



STANDING ORDERS

relating to

CONTRACTS

**LOCAL GOVERNMENT ACT 1972
- SECTION 135**

Adopted June 2013

CONTENTS

STANDING ORDER NO. 1.....	3
Application and interpretation of Standing Orders.....	3
Application.....	3
Interpretation	3
STANDING ORDER NO. 2.....	4
Compliance with Standing Orders and European Community (EC) Directives.....	4
STANDING ORDER NO. 3.....	5
Contracts not exceeding £25,000	5
STANDING ORDER NO. 4.....	5
Contracts exceeding £25,000	5
STANDING ORDER NO. 5.....	6
Selective Tendering - Ad Hoc List.....	6
Standing Order No. 6 Selective Tendering - Standing List.....	7
STANDING ORDER NO. 7.....	7
Invitations to Tender	7
STANDING ORDER NO. 8.....	8
Open Tendering	8
STANDING ORDER NO. 9.....	8
Submission of Tenders.....	8
STANDING ORDER NO. 10.....	9
Opening and Acceptance of Tenders	9
STANDING ORDER NO. 11.....	10
Adjustment of Tenders	10
(1) Civil Engineering Contracts.....	10
(2) All Other Forms of Contracts.....	10
STANDING ORDER NO. 12.....	11
Nominated Sub-contractors and Suppliers	11
STANDING ORDER NO. 13.....	11
Form and Content of Contracts.....	11
STANDING ORDER NO. 14.....	12
Indemnity and Insurance	12
STANDING ORDER NO. 15.....	12
Contractor Selection.....	12
STANDING ORDER No. 16.....	13
Exceptions to these Standing Orders	13

STANDING ORDER NO. 1
Application and interpretation of Standing Orders

Application

- 1.1 The objective of these Standing Orders is to ensure that the Authority enters into contracts for the supply and / or disposal of goods, materials and services or for the execution of works on the most economically advantageous terms through the application of ethical, consistent, and transparent practices and procedures. The entry into those contracts shall at all times be subject to these Standing Orders and the Financial Regulations,
- 1.2 These Standing Orders must be observed on every occasion the Authority enter into a contract for the supply and / or disposal of goods, materials and services or for the execution of works
- 1.2 The Local Government Act 1988 and all other relevant enactments Acts must be observed.

Interpretation

- 1.3 For the purpose of these Standing Orders:

“Authorised Officer” means an officer of the Authority duly authorised to sign Orders on behalf of the Authority up to a level permitted in accordance with the Authority’s Financial Regulations;

the term “Contract” shall apply to all agreements by or with the Authority and one or more parties for the supply or disposal of goods, materials or services or for the execution of works but shall exclude contracts of employment or for the sale and purchase or leasing of any interest in land;

“Chief Financial Officer” means the officer appointed by the Authority under Section 151 of the Local Government Act 1972.

“Most Economically Advantageous” means that bid or offer which when taking into account a number of criteria including but not limited to price, quality, delivery, technical merit, compatibility, functionality and overall cost effectiveness affords the Authority the most economically advantageous solution.”

a “Quotation” means a written offer made by a supplier in response to a request received from the appropriate officer of the Authority in respect of the supply and / or disposal of goods, materials or services or for the execution of works;

a “Tender” means a sealed bid to supply or receive goods, materials or services or for the execution of works which may only be amended and / or varied in accordance with the provisions of these Standing Orders;

the “value” of a contract shall be the total value exclusive of VAT over the entire term of the contract;

STANDING ORDER NO. 2.
Compliance with Standing Orders and European Community (EC) Directives

- (1) Every contract made by the Authority or by a Committee or officer acting on their behalf shall comply with these Standing Orders unless an exemption has been given in accordance with paragraph (4) of this Order.
- (2) European Community Treaties and Directives and domestic enactment thereof relating to public works, public supply and service contracts must be complied with. (These directives contain procedures for advertising, selecting contractors and awarding of public sector supply, works and service contracts and where relevant will over ride certain requirements of these Standing Orders.) All proposed contracts which fall within these Directives must be reported to the Director of Corporate Services prior to any action being taken.
- (3) It shall be a condition of any contract between the Authority and any person (not being an officer of the Authority) who is required to supervise a contract on their behalf, that in relation to such contract, he/she shall comply with the requirements of such Standing Orders as relate to contracts as if he/she were an Authorised Officer of the Authority.
- (4) Exemption from any of the following provisions of these Standing Orders may be only be made by direction of the Authority or a Committee duly authorised in that behalf, where they are satisfied that the exemption is justified in special circumstances.
- (5) Every exemption made by the direction of a Committee to which the power of making contracts has been delegated shall be reported to the Authority.
- (6) A record of any exemption made in accordance with paragraph (3) of this Order shall, if not made in the minutes of the Authority, be made in the minutes of the Committee to which the report referred to in that Standing Order is made.
- (7) Any contract which exceeds £50,000 shall require all tenderers to have been vetted by the Head of Finance (on behalf of the Chief Financial Officer) for financial viability and by the Chief Executive or appropriate Director for technical competence.

STANDING ORDER NO. 3
Contracts not exceeding £25,000

- (1) Where a proposed contract does not exceed £25,000 in value or amount, the Chief Executive or appropriate Director may enter into such contract with such persons as that person considers competent for the purpose, provided that, not less than three alternative quotations shall be invited by the appropriate Director, before entering into such contract.
- (2) Where quotations are sought pursuant to this Standing Order all quotations shall all be opened at the same time.
- (3) Where there is a Standing List of Contractors established under Standing Order 6 then where relevant to the subject matter of the contract the competitive quotations shall be invited from contractors on that list.
- (3) In the case of contracts not exceeding £5,000 in value or amount, the invitation of quotations shall be at the discretion of the appropriate Director.

STANDING ORDER NO. 4
Contracts exceeding £25,000

- (1) Where the estimated value or amount of a proposed contract exceeds £25,000 and in any other case where the Authority or appropriate Committee determine, contractors shall be selected by the appropriate Director by one of the following methods:
 - (i) ad-hoc selective tendering under Standing Order 5
 - (ii) selective tendering from approved contractors under Standing Order 6
 - (iii) open competitive tendering by advertisement under Standing Order 8
- (2) In any instance when a contract award is to be based on criteria other than price alone, i.e. the most economically advantageous for the Authority, the criteria for selection and their order of priority shall be determined before the invitation to tender is issued and each contractor who is invited to bid will be advised of the criteria.
- (3) Before Tenders are invited for any proposed contract exceeding £25,000 in value the Chief Executive shall receive from the appropriate Director an estimate of the probable expense of executing the contract.

STANDING ORDER NO. 5
Selective Tendering - Ad Hoc List

- (1) This Standing Order shall apply where the Authority or a Committee duly authorised in that behalf, the Chief Executive or appropriate Director, having regard to the subject matter, purpose and value of the contract, have decided that invitations to tender for a contract are to be made to some or all of those persons or bodies who have replied to a public notice.
- (2) For the purposes of this Standing Order, public notice shall be given:
 - (a) on the Authority's web site;
 - (b) where the estimated amount or value of the contract exceeds £50,000 in Buy4Wales or such other alternative site considered suitable by the appropriate Director or in at least one newspaper or journal circulating among such persons or bodies who undertake such contracts; and
 - (c) at the discretion of the Authority or appropriate Committee or the Chief Executive or appropriate Director to all or a selected number of persons or bodies named in the list maintained under Standing Order 6.
- (3) The public notice shall:
 - (a) invite expressions of interest from persons or bodies interested, to be invited to tender;
 - (b) specify a time limit, being not less than 10 working days from the date of the first publication of the notice, within which such applications are to be submitted to the Authority; and
 - (c) specify what information is required in the advertisement in particular;
 1. the nature and purpose of the contract
 2. Information required for selection:
 - (a) Information specific to the contract
 - (b) Details of the technical ability and experience of the interested party
 - (c) Details of the financial standing of the interested party or;

provide particulars of where an Information Memorandum and/or Pre Qualification Questionnaire specifying the same may be obtained.
- (4) After the expiry of the period specified in the public notice invitations to tender for the contract shall be sent to:
 - (a) not less than 3 of the persons or bodies who applied for selection to tender, who are considered suitable having regard to the information provided in accordance with paragraph 3(c) above;
 - (b) where fewer than 3 persons or bodies have applied or are considered suitable, those persons or bodies which are considered suitable. Alternatively, a new insertion of the notice shall be arranged.
- (5) Applications for admission on to the Selective Ad Hoc list may be submitted by hand, post, fax or e-mail.

Standing Order No. 6 Selective Tendering - Standing List

- (1) This Standing Order shall apply where the Authority or a Committee duly authorised in that behalf or the Chief Executive or appropriate Director, having regard to the subject matter, purpose and value of the contract (provided that the same do not exceed any OJEU threshold applicable from time to time), decided that invitations to tender for a contract are to be limited to those persons or bodies whose names shall be included in a list compiled and maintained for that purpose.
- (2) The list shall:
 - (a) be compiled and maintained by the Director of Corporate Services;
 - (b) indicate in respect of any person or body whose name is included, the categories of contract and the values or amounts in respect of those categories for which general approval has been made; and
 - (c) be subject to ongoing monitoring by officers, both as regards financial and technical aspects, in accordance with a detailed scheme of arrangements, so as to enable the individual capacity of any person or body to tender at a particular level of work to be currently determined.
- (3) The Chief Executive may suspend a contractor from the Register if the contractor proves unsatisfactory or cannot meet the terms of a contract. All such suspensions must be recorded in the Register.
- (4) At least 4 weeks before a list is compiled, notices inviting applications for inclusion in it shall be published on the Authority's web site.
- (5) The list shall be advertised every two years on the Authority's web site, new applicants shall be considered for the list on written application at any time. All interested tenderers shall be made aware of the procedure for acceptance onto the Standing List and of the procedure for selection from the list for a particular contract.
- (6) Officers shall arrange for invitations to tender for a contract to be sent to:
 - (a) not less than three firms contained on the relevant part of the standing list who have expressed an interest in submitting a tender;
 - (b) where fewer than three firms are approved for a contract of the relevant category and amount, all those firms.

STANDING ORDER NO. 7 Invitations to Tender

- (1) Invitations to Tender must include the following information:
 - (a) a description of (specification) of the Works, Goods or Services to be carried out / supplied together with a required delivery date.
 - (b) Appropriate terms and conditions (including Certificates as to Canvassing and Collusive Tendering)
 - (c) Form for Tendering
 - (d) The criteria to be used for awarding the contract.
 - (d) The Requirements for tendering in compliance with Standing Order 8
 - (e) The time and date by which Tenders must be received.

STANDING ORDER NO. 8 Open Tendering

- (1) This Standing Order shall apply where the Authority or a Committee duly authorised in that behalf or the Chief Executive or appropriate Director, having regard to the subject matter, purpose and value of the contract, have decided that tenders for a contract are to be obtained by open competition. In all instances where no specific prior decision has been made, the Chief Executive or Director may decide to utilise this method of tendering.
- (2) At least 15 working days public notice shall be given on the Authority's web site and also, wherever the value of the contract exceeds £50,000, in Buy4Wales or such other alternative site considered suitable by the Chief Executive or appropriate Director or in one or more newspapers or journals circulating among such persons or bodies as undertake such contracts.
- (3) The public notice shall:
 - (a) express the nature and purpose of the contract, state where further details may be obtained,
 - (b) invite tenders for its execution and state the last date and time when tenders will be received
 - (c) specify the requirements for submission of a Tender.
 - (d) specify the award criteria, if relevant, and;
 - (e) specify what of the following information is required:
 - (i) Details of the technical ability and experience of the interested party
 - (ii) Details of the financial standing of the interested party

STANDING ORDER NO. 9 Submission of Tenders

- (1) Where in pursuance of these Standing Orders invitation to tender is made, every invitation shall state that no tender will be received unless it is enclosed in a plain sealed envelope addressed to the Director of Corporate Services which shall bear the word "Tender Do Not Open" - followed by the subject to which it relates but no other name or mark indicating the sender.

- (2) The tenders shall be kept in the custody of the Director of Corporate Services until the time and date specified for their opening.
- (3) No tender received after the time and date specified in the invitation shall be accepted or considered under any circumstances.
- (4) The Director of Corporate Services shall maintain a register of all tenders received.

STANDING ORDER NO. 10
Opening and Acceptance of Tenders

- (1) Tenders received under either Standing Order 5, 6 or 8 shall be opened following the closing date and time by the Director of Corporate Services or his duly authorised representative in the presence of The Chief Executive or a Director or his duly authorised representative.
- (2) All tenders received shall be recorded.
- (3) The Authorised Officer may only accept the lowest tender if payment is to be made by the Authority or the highest tender if payment is to be received by the Authority
- (4) The appropriate Director may accept other than the lowest tender where:
 - (a) The Chief Executive or appropriate Director is of the opinion that by virtue of the criteria (other than price) set out in the Invitation to Tender a tender is the most economically advantageous for the Authority. Provided that if the difference in value between the lowest tender and that recommended for approval exceeds 20% of the value of the lowest tender the tender shall not be accepted without the consent of the Chief Financial Officer in consultation with the Chairman of the Authority. In such a case a report on the matter shall be submitted for information to the next meeting of the Authority or duly authorised Committee.
 - (b) The goods, materials or services tendered for are not available for supply within the time required by the Authority and where in the opinion of the Chief Executive or appropriate Director by reason of their non availability another tender might reasonably be regarded as the most economically advantageous tender.
- (5) A register of all contracts over £25,000 in value placed by the Authority shall be kept and maintained by the Director of Corporate Services. Such register shall, for each contract, specify the name of the contractor, the works to be executed or the goods to be supplied and the contract value. The register shall be open to inspection by any member of the Authority.
- (6) Where relevant, the comparison between tenders should include both the capital and revenue implications.

STANDING ORDER NO. 11
Adjustment of Tenders

(1) Civil Engineering Contracts

- (a) All the tenders submitted will be arithmetically checked for extensions and summation and, if necessary, corrected. The summation of all the figures will be taken as the tender figure. No reference will be made to the tenderer;
- (b) where examination of tenders reveals errors or discrepancies in the rates which would affect the tender figure in an otherwise successful tender, the tenderer is to be given details of such error and discrepancies and afforded an opportunity of confirming his/her rates or withdrawing his/her tender.

(2) All Other Forms of Contracts

- (a) The following arrangements are to apply where the examination of tenders reveals errors or discrepancies in one or more of the most competitive tenders and which would affect the tendered price. The Chief Executive or appropriate Director will decide whether the most competitive tenderer will be asked to either:

- stand by the original tender, with the option of withdrawing; or
- stand by the original tender, with the option of revising it following the correction of genuine errors and discrepancies.

If the tenderer withdraws, or is no longer the most competitive, then the next tender, in competitive order, shall be examined and dealt with in the same way.

- (b) If the tenderer opts to stand by the original tender then an endorsement shall be added to the priced bill(s) indicating that all rates or prices (excluding primary items, contingencies, prime cost and provisional sums) inserted by the tenderer are to be considered as reduced or increased by the same proportion as a corrected total of priced items exceeds or falls short of such items. The endorsement shall be signed by both parties to the contract.
 - (c) If the contractor is given permission to adjust the tender to correct the errors and discrepancies, and chooses to do so, then an appropriate endorsement shall be added to the bills and signed by both parties to the contract.
- (3) The Chief Executive or appropriate Director may approve the amendment of a tender after it has been received and before it has been accepted to make an alteration to the advantage of the Authority provided that the alteration if made to all the tenders would not make any other tender the most economically advantageous. A record of any such alteration must be kept in the register.
- (4) Where the Chief Executive or appropriate Director considers it in the best interests of the Authority, he may negotiate with the lowest tenderer or the tenderer whose tender is being considered for acceptance under Standing Order 10 above, with a view to reducing the value of the tender, provided that the consequent alteration if made to all the tenders would not make any other

tender the most economically advantageous and that particulars thereof and a statement of reasons therefore shall be entered in the Register.

STANDING ORDER NO. 12 Nominated Sub-contractors and Suppliers

Where a sub-contractor or supplier is to be nominated to a main contractor, the following provisions shall have effect:

- (1) Where the estimated amount of the sub-contract or the estimated value of the goods to be supplied by the nominated supplier does not exceed £25,000 then, quotations shall be invited for the nomination in accordance with Standing Order 3
- (2) Where the estimated amount of the sub-contract or the estimated value of the goods to be supplied by the nominated supplier exceeds £25,000 then, tenders shall be invited in accordance with either Standing Order 5, 6 or 8 as the case may be.

STANDING ORDER NO. 13 Form and Content of Contracts

- (1) Every contract shall:
 - (a) be in writing and signed by an officer of the Authority duly authorised in that behalf;
 - (b) specify:
 - (i) the goods, materials or services to be supplied and the work to be executed;
 - (ii) the price to be paid together with a statement as to the amount of any discount(s) or other deduction(s);
 - (iii) the period(s) within which the contract is to be performed
 - (iv) any ascertained / liquidated damages payable by the contractor if such provision is required pursuant to paragraph (1) (c) below;
 - (v) the specifications and standards to be applied to the contract;
 - (vi) monitoring of the contract, together with controls over sub-contractors;
 - (vii) and such other conditions and terms as may be agreed between the parties;
 - (c) where after consultation with the Director of Corporate Services and the Chief Financial Officer, the Chief Executive or appropriate Director considers it to be appropriate there shall be provision for ascertained / liquidated damages or other sufficient security for due performance; and
 - (d) comply with all legislative requirements including Health and Safety at Work regulations and provisions in force.

- (2) There shall be inserted in every written contract, in addition to conditions covering the matters specified in paragraph 1(b) above, a clause empowering the Authority to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation, if the contractor shall have offered, or given, or agreed to given to any person, any gift or consideration of any kind as an inducement or reward for doing, or forbearing to do, or for having done, or forborne to do any action in relation to the obtaining or execution of the contract, or any other contract with the Authority, or, for showing or forbearing to show favour, or disfavour, to any person in relation to the contract, or any other contract with the Authority; or if the acts shall have been done by any person employed by him/her, or acting on his/her behalf (whether with or without the knowledge of the contractor), or, if in relation to any contract with the Authority, the contractor or any person employed by him/her, or acting on his/her behalf, shall have committed any offence under the Bribery Act 2010, or, shall have given any fee or reward, the receipt of which is an offence under Section 117(2) of the Local Government Act 1972.

**STANDING ORDER NO. 14
Indemnity and Insurance**

In any contract for the execution of any work or for the supply of goods, materials or services the Contractor shall be required to indemnify the Authority against:

- (a) any claim which may be made in respect of Employers' Liability against the Authority or the contractor by any workman employed by the contractor or any sub-contractor in the execution of the works;
- (b) any claim for bodily injury to or damage to property of third parties;

and the contractor shall, before the commencement of any contract, produce to the appropriate Director satisfactory evidence of insurance against such claims.

**STANDING ORDER NO. 15
Contractor Selection**

- (1) The Authority shall, having regard to the subject matter and value of the contract, require a contractor to give sufficient security and demonstrate suitability for the performance of a contract and compliance with contract conditions including where appropriate providing:
 - (i) details of background and competence to carry out the contract including relationships or involvement with other contractors to ensure fair trading;

- (ii) appropriate financial checks, bankers' references, statements of account, referees etc. to the satisfaction of the Chief Financial Officer,
- (iii) details of previous work record;
- (iv) evidence of satisfactory employer's and public liability insurance;
- (v) performance bond or parent company guarantee if so requested;
- (vi) evidence of commitment and arrangements to secure satisfactory standards of health, safety and welfare;
- (vii) details of any registration with a nationally recognised regulating body or its European equivalent appropriate to the work and any guarantee schemes attached;
- (viii) evidence of the qualifications of the workforce and status of supervisors in relation to their suitability and competence to carry out the contract.

Standing Order No. 16 Exceptions to these Standing Orders

Tenders or Quotations are not required in the following circumstances:

- (1) In the case of contracts for the supply of goods services or materials:
 - (i) the goods or materials are proprietary articles or are sold only 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) for other reasons, there would be no genuine competition
 - (iv) for the services of Counsel
 - (v) the services or goods to be provided or supplied are of a creative nature where the primary basis for award is the artistic or creative vision of an individual.
- (2) The work to be executed, or the goods, or materials to be supplied, constitute an extension of an existing contract (such an extension to be reported to the Authority) where this can only be satisfactorily done by the original/existing contractor.
- (3) The contract is for the execution of work or the supply of goods or materials certified by the Chief Executive or Director concerned as being required so urgently as not to permit of the invitation of tenders; such certificate to be reported to the Chief Financial Officer and the next meeting of the Authority.
- (4) The contract is for the supply of used or second hand goods or materials where the appropriate Director is satisfied that the market for such goods or materials is such that it would be unreasonable to tender or where the time required to complete the tender process is likely to lead to the loss of opportunity to purchase a used or second hand item.
- (5) For the supply of goods, materials, services or works in circumstances where the Chief Executive or Appropriate Director and the Chief Financial Officer and Director of Corporate Services are

satisfied that there are proper service reasons for not tendering for the supply of goods, materials, services or works and where they are satisfied that there will be no economic disadvantage to the Authority as a result of not so tendering. Award of such contracts shall be reported to the next meeting of the Authority or duly authorised Committee.

- (6) Tenders have been invited on behalf of any consortium, collaboration, or similar body, of which the Authority is a member, in accordance with any method adopted by such a body. Provided that, where tenders are so invited as aforesaid, the delivery, opening and acceptance of tenders shall comply with the provisions of these Standing Orders, save where those provisions are inconsistent with any method by which the tenders so obtained on its behalf are dealt with.

Mae'r ddogfen yma ar gael yn Gymraeg
This document is available in Welsh