maintain a register of all advertisements placed.

### 12.3.4 Placing of Advertisement

Furthermore the advertisement to be placed in any UK trade magazine or journal may not contain more detail than the advertisement in the European Journal. The advert to be placed in the European Journal has to contain certain specified information, which is set out as a schedule to the Public Procurement Regulations.

All adverts will be placed electronically by the Contracts & Procurement Unit.

#### 12.3.4.1 Points to Note

- (a) Estimates of contract value are net of VAT.
- (b) Aggregation rules apply so that a series of contracts for works of a similar character or services of the same type should be aggregated across the whole Council. If the value of a contract is unknown, the regulations have specific criteria for calculating the value which ranges between aggregating expenditure of between 12 – 48 months depending upon the applicable regulation (please contact Head of Resources and Commissioning or nominated Officer for advice).

- (c) In all circumstances the Restricted Procedure shall be used unless an exception applies, in which case, advice must be sought from the Head of Resources and Commissioning or nominated Officer and/or the Head of Legal and Electoral Services. The Restricted Procedure is effectively “selective” tendering as prospective tenderers who express an interest in tendering are “screened” before being invited to tender. The restricted procedure requires not less than five and not more than twenty tenderers be invited to tender (subject to exceptions where the market is too small because of the specialised nature of the work).
- (d) The regulations cover the financial, technical, and economic qualifications, which should be taken into account in selecting those tenderers who will be invited to tender. Officers must be very careful not to impose conditions, which could be considered anti-competitive, and that a European tenderer could not satisfy, for example, a condition that the tenderer must have a local office or prior inclusion on the Approved Supplier Database.
- (e) The award criteria will be “the most economically advantageous tender”, and criteria must be set and sent out with the contract documentation to state the award criteria that will be used.
- (f) It is essential that Officers allow sufficient time for replies and vetting of tenders and evaluation of tenders. The procurement regulations generally provide two minimum time periods:
  - (i) the time between the advert in the European Journal and the return of expressions of interest (37 days); and
  - (ii) the time between the sending out of the invitation to tender and its return (40 days).
- (g) When expressions of interest are returned the Officers involved in the tendering exercise will have to leave sufficient time to analyse replies with regard to financial requirements and other technical and economic qualifications for selection. It is also important to ensure that the Officers who need to be involved in analysing the tenders are made aware of the timetable for the letting of the contract as early in the process as possible.
- (h) Where a contract that has been advertised is then let, the Head of Service concerned must ensure that a “Contract Award Notice” is sent to the European Journal within 48 days of the date of award of the contract. The Contracts & Procurement Unit will send them electronically on behalf of services where they are requested to do so. A copy of the advertisement must be forwarded to the Head of Resources and Commissioning or nominated Officer.
- (i) Officers are reminded that in tender documentation, wherever appropriate a contract shall require a minimum standard compliance with British Standard Specification or British Standard Code of Practice issued by the British Standards Institution or Public Authority Standard. The European equivalent standard must also be quoted and if there is no equivalent European standard then the words must be added “or other equivalent European standard will be accepted” or International standard recognised in another Member State. All contracts, so far as is practicable, shall require that goods and materials used in their execution shall have been produced in the UK, the British Commonwealth or the European Community or any other Country having reciprocal trading agreements with the European Community.

### 12.3.5 Public Procurement Regulations - General Provisions

At the commencement of each financial year, Heads of Service are required to examine projected major expenditure for all goods and services in the coming year and in respect of any project exceeding the EU thresholds as per Rules 12.3.3 to 12.3.5. They must inform the Head of



Resources and Commissioning or nominated Officer by the end of March. The Head of Resources and Commissioning or nominated Officer will then ensure that through the Contracts & Procurement Unit a "Periodic Indicative Notice (PIN)" is published in the European Journal for all relevant categories, which exceed a combined expenditure of £485,431 for Supplies/Services and £3,384,411 for Works, this applies to the Authority as a whole. All projected major expenditure should be contained in the Council's Forward Plan. Publishing a PIN reduces the time-scale for return of tenders from 40 to 26 days, providing that the PIN has been issued for a min 52 days (max 12 months) prior to Contract Notice being published.

## **12.4 Prevention of Corruption**

### **12.4.1 General**

The public is entitled to demand of Local Government Officers conduct of the highest standard. Public confidence in their integrity would be undermined were the least suspicion, however ill founded, to arise that they could in any way be influenced by improper motives.

### **12.4.2 Member or Officer Interests**

Where a Member or Officer of the Council has an interest, financial or otherwise in a contract or proposed contract, and is also involved in the process of letting or managing of that contract, this interest must be registered with the Monitoring Officer. In the case of a Member the interest must also be declared at the meeting of any committee or sub - committee at which the Member is present and at which the contract or proposed contract is discussed. If it is a financial interest it is prejudicial and the Member should leave the meeting.

In the case of ownership of shares Members should seek advice from the Head of Legal and Electoral Services as to the current level of share ownership accepted by the Standards Board as being de minimus for the purposes of declarations of interest.

### **12.4.3 Statutory Provisions**

The following statutory provisions govern contracts and other matters:

- The obligations of elected Members to disclose interests in contracts and other matters and to refrain from speaking or voting thereon which are prescribed by Sections 94 to 98 and 105 of the Local Government Act 1972 and Section 19 of the Local Government and Housing Act 1989.
- The duty of Officers to disclose interests in contracts as required by Section 117 of the Local Government Act 1972.
- Section 117 also requires that "an Officer shall not, under cover of her/his office or employment, accept any fee or reward whatsoever other than her/his proper remuneration"
- An Officer who contravenes the provisions of Section 117 shall be liable on summary conviction to a fine and additionally will be the subject of disciplinary proceedings by the Council.
- The National Code of Local Government Conduct and the codes of conduct contained in Part 14 (Codes and Protocols) of this Constitution.

## **12.5 Approved Supplier Database and Select Tender Lists**

### 12.5.1 Introduction – Refers Section 3a

The 'Approved Supplier Database is a database of suppliers who in response to a tender notice or advertisement have expressed an interest in supplying to the Authority. To be considered for 'Approved' status, a supplier must complete an application form as detailed in Rule 12.5.4 below. This is evaluated, references are obtained and a financial vetting process undertaken. If the evaluation meets or exceeds the Council minimum criteria, then "Approved" status is awarded.

The 'Invitation to Tender List' is the shortlist of Approved Contractors/Suppliers who may be invited to compete for a particular contract or provision.

Select Tender Lists are used for contracts let under the EC Procurement Directives. These will be compiled from expressions of interest resulting from a contract notice, or

by identifying suppliers from the Approved Supplier Database, depending on the type and value of contract.

Select Tender Lists are used when a Service lets a multitude of contracts and are valid for a specified period, which fall below the EC Thresholds, and the cost of advertising each one in accordance with Rule 12.6.6 would not provide best value. Select Tender Lists must always be compiled from expressions of interests resulting from a published contract notice.

### 12.5.2 Maintenance

The Approved Supplier Database shall be compiled and maintained by the Contracts & Procurement Unit, on behalf of the Head of Resources and Commissioning or nominated Officer, under delegated powers via the Council's Scheme of Delegation to Officers.

Select Tender Lists will be compiled by the Contracts & Procurement Unit where expressions of interest have been received subject to a contract notice, or have been taken directly from the Approved Supplier Database.

Managers in the relevant service areas will be consulted on the technical criteria and qualification required for inclusion on the Select Tender List.

The short list of tenderers shall be approved by the Head of Service concerned following consultation with the Contracts & Procurement Unit.

### 12.5.3 Security

The Approved Supplier Database shall be maintained on a secure database by the Contracts & Procurement Unit on behalf of the Head of Resources and Commissioning or nominated Officer.

The Contracts & Procurement Unit shall retain all hard copy submissions from suppliers and evaluation details for a period of not less than three years. **Refers Section 3b**

Select Tender List details will be issued to the relevant Service.

The Approved Supplier Database and Select Tender Lists are confidential to the Council and they must not be released for use outside of the Council without the prior approval of the Head of Resources and Commissioning or nominated Officer.

### 12.5.4 Use of the Approved Supplier Database – Refers to Section 4a

Prior to a Tender being issued for a Contract of anticipated value of £50,000 or above, it is the responsibility of the appropriate Head of Service, or nominated Officer, to ensure that suppliers have achieved Approved Supplier Status, by the successful completion of the pre-qualification questionnaire.

### **12.5.5 Application Form for Inclusion on the Approved Supplier Database and Select List**

The application form (F008) for inclusion on the Approved Supplier Database and Select List is produced and updated by the Contracts & Procurement Unit on behalf of the Head of Resources and Commissioning. The application shall seek information on Contractors economic, environmental and financial standing, technical ability and experience.

#### Additional Technical Information

If specific technical information is required prior to the tender stage, an additional questionnaire will be produced by the relevant Service and inserted as an appendix to the Application.

The Service will be responsible for the evaluation of the additional information.

The questions and evaluation criteria will be determined by the relevant Head of Service in consultation with the Contracts & Procurement Unit.

### **12.5.6 Evaluation of the Application for inclusion on the Approved Supplier Database or Select List**

The evaluation of the Application shall be undertaken by the Contracts & Procurement Unit, on behalf of the Head of Resources and Commissioning or nominated Officer.

The evaluation shall be in accordance with the criteria agreed by the Head of Resources and Commissioning.

All evaluations will be consistent and all applicants treated fairly.

### **12.5.7 References**

The Contracts & Procurement Unit, on behalf of the Head of Resources and Commissioning or nominated Officer, will obtain references and undertake personal enquiries by appropriate professional or technical Officers as part of the evaluation process in order that a company's general suitability can be assessed and detailed on the Approved Supplier Database and/or a specific Select List.

At least two technical references will be required from every potential contractor. Technical competence is considered the key indicator of a contractor's suitability with any failure in this area warranting immediate exclusion from the Approved Supplier Database or a Select Tender List.

The Contracts & Procurement Unit will retain all original references and evaluations on their file.

### **12.5.8 Financial Appraisals**

The Contracts & Procurement Unit, on behalf of the Head of Resources and Commissioning or nominated Officer shall undertake financial vetting of all contractors prior to a contractor's inclusion

on the Approved Supplier Database or a Select List. The form of financial vetting shall be determined by the Head of Resources and Commissioning or nominated Officer who will decide the most appropriate option/s from: -

- the submission by a potential contractor of the last three years audited accounts which must include the balance sheet and profit and loss statement, to be reviewed by Financial Services; or
- a request to an organisation specialising in financial vetting to supply a credit rating/contract banding for potential contractors; or
- the submission of a banker's reference.

The Contracts & Procurement Unit, on behalf of the Head of Resources and Commissioning or nominated Officer, may at any time during the "life" of a Select List undertake financial appraisals to confirm a contractor's continuing financial suitability to be included on a list. Following each appraisal the Contracts & Procurement Unit may make a recommendation to the Council's Head of Resources and Commissioning or nominated Officer in relation to a given contractor's suitability to remain on the list. Alternatively, the Head of Resources and Commissioning or nominated Officer may revise the financial limits of work for which the Contractor shall be considered.

#### **12.5.9 Select List Details**

Select Lists shall contain details of all Approved Suppliers who have expressed an interest in a particular Select List, and include the following: -

- contractor name, address and telephone numbers;
- scores awarded for evaluation of the Application and References;
- maximum level of annual spend which may be placed with the contractor;
- type (category) of work/service the contractor can perform;
- factors which must be taken into consideration prior to awarding a contract, e.g. requirement for stricter financial guarantees or increased levels of insurance;

#### **12.5.10 Amendment and Review**

Each record within the Approved Supplier Database will be amended as required and reviewed at regular intervals not exceeding three years.

Select Lists must be reviewed at regular intervals, not exceeding three years and also when suppliers submit a proposal for specific requirements of goods and/or services.

The Contracts & Procurement Unit, on behalf of the Head of Resources and Commissioning will undertake the amendments and reviews to the Approved Supplier Database.

The Head of Service concerned will be responsible for advising the Contracts & Procurement Unit of the need to re-advertise for expressions of interest for Select Lists.

#### **12.5.11 Monitoring**

The Contracts & Procurement Unit on behalf of the Head of Resources and Commissioning or nominated Officer will carry out monitoring of the use of Select Lists, the monitoring will cover the frequency of selection of contractors/consultants and the types of contracts.

### **12.5.12 Use of Consortia and other Collaborative Options**

When entering into a framework contract managed by a Consortium (or other collaborative arrangement) of which the Council is a member or affiliate, the supplier vetting is undertaken by the Authority taking the lead in accordance with their own Standing Orders.

### **12.5.13 Collaborative Procurement Options**

The Contracts & Procurement Unit on behalf of the Head of Resources and Commissioning or nominated Officer also manage the Council's affiliation To all Procurement consortia and forums.

The Contracts & Procurement Unit will publish details of the goods and services and their prices that are available through the consortia and forums and other collaborative Procurement options, e.g. OGC, TVPF, SECE and CBC etc.

## **12.6 Tendering - General Principles**

### **12.6.1 Preliminaries to the Execution of a Contract**

A tender must not be invited unless appropriate provision for the expenditure has been included in the Council's approved capital or revenue budget for the year in which the expenditure is to be incurred (or in budgets approved in draft for the next financial year by the appropriate committee where the expenditure is to be incurred in that year) or unless the alternative financial provision is made by the Council under the Financial Rules of Procedure (Part 11). The budget must cover all preliminary and ancillary costs (which should include annual maintenance costs) and should be in the Budget and Policy Framework approved by the Council and should be contained in the appropriate Forward Plan.

### **12.6.2 Contract Thresholds**

There are four thresholds to be followed when letting an order or a contract depending on the estimated contract value. Detailed procedure notes are available from Head of Resources and Commissioning or nominated Officer. Contracts must not be dis-aggregated in order to avoid thresholds. Contract thresholds shall be based on the **TOTAL** value of the contract. For example a three-year contract of £50,000 per year is valued at £150,000. In circumstances where the aggregation of annual values is not required to comply with EU or UK legislation the Head of Resources and Commissioning or nominated Officer can approve that the annual value shall apply for threshold classification. The thresholds do not apply to Term Contracts which allows the letting of small contracts under the umbrella of the main contract.

It is the responsibility of the Head of Service to ensure that the Council is receiving Best Value in accordance with the duty imposed under Section 3 of the Local Government Act 1999.

### **12.6.3 Threshold 1 - Contract Values**

Less than £5,000 for single, non-repetitive orders ONLY – telephone quotes acceptable.

**12.6.4** Head of Service or their delegated Officers may place non-repetitive orders under the value of £5,000 for works, goods and services, without inviting written quotations. The Head of Service or their delegated Officers must maintain written records of telephone quotations.

### **12.6.5 Threshold 2 - Contract Values**

Between £5,000 and £50,000 – written quotations required.

Head of Service or their delegated Officers must obtain a minimum of three written quotations.

### **12.6.6 Threshold 3 - Contract Values**

Between £50,000 and EU threshold

These must be let as a competitive tender with Member involvement and advertised or taken from the Approved Supplier Database or appropriate Select List. A minimum of five tenders to be invited

The Head of Service or their delegated Officers are responsible for ensuring that the Tender Procedure is followed. Approval is required for Revenue and Capital projects in accordance with [Rule 11.8](#) contained in the Financial Rules of Procedure.

### **12.6.7 Threshold 4 - Contract Values**

Contracts over E.U. Threshold

These must be let as a competitive tender with Member involvement and in accordance with E.U. Regulations therefore please note statutory timetable and the need to consult with Contracts & Procurement Unit who will ensure that tenders are invited in full compliance with Tender Procedures and EU Public Procurement Law and UK legislation.

The Head of Service or their delegated Officers must consult with the Head of Procurement or nominated Officer.

### **12.6.8 Invitation to Tender**

For contracts of £50,000 and above, tenderers must have been through the pre-qualification application process and obtained Approved status on the Approved Supplier Database.

## **12.7 Tendering Procedures**

### **12.7.1 Introduction**

The rules set out here apply to all contracts with a value of more than £50,000 (Threshold 3 and above).

### **12.7.2 Instructions to Tenderers**

The Head of Service must ensure that the tendering instructions specified in this regulation are issued to every person invited to tender, or who requests tender documents.

Every tender sum must be calculated by reference to the specification and any departure from the tender document or tender which is submitted subject to any unacceptable reservation, qualification or condition by the person submitting them may be treated as grounds for disregarding the tender.

The date, time and place for the receipt of tenders must be specified. State the day of the week as well as the date. This is a good check to ensure you are requesting the return of the tender on a day the Council offices are open.

Tenders must be submitted on a form of tender prepared and supplied by the Council.

Tenders received after the date and time specified for receipt will be disregarded.

Any other departure from these regulations may lead to the tender being disregarded.

The Council does not bind itself to accept the lowest or any tender, or to accept any tender in full.

Tenders must be submitted in a plain sealed envelope which must bear a bearing details of the subject of the tender, and the date and time and place for its receipt, but no other name or mark which does or may identify the sender. It is essential that the correct Head of Service is named on the envelope so that tenders are forwarded to the correct destination on receipt.

### 12.7.3 Receipt of Tenders

All tenders for contracts must be addressed to the relevant Head of Service. It is the responsibility of the Head of Service to ensure all tenders for contracts are retained in a secure place.

All tenders received shall be stamped upon receipt with the date and time of receipt.

Tenders that are received late shall be marked "late" and shall be retained securely unopened by the relevant Head of Service after the valid tenders have been opened for a period of at least six weeks, upon which, they shall be destroyed.

Tender envelopes bearing marks identifying the sender shall also be retained securely unopened by the relevant Head of Service after the valid tenders have been opened for a period of at least six weeks, after which, they shall be destroyed.

### 12.7.4 Opening of Tenders – Refers to Sections 2b, 5 & 8

**Opening of tenders under £100,000** must be recorded on the standard form (Form FO21) it is the responsibility of the Head of Service to ensure that a copy of the completed form is sent to the Contracts & Procurement Unit. Tenders must be opened by the relevant Head of Service or their nominated representative and one other Officer.

**Opening of tenders over £100,000** must be recorded on the standard form (Form F021) it is the responsibility of the Head of Service to ensure that a copy of the completed form is sent to the Contracts & Procurement Unit. The Head of Service shall arrange the opening of the tender. The Head of Service shall complete the form. The opening is to be in presence of the Head of Service or a nominated representative, a representative of the Contracts & Procurement Unit and one other person. The Head of Resources and Commissioning or nominated Officer must always be invited to such tender openings.

**Opening of tenders over £500,000** must be recorded the standard form (Form F021) is it the responsibility of the Head of Services to ensure that a copy of the completed form is sent to the Head of the Contracts & Procurement Unit. The tender opening should be arranged by the Head of Service. The opening is to be in the presence of the Head of Service or a nominated representative, an elected Member, a representative of the Contracts & Procurement Unit and one other person from the service area. The Head of Service shall complete the tender opening form.

The standard form must be certified as correct by the elected Member present and witnessed by all other Officers present.

### 12.7.5 Tender Opening - Confidentiality and Security

The information obtained at tender opening is confidential to those involved in the opening process, and those directly involved in the tender evaluation. This confidentiality must be maintained. If any questions arise as to a breach of confidentiality, the Monitoring Officer shall be consulted over the appropriate action. To assist with tender confidentiality opened tenders shall be kept securely in a locked cabinet/office until the contract has been awarded.

### **12.7.6 Tender Evaluation – Refers to Section 9**

The Contract Notice will state that tender award will be on the basis of either:

- a) Lowest Price or
- b) The most economically advantageous tender based on criteria stated in the tender documents.

In most cases the latter will have been used and the tender documentation will clearly state the award criteria to be adopted.

### **12.7.7 Alterations to Tenders**

Alterations to a tender sum will not be permitted except as provided below.

### **12.7.8 Tenders Submitted for the Execution of Work**

In the case of tenders submitted for the execution of work and based on priced bills of quantities or schedules of approximate or provisional quantities or schedules of work which are submitted with the tender and form part of the tender documents the effect of errors in totalling, extensions or calculations or other errors or omissions discovered in the tenders will be ascertained and the details notified in writing to the tenderer who will be given the opportunity of:

- (a) confirming the offer at the original amount; or
- (b) withdrawing the offer; or
- (c) amending the offer to correct genuine errors or omissions; or
- (d) in the case of agency contracts amending his/her tender in a manner directed by the employing authority.

The tenderer will be required to confirm in writing either agreement to offer standing at the original amount or withdrawal of offer or agreement to the adjusted tender amount. This must be given in writing before the decision to award the contract is made.

Contractors failing to bid should be asked, when requested to return the tender documentation, why they decided not to bid. Their response should be recorded on the file and a copy forwarded to the Contracts & Procurement Unit for future reference.

### **12.7.9 Acceptance of Tenders**

If the tendered price cannot be met from the allocated budget or the scheme has materially altered then the Corporate Board must consider and approve a written report prior to acceptance of tender and that report should confirm that the tender offers Best Value to the Council.

The Head of Service concerned shall make suitable arrangements for recording any action taken by him/her to ensure there is an adequate audit trail explaining the reasons for decisions.

The appropriate Head of Service will be responsible for ensuring that:-

- a) Tenders are reviewed in a timely manner against the set criteria for accuracy & completeness;
- b) The examination is carried out by an employee independent of the tendering procedures;



- c) There is evidence of checks undertaken recorded on the tender documents.

## 12.8 Exceptions to Contract Rules of Procedure

### 12.8.1 General

The Head of Resources and Commissioning or nominated Officer shall have authority to approve partial or full exceptions to these Rules. Contact should be made with the Head of Procurement who will liaise with the Head of Resources and Commissioning. The exceptions are listed in Rule 12.8.3 below. All exceptions are subject to the provisions in Rule 12.8.2 below.

### 12.8.2 Exceptions

**For contracts up to £50,000** the Head of Resources and Commissioning or nominated Officer must approve the exception.

**For contracts between £50,000 and £250,000** the Head of Resources and Commissioning or nominated Officer will consult with the Head of Legal and Electoral Services and the appropriate Corporate Director.

**For contracts between £250,000 and £500,000** the exception will be dealt with by way of recommendation to the Corporate Board after consultation with the Head of Resources and Commissioning or nominated Officer and with the Head of Legal and Electoral Services.

**For contracts over £500,000** the Head of Resources and Commissioning or nominated Officer in consultation with the Head of Legal and Electoral Services will make a recommendation to the Executive.

### 12.8.3 Exception Criteria

- (a) An unforeseen emergency arises and the work, service or supply is required urgently and would not therefore permit an invitation to tender or quote.
- (b) For technical reasons services, goods or proprietary items to be supplied can only be obtained from a limited number of sources in that a competitive tendering exercise cannot be undertaken.
- (c) Acquiring goods or services with different technical qualities would result in incompatibility or disproportionate technical difficulties.
- (d) The proposed contract is an extension of an existing contract where there is not an extension clause in the contract but subject to compliance with EU or UK legislation.
- (e) Government circular or legislation is in force, which differs from these Contract Rules of Procedure.
- (f) Negotiated tender with existing contractor where it is desirable in the best interests of the Council that a tender shall be invited for the execution of works or the supply of goods and materials from a contractor already engaged by the Council for a particular reason(s).
- (g) Contracts with professional persons in which the personal skill of those persons is of primary importance, and there would be no genuine competition.
- (h) Contracts for the supply of goods or materials and services if:

- (i) the goods or materials are sold at a fixed price and no reasonably satisfactory alternative is available;
  - (ii) the prices of the goods or materials are wholly controlled by trade organisations or government order, and no reasonably satisfactory alternative is available;
  - (iii) they are obtainable from only a limited number of Contractors, but in such case, a reasonable number of those Contractors shall be invited to submit tenders;
  - (iv) they are procured through a Consortium of which the Council is a member of, affiliate of or the OGC;
  - (v) for other reasons there would be no genuine competition.
- (i) Where the work to be executed or the goods or materials to be supplied consists of repairs to, or the supply of parts for, existing proprietary machinery or plant.

#### **12.8.4 Record Retention – Refers to Section 1**

12.8.4.1 Unsuccessful Tenders will be held securely by the issuing Service Unit for a period of not less than two years. After the stated period the tenders may be destroyed.

12.8.4.2 Expired Contracts may be archived upon expiry and may be destroyed after 6 years or 12 years if the Contract is under seal.

#### **12.8.5 Contracts Register - Refers to Section 6**

12.8.5.1 The Responsible Head of Service must formally notify the Head of Procurement of the award of all contracts above £30,000 in total value.

12.8.5.2 The Head of Procurement shall use this data to maintain a Register of Contracts on Behalf of the Council.

#### **12.8.6 Social Services - Residential/Nursing Care**

The Corporate Director (Community Care and Housing) shall have authority to approve exceptions to these Contract Rules of Procedure where spot purchasing of residential/nursing care is restricted to providers who are included on the List of Residential and Nursing Care Accredited Providers, the conditions of which include prices specified by the Executive. Orders can be placed with a single provider.

(The Head of Procurement needs a copy of the decision for the exceptions file.)

#### **12.8.7 Social Services - Social Care Services**

The Corporate Director (Community Care and Housing) shall have authority to approve exceptions to these Contract Rules of Procedure where spot purchases of domiciliary care, is restricted to providers who are included on the Accredited List of Domiciliary Care Providers and the purchase is for an individual's care package which is under £250 per week. Orders can be placed with a single provider.

(The Head of Procurement needs a copy of the decision for the exceptions file.)

Value for money aspects can be demonstrated in inviting single tenders from the voluntary sector, especially in the case of an organisation providing a specialist service.

The existing voluntary sector provider has entered into a long term lease or similar arrangement or has made substantial capital investment in a building for the express purpose of providing a service under contract to the Council.

### **12.8.8 Social Services - Children and Clients with Special Needs**

The Corporate Director (Children and Young People) shall have authority to approve exceptions to these Contract Rules of Procedure for individual spot purchases for residential care for children or clients with special needs, where urgency and service need are integral to the provision

### **12.8.9 Educational Establishments**

Where a Governing Body of a school intends to enter into a contract for works, supply of goods or service over the value of £100,000, the Head Teacher may follow the school's local Procurement Procedure but must seek advice from the Head of Resources and Commissioning or nominated Officer regarding the restrictions imposed by EU and UK legislation.

Where a Governing Body of a school intends to enter into a contract for works, supply of goods or services up to a value of £100,000, the Head Teacher may follow the school's local Procurement Procedure, where one exists.

#### **12.8.9.1 Peacetime Emergency Plan**

Whenever appropriate the Chief Executive is authorised to operate the Major Incident Plan in an emergency and to incur any necessary expenditure. At times when the Major Incident Plan is brought into operation these Contract Rules of Procedure are suspended. A Corporate Director will act in the place of the Chief Executive if a Chief Executive is not in post or he/she is unwell or unobtainable.

## **12.9 Engagement of Consultants**

### **12.9.1 General**

A worker will always be employed on a contract of employment unless the circumstances of the engagement fully support an alternative arrangement. The Payroll Manager **must** be consulted because of the potential tax implications of these arrangements.

No consultants shall be engaged unless the costs can be met from the allocated budget for the scheme / project or contract. The costs do not need to be allocated specifically for employing consultants in the budget, any part of the budget may be used to employ consultants provided the overall budget is not exceeded.

### **12.9.2 Counsel**

Within budget, the Head of Legal and Electoral Services shall have discretion to select Counsel, obtain Counsel's opinion and brief Counsel whenever it is considered expedient in the Council's interest to do so.

### **12.9.3 Evaluation Against Predetermined Criteria**

Tender bids will be evaluated against predetermined criteria relevant to the particular circumstances e.g.:

- Relevant / recent experience;
- Adequacy of resource / materials available;
- Quality of work;
- Reliability / timeliness;
- Comparable cost.

### **12.9.4 Appraisals of Work**

Tenderers may be asked to submit appraisals of their work from other clients to assist in the evaluation.

### **12.9.5 Letter of Engagement / Contract**

The letter of engagement / contract for services sent to the approved Consultant must contain all of the following clauses (unless exceptions are agreed by the Corporate Director). The Head of Resources and Commissioning or nominated Officer will provide advice on this issue.

### **12.9.6 Clauses for Letter of Engagement / Contract**

- The Consultant must agree that all documents and materials produced as a result of their engagement under the contract are the property of the Council and that copyright in all documents and materials so produced vests with the Council.
- The Consultant will be responsible for the provision of all major items of equipment and materials necessary to complete the task.
- The Consultant will be free to engage others considered necessary to complete the task at his / her own expense – but such sub consultants must be approved by the Council and must have suitable professional indemnity insurance.
- The Consultant will be responsible for the correction of faulty or incomplete work at his / her own expense.
- The Consultant will be responsible for determining how the work will be done.
- The agreed fee will be paid upon satisfactory completion of the specified work (or in instalments upon complete stages as agreed).
- The Consultant will have no right to terminate the engagement until all contracted work is completed satisfactorily provided that the Council is not at fault in causing the termination.
- The Consultant will be personally liable for all claims against him / her emanating from, or connected with this engagement.
- The Consultant will be personally responsible for all tax and National Insurance liabilities arising from the engagement.
- The Consultant must have professional indemnity insurance of a minimum of £5,000,000.
- The Consultant must comply with these Rules of Procedure (and for the purposes of the Code of Conduct referred to in the Council Rules of Procedure, they shall be deemed to be

an "Officer") subject to the modifications that the procedure to be followed in inviting and opening tenders shall be approved in advance by the appropriate Head of Service and the Head of Resources and Commissioning or nominated Officer.

- The Consultant must at any time during the carrying out of the contract, produce to the appropriate Head of Service or a designated representative, on request, all the records maintained by them in relation to the contract.
- The Consultant must on completion of a contract, transmit all records (or copies) to the appropriate Head of Service.

### **12.9.7 Commissioning Manager**

The manager responsible for the running of the contract in the service area ("the Commissioning Manager") will be responsible for monitoring progress of the contracted work.

The Commissioning Manager must report to his / her Head of Service if there are indicators that the work may not be completed within specified time limits or to quality standards.

### **12.9.8 Termination of Contract**

Decisions to terminate a contract with a consultant before completion must only be taken in consultation with the Head of Procurement, Head of Legal and Electoral Services and the agreement of the Corporate Director. Similarly, a decision to withhold agreed payment on completion of contracted work, or at an agreed stage, can only be made by the Corporate Director in consultation with the Head of Procurement and the Head of Legal and Electoral Services.

### **12.9.9 Invoices**

Invoices from the Consultant must be verified by the Commissioning Manager as being within the agreed contract terms, and must be endorsed by the Head of Service or his / her delegated Officer before being submitted for payment.

## **12.10 Entering into a Contract**

### **12.10.1 Contract Form**

All contracts entered into by the Council must be in writing. Standard Forms of Contract must be used wherever possible.

Where a Standard Form of contract cannot be used, or a Standard Form is to be amended, the Form of Contract shall be prepared/amended by the Contracts & Procurement Unit in conjunction with the Head of Legal and Electoral Services. All Forms of Contract must include:

- (a) the work, materials, matters or things to be provided, had, or done;
- (b) the price to be paid, with a statement of discounts or other deductions;
- (c) the time or times within which the contract is to be performed;
- (d) provision for the payment of liquidated damages, where the contractor fails to complete the contract or complete within the authorised time-scales (where applicable);
- (e) a clause empowering the Council to cancel the contract in circumstances of corruption, and to recover any loss resulting from such cancellation;

- (f) reference to compliance with current legislation with respect to Health and Safety at Work and the Sex Discrimination Act 1975; Race Relations Act 1976; the Disability Discrimination Act 1995 and the Data Protection Act 1984.
- (g) a clause requiring full indemnity of the Council (usually provided by Public Liability Insurance);
- (h) a clause requiring a performance bond (where applicable).

### 12.10.2 Contract Presentation

**Contracts under £5,000** shall be in writing on an official order signed by the designated purchasing Officer.

**Between £5,000 and £50,000** contracts and one off purchases shall be in writing in the form of contract approved by the Contracts & Procurement Unit unless it is a standard form of contract with a specification attached if necessary.

**All contracts over £50,000 to E.U. threshold** - the form of contract must be approved and signed by the Head of Legal and Electoral Services who shall retain all relevant contract documents. The Head of Legal and Electoral Services must witness the affixing of the common seal of the Council to any such contract.

**EU and over** - the form of contract must be approved and signed by the Head of Legal and Electoral Services who shall retain all relevant contract documents. All contracts over the EU threshold will be sealed.

### 12.10.3 Standard Clauses

Every contract shall include the standard clauses set out in Form F020A (available from the Contracts & Procurement Unit).

In every written contract for the execution of work or the supply of goods, materials or services, a clause shall be inserted to secure that the Contractor shall be prohibited from transferring or assigning directly or indirectly to any person or persons whatsoever, any portion of this contract without the written permission of the Council.

### 12.10.4 Sub-letting

Sub-letting of any parts of the contract except to the extent permitted in writing by the appropriate Head of Service shall be prohibited.

The contractor shall be responsible for the observance of this Regulation by sub contractors employed in the execution of the contract.

### 12.10.5 Provision for Liquidated Damages

Every contract which is estimated to exceed £50,000 in value or amount, and is for the execution of works (or for the supply of goods or materials by a particular date or series of dates) shall provide for liquidated damages unless the Head of Legal and Electoral Services and/or the Head of Resources and Commissioning or nominated Officer determines that such a provision is not required. The amount to be specified in each such contract shall be determined by the Head of Service concerned in consultation with the Head of Legal and Electoral Services and the Head of Resources and Commissioning or nominated Officer.

## 12.11 Legal Considerations

### 12.11.1 Relaxation of Indemnities

No relaxation of full indemnities releasing the Council from all liability whether provided by public liability insurance or other instrument should be allowed unless authorised in writing by the Head of Legal and Electoral Services or the Risk Manager, the Head of Resources and Commissioning or nominated Officer.

### 12.11.2 Risk Assessments

Where a contract is estimated to exceed £50,000 in value or amount and is for the execution of works (or for the supply of goods or materials by a particular date or series of dates) the relevant Head of Service must undertake a risk assessment, in conjunction with the Head of Resources and Commissioning or nominated Officer to determine whether a Performance Bond or other suitable security should be required from the tenderers. This is to provide sufficient security for the due performance of the contract. A record of the risk assessment must be retained on the contract file for inspection.

Where it is felt necessary to request a bond from tenderers, such bonds required shall be for an amount equal to 10% of the value of the contract, and shall be taken up by the contractor with an insurance company, bank or other recognised financial institution approved by the Council. The bond shall be released on practical completion of the work.

### 12.11.3 Contractor's Indemnities and Tax

It is a general principal that all contracts must "hold harmless" West Berkshire Council, its Members and Officers, against any loss or claim, however caused, arising from any contract and/or its execution, and that the Contractor will indemnify West Berkshire Council against all losses/demands/claims how so ever arising.

### 12.11.4 Need for Insurance

Every contract should be assessed for risk. If the risk assessment identifies the need for insurance the Head of Service must:

- (a) in consultation with the Head of Resources and Commissioning or nominated Officer set adequate levels of insurance cover. This includes employer's liability, public liability and any other as determined by the needs of the particular contract;
- (b) in consultation with the Head of Resources and Commissioning or nominated Officer ensure that the required insurance's are in fact held by the contractor and that the policies concerned are renewed, if necessary, during the period required;
- (c) in consultation with the Head of Resources and Commissioning or nominated Officer who must ensure the contractor's status under the Inland Revenue Construction Industry Tax Deduction Scheme (for construction contracts);
- (d) in consultation with the Head of Resources and Commissioning set a consultants' professional indemnity insurance (for Consultancy agreements), minimum £5,000,000 cover unless the Risk Manager feels that a greater amount is required if so determined by the risk assessment process.

(Note: If the Contractor has been through the vetting process and is on the Approved Supplier Database then some of these documents may already be held by the Contracts & Procurement Unit .)

### 12.11.5 Sealing of Documents

The Common Seal shall be in the Custody of the Head of Legal and Electoral Services and kept in a safe place at his/her discretion.

The Common Seal of the Council may be affixed to any document that has been approved by a resolution of the Council; or of the appropriate Committee or an Officer to which the Council or the Executive has delegated its powers on its behalf, provided that a resolution of the Council or of the appropriate Committee or Officer where that appropriate Committee or Officer has the appropriate authority authorising the acceptance of any tender, the purchase, sale, letting or taking of any property, the issue of stock, the presentation of any petition, memorial or address, the make of any rate, contract or order, or any other matter or thing, shall be a sufficient authority for sealing any document necessary to give effect to the resolution.

Provided also that the Common Seal of the Council may be affixed to any:-

- (a) Petition to be presented to Parliament against the promotion of any Bill or confirmation of any Provisional Order, which the Council oppose.
- (b) Mortgage in respect of a loan arranged by the Head of Resources and Commissioning or nominated Officer under the powers of Heads of Service approved by the Council.
- (c) Incomplete form of transfer for the duly authorised sale of securities by the Council as necessary for the purposes of dealing with stocks and shares in accordance with the Stock Transfer Act 1963.

### 12.11.6 Affixing of Seal

The affixing of the seal shall be attested in writing by the Head of Legal and Electoral Services, or an Officer duly designated by him/her in accordance with the delegated powers conferred by the Council. An entry of every sealing of a document shall be made and consecutively numbered in a book to be provided for the purpose and shall be signed by the person attesting the sealing.

### 12.11.7 Signature of Documents

Where any document will be a necessary step in legal proceedings on behalf of the Council it shall, unless any enactment otherwise requires or authorises or the Council shall have given the necessary authority to some other person for the purpose of such proceedings, be signed by the Head of Legal and Electoral Services.

Where it becomes necessary to execute any document on behalf of the Council not required by law to be under Seal, the Head of Legal and Electoral Services or an Officer designated by him/her in accordance with the delegated powers conferred by the Council shall be deemed to have authority to sign such a document accordingly. A register of such documents shall be kept by the Head of Legal and Electoral Services or Officer duly designated by him/her.



## **12.12 Contract Administration**

### **12.12.1 Payment by Instalments**

Payments to contractors on account of contracts shall be made on a certificate issued by the Head of Service (or private architect, engineer or consultant where engaged by the Council) as appropriate or by another Officer nominated by him/her in writing for the purpose.

### **12.12.2 Variation to Contracts**

Subject to the provisions of the contract in each case every variation shall be authorised in writing by the Head of Service (or private architect, engineer or consultant) and Head of Procurement as may be appropriate or by another Officer nominated by him/her in writing for the purpose.

Any such extra or variation shall include the estimated additional cost arising from the variation. Where the extra or variation, or total of extras or variations to date, exceed 10% of the contract sum or £50,000 whichever is the greater the approval of the Head of Resources and Commissioning or nominated Officer shall be required.

### **12.12.3 Final Certificate and Statement of Account**

As soon as possible after practical completion and before issuing the final certificate under a contract, the Head of Service or consultant concerned shall obtain from the Contractor a full and detailed final account contract statement in respect of the claim for the whole work, materials and things executed and delivered under the contract, with such receipted vouchers as may be necessary. The Head of Resources and Commissioning or nominated Officer shall be notified of the name of the account, the date the final sum is due, the final value of contract and the tender value.

The Head of Resources and Commissioning or nominated Officer may, to the extent he/she considers necessary, examine any final account contract statement and be entitled to make all such enquiries and receive such information and explanations as may be required in order to satisfy him/herself as to the accuracy of the account.

### **12.12.4 Claims from Contractors**

Claims from contractors in respect of matters not clearly within the terms of any existing contract shall be referred to the Head of Legal and Electoral Services and Head of Procurement for consideration of the authority's legal liability and, where necessary, to the Head of Resources and Commissioning or nominated Officer for financial consideration before a settlement is reached.

### **12.12.5 Reporting of Final Contract Costs**

A contract close-out report should be sent to the Head Of Procurement detailing the Contractors performance during the term of the contract.

The estimated final cost of a contract shall be reported to the Executive within four months of the issue of the practical completion certificate comparing the probable final and originally estimated costs, together with an explanation of any differences.

(Note: The Contracts & Procurement Unit can be contacted on (01635) 519411 or email the Helpdesk)