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Standing Orders for Contracts

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YORKSHIRE PURCHASING ORGANISATION

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1. Definitions

- 1.1. **“Chairperson”** means the current Chairperson of the Management Committee.
- 1.2. **“Chief Financial Officer”** means the current Director of Finance of the Lead Authority responsible to the Management Committee of the Organisation for providing financial advice to the Organisation (other than the financial services performed by the Managing Director or other officers designated by him/her). In fulfilling this role, the Chief Financial Officer will be able to rely on the Managing Director of the Organisation to keep him/her informed on all aspects of his/her role relating to the Organisation under Section 151 of the Local Government Act 1972, including compliance with the rules forming the Financial Procedure Rules and Standing Orders relating to Contracts of the Organisation.
- 1.3. **“Contract”** means an agreement made by the Organisation with another party creating a legal relationship enforceable by law.
- 1.4. **“Framework”** means an agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price, quality and where appropriate the quantity envisaged.
- 1.5. **“FTS”** means the Find a Tender Service hosted by the Cabinet Office for Her Majesty’s Government on .gov and through which the Organisation publishes Tendering opportunities.
- 1.6. **“Goods”** includes all supplies and materials that the Organisation purchases or obtains.
- 1.7. **“Lead Authority”** is the member authority chosen by the Management Committee to provide support services to the Organisation.
- 1.8. **“Management Committee”** means the elected members of the Organisation constituting its Management Committee and any of its Sub Committees.
- 1.9. **“Managing Director”** means the current Managing Director of the Yorkshire Purchasing Organisation, or an officer designated by him/her.
- 1.10. **“Organisation”** means the consortium of local authorities known as the Yorkshire Purchasing Organisation.
- 1.11. **“Procurement Officer”** means the individual or individuals at the Organisation designated as Buyers, Category Managers or Business Managers responsible for delivering Contracts, Frameworks and assessing Goods, Services and Works in accordance with the Contracts Standing Orders.
- 1.12. **“Services”** includes all services, which the Organisation purchases or obtains including but not limited to advice, consultancy, agency staff, third party logistics etc.
- 1.13. **“Tender Plan”** means the written record used and signed by the Procurement Officer to document the intended route to market for any procurement including planned evaluation criteria, market considerations, exceptions to the Contracts Standing Orders and planned delivery dates.

- 1.14. **“Tender Recommendation Form”** means the written record used and signed by the Procurement Officer to document the outcome of any tender or procurement exercise including the process used, issues faced, outcome reached and the proposed intent as a result of the exercise including the award of Contracts or Frameworks where appropriate.
- 1.15. **“Whole Life Costs”** means the whole costs of the provision of the works, goods and/or services **from inception to disposal** including any annual maintenance costs or annual fees (i.e., software licences)
- 1.16. **“Works”** includes the construction of new buildings and works, restoring and common repairs.

2. Introduction

- 2.1. The Standing Orders for Contracts set out the procedures that must be followed by the Organisation for the procurement of all Contracts and Frameworks, subject to the Management Agreement and the Managing Director’s Scheme of Delegation and the laws of England
- 2.2. The Organisation is committed to the following overall principles:
 - a) All purchases will be based on the most advantageous tender. Unless agreed by the Managing Director.
 - b) The Organisation shall treat all tenderers and suppliers equally and without discrimination and shall act with integrity and in a transparent manner in carrying out its duties.
 - c) Social Value impact and outcomes will be a core, demonstrable consideration in all purchasing decisions made under these Standing Orders for Contracts.
- 2.3. These Standing Orders for Contracts apply to all Contracts for Goods, Services and Works.
- 2.4. All values referred to in these Standing Orders for Contracts are exclusive of VAT.
- 2.5. Any dispute regarding interpretation of these Standing Orders for Contracts shall be referred to the Managing Director or his/her nominated officer.
- 2.6. The Managing Director or his/her nominated officer shall undertake a formal review of these Standing Orders for Contracts on an annual basis.

3. Conduct of Members and Employees

- 3.1. So far as possible, the election to the Management Committee of anyone with a significant involvement in any way with any firm likely to be employed by the Organisation, or the employment of any officer with a similar involvement, should be avoided.
- 3.2. Members and employees of the Organisation shall not sell any goods or services to the Organisation.

- 3.3. No contractor, supplier, or service provider in which a member or officer has a pecuniary interest may be chosen or appointed, other than by following the procedures laid down in these Standing Orders for Contracts, the Organisation's Code of Conduct Policy and without having disclosed his/her interest by completing a Declaration of Interest Form in accordance with statutory requirements and the Organisations Register of Employee Interests Policy.

4. Propriety

- 4.1. The Board of Directors shall have direct access to the Secretary, the Chief Financial Officer, or the Chairperson of the Organisation, in matters touching on the propriety of purchasing arrangements. The Managing Director shall provide information and advice as necessary, but where circumstances clearly require a completely impartial approach, initial decisions shall be taken by the Secretary, the Chief Financial Officer, or the Chairperson, as appropriate. All such matters must be referred to the Management Committee either for decision or, where action has already been taken, for confirmation.

5. Compliance

- 5.1. Contracts entered into on behalf of the Organisation shall be made in accordance with all relevant UK legislation requirements and applicable government guidance.
- 5.2. Where an appropriate standard or code of practice is issued by the UK Government, every contract subject to these Standing Orders for Contracts shall require that all goods and materials, used or supplied, and all workmanship provided shall be in accordance with that standard.
- 5.3. The Contracts Team and all other officers with budget responsibilities within the Organisation are responsible for ensuring that processes adopted are compliant with these Standing Orders for Contracts.
- 5.4. The Procurement route should take into account instances where Goods, Services and Works can be obtained via appropriate, existing, approved, and enabled arrangements. These include:
- a) The use of a Member Authority's in-house services such as payroll, legal, vehicle maintenance etc.
 - b) Nationally negotiated contracts such as those arranged by any Public Sector Body or Public Buying Organisations such as Eastern Shires Purchasing Organisation and the Crown Commercial Service.

6. Exceptions

- 6.1. Exceptions from any of the provisions of these Standing Orders for Contracts shall only be made by decision of the Management Committee or in compliance with the terms of the Managing Director's Scheme of Delegation and a written record signed by the Managing Director in the form of an Exception Report will be kept centrally in an electronic file held by the Contracts Team
- 6.2. Subject to statutory requirements tenders need not be invited in accordance with these Standing Orders for Contracts in the following cases:

- a) Goods and Services which are obtainable from one contractor only and for which there is clear recorded evidence that no satisfactory alternative is available.
- b) The execution of Works of a specialised nature where there is clear recorded evidence that they may only be carried out by one contractor.
- c) Goods of a nature entrusted to a particular public utility, local authority (or similar) or other statutory undertaker.
- d) The purchase of Goods and Services from a central or local government purchasing organisation where the Organisation is satisfied that the procurement has been undertaken in accordance with legislation and any specific Call Off procedure is followed.
- e) The purchase of Goods and Services where prices of the goods are wholly controlled by trade organisations or government order and no reasonably satisfactory alternative is available.
- f) The purchase of Goods and Services in response to emergency.
- g) Where an Exception Report has been properly signed by the Managing Director.

7. Equality and Diversity

- 7.1. The Organisations Frameworks and Contracts must include protections to ensure contractors, suppliers and service providers will not unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation, age or otherwise) in employment.

8. Terms and Conditions

- 8.1. Contracts and Framework Agreements will use the Organisations standard terms and conditions. Variations from the standard format must be approved by the Contracts Manager and if necessary legal advice sought.
- 8.2. Tenderers are expected to accept the Organisation's Terms and Conditions held within the Framework Agreement or Contract without qualification. Acceptance of qualified terms and conditions will only be made at the Contracting Manager's discretion and written assessment should be made of its implications and held on a central file within the Contracts Team.
- 8.3. The tender documents should give tenderers the opportunity to raise any queries in relation to the terms and conditions during the "Clarification Question" stage of the process to allow for all queries to be addressed and a response (if required) can be circulated to all tenderers. Any legal queries raised during the tender process should be referred to the Contracts Manager.
- 8.4. Contracts for the execution of Works or the purchase of Goods or Services where urgency is too great to permit the making of a contract in writing will be confirmed in writing at the earliest opportunity.

9. Tendering Process

- 9.1. The Organisations preferred route is to utilise an electronic tendering system (ETS) for all tendering activity. Any exception to this process must be agreed on a case-by-case basis with the Contracts Team with full details of the reason for change retained in writing on file.
- 9.2. The ETS provider is sourced, administered, and managed by the Contracts Team
- 9.3. User training is provided by the Contracts Team
- 9.4. Cost may be evaluated through an e-auction where appropriate.
- 9.5. Gateway sign off stages for contracts within each band will be dependent on the monetary, complexity and risk value of the contract and will be confirmed by the Contracts Team at the time of tendering.

10. Tender Information Obligation

- 10.1. As part of the Local Government Transparency Code, the Organisation has an obligation to publish information on a monthly/quarterly basis in relation to invitations to quote and invitation to tender for all contracts to provide goods and/or services that exceed £25,000.
- 10.2. The information to be published is reference number; title; description of goods/services; start, end and review dates; title of agreement; supplier name and details; sum to be paid over the length of the contract; the process used, whether or not the supplier is a small/medium enterprise and/or a voluntary or community sector organisation and the department responsible for the procurement.

11. Contracts / Frameworks under £25,000

- 11.1. This includes any procurement activity (internal or trading spend) involving an estimated aggregate Whole Life Costs value up to £25,000
- 11.2. The procurer may use any reasonable means to source supplier options, but the tendering procedure and outcome must be managed, and a written record must be retained. If requested to do so a copy must be provided to the Contracts Team on conclusion.

12. Contracts / Frameworks between £25,000 and UK Government Thresholds

- 12.1. This includes any procurement activity (internal or trading spend) involving an estimated aggregate Whole Life Costs value between £25,000 and UK Government Thresholds as updated from time to time.
- 12.2. There must be a minimum of three written quotes from selected suppliers unless agreed otherwise by the Contracts Team in exceptional circumstances.
- 12.3. The procedure must be carried out electronically via the ETS with a written record of the specification, the quotations, the evaluation process and notification of award and rejection. This written record must be retained.

13. Contracts / Frameworks above UK Government Thresholds for Goods, Services & Works

- 13.1. Procurement activity with an estimated aggregated Whole Life Costs value above UK Government Thresholds for Goods, Services and Works will be overseen by the Contracts Team.
- 13.2. All tenders must be advertised and Awarded on Contracts Finder and the Find a Tender Service.
- 13.3. Procurements must be processed via the ETS unless otherwise agreed by the Contracts Team. In the case of tenders for Goods or Services, the relevant officers should consider whether the contract will be of benefit to other public sector bodies.
- 13.4. The selection and award criteria, sub-criteria, and weightings to be used in the evaluation process must be clearly communicated to all tenderers in the FTS entry and in the Invitation to tender. These criteria must be followed during the evaluation process. Under no circumstances may any of the criteria be changed or new criteria introduced from those published.
- 13.5. Before commencing any tendering exercise an assessment of risk pertaining to the specific tender exercise will be undertaken. This will allocate the required sign off levels / stages which must be adhered to.
- 13.6. All legally required time limits must be followed as minimum
- 13.7. Social Value considerations must be included in the criteria for award in the FTS notice and tender documentation.
- 13.8. In every instance detailed records will be held (electronically) of all stages of the process.

14. Receipt and Opening of Tenders

- 14.1. The receipt and opening of tenders will be undertaken using the ETS unless otherwise agreed by the Contracts Team.
- 14.2. The Contracts Team are responsible for receipting and opening all tenders unless otherwise agreed by the Contracting Manager.
- 14.3. Late tenders may be considered at the discretion of the Contracting Manager, if the Contracting Manager is satisfied that there was reasonable cause for the delay and fair competition has not been compromised. A record of this decision will be held centrally by the Contracts Team.

15. Examination of Tenders

- 15.1. Tenders submitted in competition shall not be considered if:
 - a) The tender is in some way uncertain in its terms, and it is unclear what the submission is offering,
 - b) There is evidence that the tender document has been altered without consent.
- 15.2. If a tender requires clarification on a technical or contractual matter, all necessary communication must be properly recorded and remain confidential.

Such clarification may only be undertaken when the process remains fair to all Tenderers and does not distort competition in any way.

- 15.3. During the period between the closing for the receipt of a tender and award, Tenderers may not seek to amend prices in any way, other than a genuine and obvious error. Such circumstances must be properly recorded on file and competition must not be distorted in any way. Evidence should always be provided that can be tracked back to the original quote.
- 15.4. If variations to specifications are to be examined and considered, tenderers must have been made aware in the invitation to tender document.

16. Acceptance of Tenders

- 16.1. The designated Procurement Officer(s) shall evaluate the tenders and make a recommended contract award based on the most advantageous tender to the sign off panel.
- 16.2. The proposed award would then be signed off by the tender team and a Tender Recommendation Form and a Regulation 84 Report shall be completed
- 16.3. The relevant company credit checks and any other necessary checks will be carried out by an agreed member of the tender team prior to contract award and copies of any searches and documents retained.
- 16.4. Signed letters of proposed acceptance and rejection shall be sent to Tenderers in the format provided by the Contracts Team initiating a mandatory standstill period before final contract award.
- 16.5. If a legal challenge is received and during the standstill period, the Contracts Officer shall meet with the tender team and the Contracting Manager will be informed and legal advice will be sought where required from the Lead Authority
- 16.6. The acceptance of tenders and related communication will be undertaken using YPO's preferred route of the ETS

17. Claims from Contractors, Suppliers and/or Service Providers

- 17.1. Any claim from a contractor, supplier or service provider shall be referred to the Contracting Manager, The Board of Directors, Secretary and to the Chief Financial Officer for advice before any settlement is made.

18. Purchasing

- 18.1. After the award of the Contract / Framework to the successful providers the Contract / Framework agreement must be signed and returned to the Organisation immediately
- 18.2. Upon receipt of the above the Managing Director or his/her nominated officer must sign the framework agreement on behalf of YPO in accordance with the levels set out in Appendix 1.
- 18.3. Orders, despatched electronically or on official stationery, should state the quantity (where applicable), an adequate description, the price or the basis of the price, an official purchase order number, delivery date and place and all other

relevant conditions.

- 18.4. Verbal orders shall be kept to a minimum and shall be confirmed with an official order marked appropriately as soon as practicable, but in a period of no longer than two (2) working days.
- 18.5. Orders shall be individually identified, sequentially numbered, initiated and issued by the Managing Director or a member of staff specifically authorised for that purpose.

19. Post Contract Award

- 19.1. Following Contract award, the Procurement Officer or where appropriate their line manager will be responsible for monitoring delivery of the Framework / Contract including any and all reviews to take place between YPO and the contractor, supplier, or service provider. All reviews should be carried out on a regular basis, documented and a copy of the Review undertaken retained for the Organisations records.
- 19.2. **UNDER NO CIRCUMSTANCES** should a Framework Agreement / Contract be terminated without advice from the Contracts Team and the Contracts Manager.

APPENDIX 1

YPO

These appendices set out the limits to be used in conjunction with the Standing Orders for Contracts Section 18

| Delegated officer | Maximum limit for execution of a contract | Maximum limit for execution of a framework agreement |
|---|---|--|
| Procurement Officer | up to £50,000 | |
| Contracting Manager/SMT member* | up to £500,000 | up to £10,000,000 |
| Director other than the Managing Director | up to £1,000,000 | up to £10,000,000 |
| Managing Director* | All Contracts as permitted within the Scheme of Delegation. | All Frameworks as permitted within the Scheme of Delegation. |

*The authorities listed in this table should not be delegated below the specified levels.