

REPORT OF FINANCE MANAGER

SUBJECT: CONTRACTING STANDING ORDERS 2020

Purpose of Report

To ask Members to approve the Draft Contract Standing orders 2020.

Introduction/Background

The Authority reviews its contracting standing orders on a four yearly cycle. The amendments reflected in the revision included changes in various job titles and reporting structures within the Authority. The revision also allows the Authority to access the various public section procurement frameworks which should significantly improve the efficiency and effectiveness by which the Authority undertakes certain procurement exercises

Financial considerations

The Contracting Standing orders ensures the Authority adopts best practice in procurement and thus ensure best value, minimises the costs and the financial risks associated with legal claims in the vents of disputes with potential suppliers

Risk considerations

None other than the above.

Recommendation

Members APPROVE CONTRACTING STANDING ORDERS 2020.

(For further information, please contact Richard Griffiths, Finance Manager)

Pembrokeshire Coast National Park
Authority



STANDING ORDERS
relating to
Contracting Procedures

Issued 2020

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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 terms that offer best value to the Authority through the application of sustainable, ethical, consistent, and transparent practices and procedures.
- 1.2 The entry into such contracts shall at all times be subject to these Standing Orders, and the Financial Standards and relevant Financial Procedures and Work Instructions of the Authority.
- 1.3 In relation to “Works Contracts” and “Functional Work” as defined in the Local Government Planning and Land Act 1980 and the Local Government Act 1988 and all other enactment’s, the additional provisions of those Acts must be observed. Likewise, EU competition regulations must also be observed.
- 1.4 A major contract in the context of these Standing Orders is defined as any contract with a value exceeding £25,000.
- 1.5 Orders and Contracts shall also comply with the Authority’s Financial Standards Revision 2020 with regards to authorisation for awarding expenditure:

	Up to £5,000	Up to £25,000	Up to £50,000	Over £50,000
Recommended		Budget Holder	Team Leader	Director
Approval	Budget Holder	Team Leader	Director	Chief Executive

Purchase Card Payments	Up to £2,000	Up to £5,000
Recommended	Card Holder	Team Leader
Approval	Card Holder	Team Leader / Finance Manager

- 1.6 The Chief Executive, after consultation with the Finance Manager, may from time to time amend these Standing Orders to correct an obvious error, to reflect changes in the law, to reflect changes in the Authority’s Standing Orders or establishment, or to reflect amended EU thresholds
- 1.7 These procedures do not apply:

1.7.1 Where the proposed Contract is for the supply of services or the execution of works undertaken by the Authority's own staff.

1.7.2 Grants awarded by the Authority.

Interpretation (see also Glossary)

1.8 For the purpose of these Standing Orders:

- "authorised officer" means an officer of the Authority formally recognised as an Authorised Signatory in accordance with the Financial Standards.
- "project officer" means the officer of the Authority responsible for the day to day management of a project
- 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 or purchase of any interest in land or buildings.
- A "tender" means an electronic or 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;

Standing Order No.2 Contract Value

2.1 The 'estimated value' of a Contract shall be the total value of the Contract net of VAT estimated to be payable over the entire term of the Contract, including any extensions.

2.2 Where the Contract period is indefinite or uncertain, the estimated value shall be calculated on the basis that the Contract will be for a period of four years.

2.3 Contracts must not be artificially separated to circumvent the application of any part of these Standing Orders, the EU Public Procurement Directives or UK Regulations.

2.4 Contracts which are each of a value below the relevant EU Threshold may nevertheless be subject to full EU Public Procurement Directives tendering requirements, where they constitute a series of related or repeat purchases.

Advice should be sought where this is the case, in order that the relevant procurement method can be adopted.

- 2.5 It should be noted that the value of a contract does not only include the value of the original contract, but also the value of any variations. All contract variations must comply with Standing Order 15 of these Orders. If any proposed variation brings the total value of a contract over the relevant EU Threshold, a new tender will be required (including placing of notices in the OJEU). Advice should be sought where this is the case, or likely to be the case, in order that the relevant procurement method can be adopted.

Standing Order No.3

Compliance with Standing Orders and European Union (EU) Directives

- 3.1 Every contract made by the NPA 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 (3.5) of this Order.
- 3.2 Every such contract shall comply with the Treaty of Rome and with any relevant legislation of the European Union for the time being in force in the United Kingdom.
- 3.3 The provisions of these standing orders are subject also to such Directives as are issued from time to time by the European Union/Community relating to public works, public supply and service contracts. Specifically, the “European Commission Public Procurement Directives and the Public Contracts Regulations: Thresholds for Supplies, Works and Services” must be adhered with. These may be accessed via <https://www.procurementportal.com/blog/november-2019/new-procurement-thresholds-from-january-2020>
- 3.4 Exemption from any of the following provisions of these standing orders may be made by direction of the NPA or a Committee duly authorised in that behalf, where they are satisfied that the exemption is justified in the special circumstances determined.
- 3.5 Every exemption made by the direction of a Committee to which the power of making contracts has been delegated shall be reported to the NPA, with full explanation of the reasons supporting the decision.

- 3.6 A record of any exemption made in accordance with paragraph (3.5) of this Order shall, if not made in the minutes of the NPA, be made in the minutes of the Committee of which the exemption is made.
- 3.7 In connection with procurement in general, informal contact between the Authority and suppliers or potential suppliers is permitted but negotiations shall be subject to documentary evidence being retained of all such discussions and outcome.
- 3.8 Tender analysis criteria/weightings shall be agreed in advance of tenders being issued. The tenderers shall be advised of the criteria/weighting and any additional information necessary to provide the tender.
- 3.9 A Contract Award Notice must be published on Sell2Wales providing full details of the Award

Standing Order No.4

Engagement of Consultants Supervising Contracts

- 4.1 It shall be a condition of the engagement of the services of any architect, engineer, surveyor or other consultant, who is to be responsible to the Authority for the supervision of a contract on its behalf, that in relation to that contract the consultant shall:
- Comply with the Authority's Financial Standards and Standing Orders
 - Produce all the records maintained by the consultant, on request of the Authority
 - On completion of the service period, transmit all records to the Authority.

Standing Order No.5 Procurement Methods

- 5.1 The procurement method to be used is dependent upon the estimated value of the contract. The table below summarises the various procurement methods:

Estimated value	Procurement Method	Details	Format
Up to £1000	No formal requirement	Link/attach any documentation if available to the Order	Order or Contract

£1000 to £10,000	Request for Quotation	At least one written Quotation must be obtained	Order or Contract
£10,000 to £25,000	Request for Quotation	At least three written Quotations must be requested	Order or Contract
Above £25,000 but below EU Thresholds	Tender	At least three Tenders must be invited	Written Contract
Above EU Thresholds	EU compliant Tender	Must comply with Public Contracts Regulations 2015	Written Contract
Any	Existing Framework Agreement	Must ensure that the Framework is compliant with relevant regulations and the Authority's	Written Contract

- 5.2 For the avoidance of doubt, the Authority, statutory officers, or a Director may require a tender process in respect of any procurement, whatever the estimated value.
- 5.3 Once a tender process has been commenced for the execution of any work or for the supply of goods, services or materials, no further negotiations shall take place with any person in respect of that work, goods, services or materials except in accordance with these Tendering Procedures, until such time as the tendering process has been fully completed.
- 5.4 In the event that it is believed to be desirable or advantageous for the Authority to abandon, suspend or modify a tender process, so as to proceed other than in accordance with the Tendering Procedures, legal advice shall be obtained before any such action is resolved or taken.
- 5.5 Where the procurement method used is a Tender, the exercise may be conducted electronically through www.Sell2Wales.gov.wales.

**Standing Order No.6
Procurement Procedures for Contracts under £25,000**

Quotations

- 6.1 Where the estimated value of a proposed Contract exceeds £1000 but does not exceed £25,000, the Contractor or supplier shall be selected in the following way:
- 6.1.1 Where there is a suitable Framework Agreement available, either its own or accessible to the Authority, e.g. Welsh Government / National Procurement Service / other public sector authority, that Framework Agreement may be used.

6.1.2 Where no Framework Agreement is available:

- i) Where the value of spend is over £10,000, written quotations should be obtained from at least three suitable suppliers
- ii) Where the value of spend is over £1000, but less than £10,000, written quotations should be obtained from at least one suitable supplier
- iii) Where the value of spend is under £1000 evidence must be provided that best value has been achieved
- iv) Suppliers providing quotations must be able to offer best value to the Authority in terms of supporting the Procurement Strategy. Where there are less than three suitable suppliers, or where less than three quotations are obtainable, then specific approval to proceed shall be obtained from the relevant Head of Service.
- iv) The lead officer (i.e. the officer requiring the goods/services) shall keep a record of the criteria for identifying suitable suppliers, and a record of the criteria for selecting the successful quotation

For the avoidance of doubt, copies of up to date trade catalogues and websites count as written quotations. SO6.3 to SO6.5 do not apply where quotations are taken from trade catalogues or websites, but proof of comparison must be retained to evidence best value.

6.2 Aggregated value of contracts:

- 6.2.1 Except where there is a suitable Framework Agreement or Approved List, if, in any 12 month period, two or more contracts below the value of £10,000 are awarded to the same Contractor by the Authority with an aggregated value of £10,000 or more, or the proposed contract takes the value over £10,000, no further contract can be awarded to that Contractor without inviting at least 3 written Quotations.
- 6.2.2 Except where there is a suitable Framework Agreement, if, in any 12 month period, two or more contracts below the value of £25,000 are awarded to the same Contractor with an aggregated value of £25,000 or more, no further contract can be awarded to that Contractor without following the Tendering Procedures.
- 6.2.3 The relevant Officer should carry out a check to ascertain whether a potential Contractor has been awarded contracts in the previous 12-month period from the relevant reports in the Finance reporting system (the finance team can assist if necessary). For the purposes of calculating the aggregated value of contracts awarded to the same Contractor over a 12-month period, any contracts awarded following a competitive Quotation or Tendering process are to be excluded.

6.3 All written Quotations must specify:

- 6.3.1 The goods, services or works to be supplied

- 6.3.2 When they are to be supplied
 - 6.3.3 The proposed price
 - 6.3.4 Responses should be clearly labelled as “Quotations” with the due date and the name of the project and the lead officer identified on the Quotation
 - 6.3.5 The evaluation criteria to be adopted for the Contract. These must be capable of objective assessment, include price and other relevant factors, and be weighted by relative importance.
- 6.4 The due date set for the submission of Quotations must a minimum of two weeks for suppliers to respond.
 - 6.5 Quotations should be opened at the same time after the due date and witnessed and recorded by a Finance Officer, with the amounts and signatures of attending officers recorded.
 - 6.6 The criteria for award must ensure that best value is achieved in line with the specified requirements. Where the value of the contract exceeds £10,000 evaluation of the Quotations should be carried out by the relevant Head of Service and the result recorded.
 - 6.7 It shall be permissible to enter into a Contract not exceeding £25,000 in value on the basis of an Order alone, without a Written Contract. An Order should, as a minimum, define cost, goods, delivery and timescales. The Authority’s standard terms and conditions should be incorporated into or attached to all Orders.
 - 6.8 Although a Written Contract is not required under these Standing Orders where the contract value is less than £25,000, it may be more appropriate where unique, unusual or bespoke services, supplies or works are to be provided to use a Written Contract to ensure that the Authority is adequately protected. Legal advice should be sought in such circumstances.
 - 6.9 Tenders can be invited in respect of any proposed Contract, even if the estimated value is below £25,000. If Tenders are to be invited, the Tendering Procedures set out at Standing Order 7 of these Orders must be followed.
 - 6.10 Where Written Contracts are used, signed original Contracts must be securely retained by the procuring officer.
 - 6.11 The following details must be added to the Authority’s Contracts Register in respect of all Contracts and Orders exceeding £10,000 in value on the day of the award of Contract:
 - 6.11.1 the Contract reference number
 - 6.11.2 the title of the agreement
 - 6.11.3 the department responsible

- 6.11.4 the name of the Contractor
- 6.11.5 a summary of the works to be executed or the goods and services supplied
- 6.11.6 the Contract duration
- 6.11.7 the sum to be paid over the length of the contract or the estimated annual spending or budget for the contract
- 6.11.8 start, end and review dates
- 6.11.9 whether the contract was the result of an invitation to quote or a published invitation to tender, and
- 6.11.10 whether the supplier is an SME or VCSE and any relevant registration number

Standing Order No.7

Procurement Procedures for Contracts over £25,000 Tendering

7.1 Where the estimated value of a proposed Contract exceeds £25,000, the Contractor or supplier shall be selected in the following way:

- i) if there is a suitable Framework Agreement available, either its own or accessible to the Authority, e.g. Welsh Government / National Procurement Service / other public sector authority, that Framework Agreement shall be used.
- ii) Where no Framework Agreement is available, the tender shall be advertised on www.Sell2wales.gov.wales. Where a relevant Approved List exists, the Tenders should be sought from Contractors included on it. Where no Approved List is available, the Tenders should be invited following the Tendering Procedures set out at Standing Order 7 of these Orders.

7.2 All Contracts exceeding £25,000 in value shall be in the form of a Written Contract and not on the basis of an Order alone.

7.3 The Officer responsible for leading the procurement exercise may select to use the open procedure or the restricted (2 stage) procedure, or any other legally compliant procedure as appropriate. In most cases the open procedure will be used and the restricted (2 stage) procedure should only be used in consultation with the Finance Manager. The open procedure is generally suitable to be used for routine, straightforward purchases. The restricted procedure can also be used for routine, straightforward purchases where the Officer is of the view that there will be benefits derived from limiting the number of tenderers. The restricted procedure is particularly suited to more complex procurement and to non-routine purchasing. In determining which procedure to use, the Officer needs to weigh a range of factors, including the costs of running the procedure,

the benefits of full, open competition, the advantages of restricting competition, and the likely risk of corruption and/or collusion.

7.4 Open procedure

7.4.1 Notice inviting Tenders shall be placed on the www.sell2wales.gov.uk and may, where appropriate, be placed in relevant publications. The information included in the notice must comply with Sell2Wales' Contract Notice requirements

7.4.2 The invitation to tender documentation must state:

- 7.4.2.1 The nature and purpose of the contract
- 7.4.2.2 The closing date and time for the receipt of Tenders and the closing date and time for the submission of clarifications
- 7.4.2.3 How and to whom any interested party is to respond if it wishes to be considered
- 7.4.2.4 Any other requirements for participating in the procurement
- 7.4.2.5 The reference number
- 7.4.2.6 The title
- 7.4.2.7 A description of the goods and/or services sought
- 7.4.2.8 Start, end and review dates
- 7.4.2.9 The department responsible
- 7.4.2.10 That no Tender will be accepted unless it complies with the submission instructions included in the tender documentation
- 7.4.2.11 That no name, mark or wording which might indicate the sender should appear on the cover of the special envelope bearing the Tender
- 7.4.2.12 That Tender envelopes should bear the correct postage, be properly sealed and addressed to the Finance Manager, or if using www.sell2wales.gov.uk, delivered in accordance with the requirements of that system
- 7.4.2.13 That proof of posting will not be accepted as proof of delivery if the Tender fails to arrive at the address shown on the tender envelope label before the closing date and time fixed for the receipt of that Tender
- 7.4.2.14 That late tenders will not be accepted
- 7.4.2.15 The evaluation criteria to be adopted for the Contract. These must be capable of objective assessment, reflect the requirements of the specification, include price and other relevant factors, and be weighted by relative importance
- 7.4.2.16 That the Authority does not bind itself to accept the lowest or any Tender
- 7.4.2.17 That failure to comply with any of the foregoing requirements may render a Tender liable to disqualification.

7.5 Restricted (2 stage) procedure

7.5.1 Notice shall be placed on www.sell2wales.gov.wales, and may, where appropriate, be placed in relevant publications, inviting suppliers to take part in the Selection (Qualification) stage of a tender. The information included in the notice must comply with Sell2Wales' Contract Notice requirements.

7.5.2 Tenders must be invited from at least three of the persons who meet the selection criteria, if fewer than three persons have applied and are considered suitable, to all such persons applying. If only one expression of interest is received, the relevant Director must consult with the Finance Manager and provide evidence to show that the Authority can obtain value for money.

7.5.3 The subsequent invitation to tender shall comply with 7.4.1 and 7.4.2 above.

7.6 The period of notice required in 7.4.1 and 7.5.1 shall be reasonable and proportionate in all the circumstances, sufficient to enable interested parties to prepare a tender, and in any event shall be at least ten working days. Publication on www.sell2wales.gov.wales must be within 24 hours of first advertising the contract opportunity in any other way. The information must remain published on www.sell2wales.gov.wales throughout the specified time, unless the award procedure is abandoned.

7.7 Any relevant tender documents shall be made available free of charge upon application or available electronically through www.sell2wales.gov.wales.

7.8 Where the estimated value of a proposed Contract exceeds the EU Thresholds, the procedures required by the EU must be complied with, including publication of the advertisement in OJEU, and officers should consult with the Finance Manager to determine the method of procurement.

Standing Order No.8

Framework Agreements and Approved Lists

8.1 The Authority may use any Framework Agreement available, either its own or accessible to the Authority, e.g. Welsh Government / National Procurement Service / other public sector authority. Any Director may compile and maintain Approved Lists of contractors for supplies, services or works, within their area of responsibility.

8.2 Approved Lists:

8.2.1 shall be established following an advertised competitive process

8.2.2 shall contain the names and addresses of all providers who meet the Approved List criteria.

8.2.3 shall indicate the nature and value of contracts for which the contractors listed may be used. The value of any contract entered into may not exceed the relevant EU Threshold.

8.2.4 shall be reviewed and re-established at least every three years.

8.3 A contractor may be removed from an Approved List should their circumstances change, to the extent that they no longer meet the criteria for inclusion in the Approved List.

8.4 Any contractor may, by giving written notice, withdraw from any Approved List

8.5 No contractor can be added to an Approved List except in accordance with the procedure in clause 8.2.

8.6 In addition, Directors, with the assistance of the Finance Manager, may set up a Framework Agreement in line with EU Public Procurement Directives, where applicable, with one or more suppliers of particular goods, works and services.

8.7 When advertising for Framework Agreements the advertisement must indicate:

8.7.1 That it is a framework which is being tendered

8.7.2 The duration of the arrangement (which must not exceed 4 years)

8.7.3 The expected maximum number of suppliers

8.7.4 The total estimated value of the contracts to be covered by the arrangement

8.7.5 The award criteria for choosing suppliers and subsequent criteria for placing orders

8.8 The estimated value in relation to Framework Agreements is the estimated maximum value over its lifetime. This must be carefully considered in the context of the EU Thresholds.

8.9 In any case where a Framework Agreement is in place:

8.9.1 Subsequent 'call-offs' from that Framework Agreement must not contain substantial amendments to the original terms of the agreement

8.9.2 Orders to be placed against a known price or one indexed by price indices do not require further competition

8.9.3 Unless determined by a specific framework agreement, (in circumstances when a supplier can be appointed directly), where the

price has not been specified an order can only be placed if a 'mini-competition' is held between at least three of the Framework contractors (applying the relevant Standing Order from these Orders, dependent on the value of the Framework Contract).

8.9.4 New contractors may not be added to the Framework Agreement. If new contractors are required, a new tender process must be pursued.

8.10 Where there is no Approved List or Framework Agreement, an Authorised Officer shall use an approved tender procedure in accordance with these Standing Orders.

Standing Order No.9

Receipt, Custody and Opening Tenders

- 9.1 On receipt, in non-electronic exercises, all tender envelopes shall be endorsed with the time and date of receipt and kept secure and unopened in the custody of the Finance Manager until the time appointed for their opening.
- 9.2 No Tenders received after the specified date and time shall be considered and shall be returned promptly to the tenderer. A late Tender may be opened to ascertain the name of the tenderer, but no details of the Tender shall be disclosed.
- 9.3. Tenders received shall be opened at one time, by
- The Finance Manager or Finance officer, and one member Senior Management Team for contracts up to £50,000 estimated value
 - Two members of the Senior Management Team – for contracts up to £150,000 estimated value
 - One member of the Senior Management Team and one member of the Authority – for contracts exceeding £150,000 estimated value.
- 9.4 All tenders received shall be recorded in the Register of Tenders & Quotations. This register shall also include details of tenders issued but not returned
- 9.5 The Officer responsible for leading the procurement exercise shall ensure that the Tenders received are evaluated in accordance with the evaluation criteria that have been adopted for the Contract award and stated in the invitation to tender. In some instances (particularly where there are several tender returns, or the tender is complex) an evaluation table may be used to score the tenderers against the evaluation criteria.

- 9.6 The project officer shall prepare a tender evaluation report, comparing all returned tenders in quantitative and qualitative terms. Where appropriate, the comparison between tenders should include both the capital and revenue implications. The evaluation report shall compare tenders returned against the pre-agreed criteria/weightings.
- 9.7 The opportunity must be given to the Finance Manager to assess whether a financial viability test is required prior to contract award. All tenderers must be vetted by the team Leader for technical competence.
- 9.8 Any tenderer known to have contravened legislation, and where concerns still remain about their standards, will not be considered. The Authority will also exclude from consideration for Contracts any tenderers engaging in activities which clearly contravene the Authority's environmental policies
- 9.9 Arithmetical corrections may be made by the project officer but shall be recorded and reported to the contractor in compliance with Standing Order 10.
- 9.10 The Authorised Officer's recommendation in the tender return report should be approved by the following in consultation with the Finance Manager:
- 9.10.1 Contracts under £25,000: Team Leader
 - 9.10.2 Contracts over £25,000: Director
 - 9.10.3 Contracts over £150,000: Chief Executive Officer/Director in consultation with Chair of appropriate committee
(Note that this is subject to any particular requirements of any committee authorisation for the contract).
- A copy of the authorisation should be given to the Finance Manager.
- 9.11 No Contract may be awarded unless the expenditure involved has been included in approved estimates or on capital or revenue accounts, or has been otherwise approved by, or on behalf of, the Authority.
- 9.12 Where scoring is being used, a tender other than the highest scoring shall only be accepted after the approval from the Chief Executive or a relevant Director. If scoring is not used, a Tender other than the lowest shall only be accepted after approval from the Chief Executive or a relevant Director.
- 9.13 If, following receipt or acceptance of Tenders, it becomes necessary to enter into negotiations with any of the tenderers, legal advice must be sought before commencing such negotiations.

Standing Order No.10

Adjustment of Tenders

10.1 Civil Engineering Contracts using Institute of Civil Engineers (ICE) Form of Contract

- 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. The tenderer shall be advised of any alterations.
- 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 confirming their rates or withdrawing the tender.

10.2 All Other Forms of Contracts

- a) The following arrangements are to apply where the examination of tenders reveals errors or discrepancies which would affect the tendered price. The tenderer shall be given the opportunity 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 the errors and discrepancies.
- 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.

10.3 Where amendments increase the tendered contract price, the tender analysis shall be updated.

10.4 The project officer may adjust items within the tender document in order to deliver the contract within the finances available. All changes to be agreed with the contractor and signed by both parties.

Standing Order No.11

Nominated Sub-contractors and Suppliers and Contract sub-letting

- 11.1 Where a sub-contractor or supplier is to be nominated to a main contractor, the sub-contractor shall be selected in accordance with these Standing Orders, where the value of the sub-contract exceeds £25,000. Where the value of the sub-contract is less than £25,000 then these Standing Orders do not apply, but the requirements of the Authority's Financial Standards must be adhered with.
- 11.2 No sub-letting of contracts shall be permitted unless specifically approved in advance by the Projects Officer or Head of Service who must be satisfied that the sub-contractor meets the due diligence requirements included in the Selection Criteria of the original tender.

Standing Order No.12

Successful Tenderer

- 12.1 The Authority shall require the successful tenderer to give sufficient security and demonstrate suitability for the performance of the contract and compliance with contract conditions including:
- Details of background and competence to carry out the contract including relationships or involvement with other contractors to ensure fair trading;
 - Appropriate financial checks, bankers' references, statements of account, referees etc. to the satisfaction of the Finance Manager, Chief Executive (National Park Officer) or relevant Team Leader. Financial vetting shall be required for all contracts exceeding £150,000 value and bonds shall be required for all contracts exceeding £500,000 value;
 - Details of previous work record;
 - Evidence of satisfactory employer's and public liability insurance, and completion of the Authority's Contractors Insurance Questionnaire;
 - Performance bond or parent company guarantee if so requested;

- Evidence of commitment and arrangements to secure satisfactory standards of health, safety and welfare, providing method statements and risk assessments where appropriate;
- Details of any registration with a nationally recognised regulating body or its European equivalent appropriate to the work and any guarantee schemes attached;
- 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.13

Form and Content of Contracts

13.1 Every contract shall:

- a) be in writing and signed by a member of the Senior Management Team. Standard Forms of contracting including JCT, ICE, NEC etc are recommended to be used.
- b) specify:
 - the goods, materials or services to be supplied and the work to be executed;
 - the price to be paid together with a statement as to the amount of any discount(s) or other deduction(s);
 - The contractor's proposal to deliver the goods, works or services together with the tendered pricing schedule;
 - the period(s) within which the contract is to be performed
 - any liquidated damages payable by the contractor if such provision is required pursuant to paragraph (13.2) below;
 - the specifications, terms and standards to be applied to the contract;
 - monitoring of the contract, together with controls over sub-contractors; and
 - such other conditions and terms as may be agreed between the parties;
- c) comply with all legislative requirements including Health and Safety at Work regulations and provisions in force.

- d) Contain a requirement that the contractor indemnify the Authority against:
 - i) any claim which may be made in respect of Employers' Liability against the Authority or the Contractor by any workmen employed by the Contractor or any sub-contractor in the execution of the works;
 - ii) any claim for bodily injury to or damage to property of third parties;
 - iii) (if applicable) any claim which may be made in respect of Professional Indemnity insurance

- e) Include a clause empowering the Authority to terminate the Contract and to recover all its loss in the event of corruption (including but not limited to any offence under Section 117(2) of the Local Government Act 1972 and the Bribery Act 2010) by the Contractor, its employees or anyone acting on the Contractor's behalf.

- f) The Contract should also address the questions (where relevant) of:
 - i) Insurance; loss in transit; non-delivery of goods;
 - ii) Delivery; acceptance; testing; trial periods; return of goods;
 - iii) Intellectual property rights (eg. Copyright)
 - iv) Indemnity, liability and insurance;
 - v) Data protection and/or confidentiality and Freedom of Information
 - vi) National Insurance and superannuation;
 - vii) VAT
 - viii) Defects liability and retention

13.2 Where, after consultation with the Finance Manager, the Chief Executive (National Park Officer) or relevant Head of Service considers it to be appropriate, there shall be provision for liquidated and ascertained damages or other sufficient security against unsatisfactory performance.

13.3 Where an appropriate British Standard Specification or British Standard Code of Practice issued by the British Standards Institution or equivalent is current at the date of the tender, every contract shall require that all goods and materials used or supplied, and all the workmanship shall be at least of the standard required by the appropriate British Standards Specifications or Code of Practice or equivalent.

13.4 There shall be inserted in every 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 following is found to have occurred:

- That the contractor shall have offered in any way, to any employee or member of the Authority, any gift or consideration of any kind as an inducement or reward in relation to the contract. The receipt of such

payments or rewards is an offence under section 117(2) of the Local Government Act 1972.

- That the contractor shall have shown favour, or disfavour, to any person in relation to the contract, or any other contract with the Authority;
- That, in relation to any contract with the Authority, the contractor or any person employed by the contractor, or acting on the contractor's behalf, shall have committed any offence under the Bribery Act 2010, or any amendments thereof.

The definition of contractor is deemed to include any person employed by the contractor, or acting on the contractor's behalf – whether with or without the knowledge of the contractor.

13.5 There shall also be inserted in every contract a clause to secure that should the contractor fail to execute the work or deliver the goods or materials or execute or deliver any portion thereof to the standards specified, or carry out the service within the time specified in the contract, the Authority, without prejudice to any other remedy available for breach of contract, shall:

- Be free to determine the contract either wholly or in part to the extent of such default and;
- To provide for the execution of the work by other means or to purchase other goods or materials or to make provisions for the supply of services. As the case may be: or
- To make good such default; or
- In the event of the contract being wholly determined, provide for completion of the unexecuted work or the purchase of goods or materials remaining to be delivered or the provision of the additional service required under the contract.

This clause shall further provide that the amount by which the costs of providing for the execution of the work by other means or purchasing other goods or materials or providing substitute service exceeds the amount which would have been payable to the contractor had he executed the contract or a portion thereof within the time or times specified therein, shall be payable by the contractor.

13.6 Any of the above orders in this section may be overridden by clauses within a written contract.

13.7 A "Register of Contracts" shall be maintained by the Finance Manager; of all major contracts placed by the Authority. The register shall be open to inspection by any member of the Authority or the public.

13.8 Every contract payment shall be passed via the Finance Manager in order to update the Register.

Standing Order No.14

Indemnity and Insurance

14.1 In any contract for the execution of any work or for the supply of goods or materials, 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 project officer satisfactory evidence of insurance against such claims via completion of the Authority's Contractor's Insurance Questionnaire. A copy of this evidence shall be retained on the project file.

Standing Order No.15

Cost Variations, Final Accounts, Liquidated & Ascertained Damages

15.1 Potential cost variations of +/-10% or +/-£5,000 (whichever is the greatest) over and above any contingency built into the contract shall be reported by the project officer to the Chief Executive, relevant Head of Service and Finance Manager for consideration. Approved variations shall be made in writing to the contractor with copies held on the project file, and a summary shall be passed to the Finance Manager on project completion, to update the Register of Contracts. Variations shall only be approved within available finances, and in accordance with the Authority's virement financial standards.

15.2 The project officer shall ensure that Financial Accounts are passed to the Finance Manager for verification against the Register of Contracts and for summation prior to settlement.

15.3 Financial calculations for liquidated and ascertained damages, as calculated by the project officer, shall be checked by the Finance Manager.

Standing Order No.16

Exceptions

16.1 Subject to Standing Order (3) in relation to EU/EC directives, nothing in these standing orders shall require tenders to be invited if the goods or services to be supplied:

- a) are only available from one supplier or are wholly controlled by trade organisations or government order and no reasonably satisfactory alternative is available; or
- b) constitute an extension of an existing contract, provided that the value of the extension does not exceed £25,000 or 10% of the original contract sum, whichever is the lower; or
- c) are similar to a contract completed for the Authority by the same contractor within the past 12 months, where prices have not significantly increased.
- d) are required with such urgency as to not permit the invitation of tenders due to time constraints – such as the expiry of external funding.
- e) Have already been the subject of market testing by professional consultants with a contractual obligation to the Authority to undertake such testing and to report back with recommendations.
- f) Are offered under a joint arrangement with another Local or National Government body where they are taking the lead and comparable tendering and procurement policies to that of the Authority have been applied.

16.2 Authority to approve the use of Standing Order 16.1 rests with the Chief Executive (National Park Officer) and Finance Manager only, with the justification for the decision being recorded and retained on the project file.

16.3 All approvals under these Standing Orders (16) shall be reported to the next NPA meeting for members' endorsement.

Glossary

In these Standing Orders, the following terms have the following meanings:

- 1.1 'Approved List' means a list of suitable Contractors drawn up under Standing Order 8 of these Orders;
- 1.2 'Asset Disposal Procedure' means the procedure adopted by the Authority for the disposal of assets;
- 1.3 'Authorised Officer' means:
 - (1) the Chief Executive
 - (2) any Director of the Authority
 - (3) any officer of the Authority duly authorised by the Chief Executive in accordance with the Schedule of Delegated Authorities to sign Orders or Contracts on behalf of the Authority;
- 1.4 The term 'Contract' shall apply to all agreements, including Orders, between the Authority and one or more person(s) for the supply and/or disposal of goods, materials or services, the execution of works, the use of consultants, or for the hire, rental or lease of goods or equipment, irrespective of value, but shall exclude contracts of employment or for the sale and purchase of any interest in land;
- 1.5 'Sell2Wales' means a web-based portal provided, under that name, by or on behalf of the Welsh Government;
- 1.6 'Contractor' means the person, company, organisation, consultant or supplier undertaking the supply of goods or services or execution of works.
- 1.7 'EU Public Procurement Directives' means EU Directive 2004/18/EC and any Directives and Regulations by which it is applied, extended, amended, consolidated or replaced and any re-enactment thereof;
- 1.8 'EU Thresholds' means the thresholds for public advertisement of goods, works and services contracts as provided for in the EU Public Procurement Directives and advised by the Government;
- 1.9 'Framework Agreement' means a formal tendered agreement that sets out the terms and conditions under which specific purchases can be made throughout the term of the agreement from the successful tenderer in unpredicted quantities at various times during the period that the agreement is in force;
- 1.10 'Head of Service' is an officer who reports directly to a Director (i.e. is subject to a Joint Performance and Achievement Review by a Director).

- 1.11 'OJEU' means the Official Journal of the European Union.
- 1.12 Order means an official order issued by the Authority containing the Authority's relevant standard terms and conditions which authorises or guarantees payment for the supply of goods, materials or services, or for the execution of works;
- 1.13 'Quotation' means a written offer made in respect of the supply and/or disposal of goods, materials or services, or for the execution of works;
- 1.14 'SME' stands for 'small and medium-sized enterprise' and means an enterprise falling within the category of micro, small and medium-sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises;
- 1.15 Statutory Officers means the Head of Paid Service, the Finance Manager and the Monitoring Officer
- 1.16 'Tender' means a sealed bid for the supply and/or disposal of goods, materials or services, or for the execution of works, made in accordance with the provisions of the Tendering Procedures;
- 1.17 'Tendering Procedures' means the provisions set out in clause 7 of these Standing Orders;
- 1.18 'UK Regulations' means the Public Contracts Regulations 2015;
- 1.19 'VCSE' stands for 'voluntary community and social enterprise' and means a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives;
- 1.20 'Written Contract' means a formal contract document, drafted or approved by the Finance Manager and signed by an Authorised Officer, containing a full statement of all the terms and conditions to be applied to the contract.