



Lancashire
Constabulary
police and communities together

POLICE AND CRIME COMMISSIONER FOR LANCASHIRE

STANDING ORDERS RELATING TO CONTRACTS

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1. Compliance with Standing Orders

- 1.1 All contracts made by the Police and Crime Commissioner (PCC) and / or Chief Constable, shall comply with the following provisions of these Standing Orders. Every contract relating to purchases or sales, the provision of services (including the purchase of consultancy services) shall comply with these Standing Orders. No exceptions from any of the following provisions of these Standing Orders shall be made other than by direction of the PCC or subject to the provisions of applicable Public Contracts Regulations.

- 1.2 For the purpose of these Standing Orders, where it is anticipated that a quantity of goods is to be purchased during any financial year by placing orders against a standing offer to supply those goods at a fixed price or a price which is determined by reference to objective criteria, the estimated total aggregate value of goods to be purchased for the contract period shall be deemed to be the value or estimated value of the contract for the supply of those goods.
- 1.3 All employees and officers of the PCC, officers and staff of the Lancashire Constabulary and all persons or companies contracted with the PCC shall conform with the provisions of Standing Orders. No favour should be shown towards any supplier or contractor. Officers and staff of the Lancashire Constabulary must ensure compliance with the Constabulary's Code of Ethics. Failure to comply with either may be regarded as a disciplinary offence.

2. Authority to deal with Contracts

2.1 Contracts below £70,000

The PCC's Chief Executive and Chief Finance Officer (CFO) and the Chief Constable's CFO may enter into contracts

- 2.1.1 which do not exceed £7,000, without the need to seek written quotations or tenders, provided that they can demonstrate that value for money is being achieved;
- 2.1.2 between £7,000 and £70,000 in value, provided that a reasonable number of (not less than three) written competitive quotations or tenders for each contract have been received (unless the contract is one caught under Standing Order 6.1 in which case tenders and quotations will not be required.)

If it proves impossible to comply with the requirements set out at 2.1.1 and 2.1.2 set out above the PCC's Chief Executive and CFO and the Chief Constable's CFO may each in their own right agree to waive these provisions provided that the reasons for doing so are lawful and recorded in writing.

3. Contracts above £70,000

Advertising

- 3.1 All contracts that exceed £70,000 shall be subject to a formal tender process and comply with the advertising requirements set out below, unless the contract is exempt under Standing Order 6.1, however excepting always any requirements under the Public Contracts Regulations 2006 (and subsequent amendments), (The Regulations).
 - 3.1.1 the advertisements must be placed in one or more of the local newspapers circulating in the area; and

- 3.1.2 in one or more newspapers or journals circulating amongst such persons as undertake such contracts wherever the value or amount of the contract exceeds £130,000 (except where the contract concerns buildings and constructional work where the figure shall be £370,000);
- 3.1.3 local press advertising need not apply where the nature of supply, in the opinion of the CCs CFO (or where appropriate the Chief Executive and PCC CFO) is of such a specialist or technical nature that advertising in trade journals will be sufficient to notify any interested parties; and
- 3.1.4 in the case of contracts equal to or exceeding in value current thresholds specified for the purposes of the Public Contracts Regulations 2006 governing the award of public supply, public works and public services contracts ('qualifying contracts'), the advertising requirements specified in the Regulations shall apply.
- 3.1.5 The PCC's Chief Executive and CFO and the CC CFO shall have discretion to make a charge to cover the cost of the production and circulation of tender documents having regard to the merits of each individual contract.

EU Procurement Rules and the Public Contracts Regulations

- 3.1.6 For contracts where the estimated total value exceeds, or is within 10% of the relevant EU Procurement threshold (set out below and as amended every two years), the procurement must also be conducted in accordance with the appropriate Regulations The application of the Regulations cannot be waived by the PCC.
- 3.1.7 The latest EU Procurement thresholds with effect from 1 January 2014 are:

Public Works	£4,348,350 (less 10% = £3,913,515)
Public Services	£172,514 (less 10% = £155,263)
Public Supplies	£172,514 (less 10% = £155,263)

4. Tender award criteria and award of contract

- 4.1 All tender award criteria, sub criteria and methodology must be agreed in advance and included in the tender being invited.
- 4.2 The tender must include the mandatory requirement for contracting authorities to exclude economic operators (suppliers, contractors and service providers) from public contracts where they have been convicted of any of the following offences: conspiracy, corruption, bribery, fraud. Exclusions will be required if there is evidence of other criminal activity in an organisation or if individual employees fail to meet vetting criteria.

- 4.3 When a tender has been advertised under the Regulations or is a service described in Schedule 3 Part B of the Regulations and is over the relevant threshold, a contract award notice must be published in OJEU (Official Journal of the EU) within the timescales.
- 4.4 Save for those contracts identified in paragraph 4.5 below all contract award decisions are subject to a mandatory 10 day “standstill” provision. Any economic operator that has submitted an offer has applied to be amongst those selected to tender for or negotiate the contract, or who has applied to be a party to a framework agreement must be notified of the decision to award a contract. Such notification must be given in accordance with the requirements of Regulation 32 of the Public Contracts Regulations 2006 as amended by the Public Procurement Regulations, 2011.
- 4.5 The award of contract notification requirements set out above do not apply to the following contracts.
- (a) contracts where the value falls below the EU Procurement Threshold;
 - (b) those in relation to Part B services;
 - (c) those awarded under a framework agreement (although the requirements do apply to the award of the framework agreement itself);
 - (d) those awarded using dynamic purchasing systems;
 - (e) those awarded using negotiated procedure with only one tenderer.

(Note: Good practice states that whilst Alcatel does not apply, public sector bodies should offer an unofficial standstill period to give unsuccessful parties the opportunity to request a debrief/feedback.)

5. Approved List of Tenderers

- 5.1 Notwithstanding the provisions of Standing Order 3, the PCC may direct that contracts in excess of £70,000 which are not qualifying contracts, need not be the subject of competitive tendering by way of general advertisement. The PCC may direct that those contracts can be by invitation to tender from a list of persons selected and approved by the PCC after public notice in one or more newspapers or journals circulating amongst such persons, as undertake the particular contracts and considered eligible to be included on the list. Not less than six (6) persons must be on the select list and not less than five (5) persons if the contract exceeds £3,400,000.
- 5.2 Approved lists as provided for in Standing Order 5.1 may also be applied to qualifying contracts for the execution of works at the direction of the PCC provided that any such qualifying contract shall be awarded by the restricted procedure specified in the Regulations. The reason for use of restricted procedures shall be recorded by the Chief Constable's CFO following consultation with the PCC's Chief Executive and CFO. Any person not included in the approved list can apply to be included and the PCC's Chief Executive and CFO and the Chief Constable's CFO have the discretion to include or not include such a person.

- 5.3 Any procedure operated under this Standing Order shall be modified as the PCC may direct to secure compliance with the Regulations.
- 5.4 Qualifying contracts shall be awarded by negotiated procedures (as defined in the Regulations) only with the prior approval of the PCC.
- 5.5 The approved list shall be reviewed by the PCC every two years and the invitation to tender by way of public notice shall be repeated as often as may be directed by the PCC. Names of contractors may be added to or removed from approved lists at any time by the PCC and in the case of building contracts in accordance with the Policy and Procedures document for managing the list.
- 5.6 Where more than six contractors appear on an approved list at least six contractors shall be invited to tender, except where the contract is of a value that requires only five persons to tender. On each occasion that the approved list is used, at least 50% of those invited to tender shall not have previously been invited. This rotation shall continue and be repeated after all contractors have been invited. In the case of building contracts the Policy and Procedures document for managing the list shall be used.

6. Exemptions from the Requirement to obtain Tenders or Quotations

- 6.1 No tenders or quotations (as per Standing Order 2.1 and 3.1) need to be obtained in respect of the following contracts, whatever the value:-
 - 6.1.1 contracts for the purchase of goods in respect of which tenders have been obtained by a purchasing consortium or other recognised Government agency;
 - 6.1.2 contracts for the supply of goods which the Home Office or National Crime Agency (NCA) have specified as the type of goods which should be used for a particular purpose and only one supplier of such goods exists;
 - 6.1.3 contracts for the supply of goods or services the price of which is fixed by a trade organisation or government department and no reasonably suitable alternative is available;
 - 6.1.4 contracts where the PCC has entered into a framework agreement through procurement or places an order from an existing framework agreement procured by central government agencies, other PCCs or other third parties. However, it should be noted that, in some instances, the framework agreement may include within its terms a requirement for a mini competitive exercise between those suppliers who are party to the framework agreement.

(A framework agreement is defined as an agreement which allows the PCC to place orders with a supplier to provide supplies, services or works in accordance with the terms of the agreement. The Framework Agreement itself usually constitutes a non-binding offer with no

obligations on the PCC to place orders with the supplier, whereas a framework contract is binding.

The draft framework contract will be used in any mini competition and form the basis of a binding contract with the supplier.)

7. Sub-Contractors

- 7.1 The provisions of Standing Orders 3 and 4 shall not apply, unless otherwise directed by the PCC, to any power to select a sub-contractor within the terms of a main contract.

8. Submission of Tender

- 8.1 Tenders must be submitted in accordance with the requirements of paragraph 9. Wherever possible, e-tendering should be used.
- 8.2 Where public invitation to tender is required, every notice of such invitation shall state that no tender will be received except either:
- 8.2.1 In a plain sealed envelope addressed to the Chief Executive of the PCC; or
- 8.2.2 Via secure electronic format as specified by the PCC.
- 8.3 No tenders received after the specified date and time for receipt of tenders shall be accepted or considered under any circumstances.
- 8.4 Paper based tenders must be received in a plain sealed envelope addressed to "The Chief Executive of the PCC and shall bear the word "Tender" followed by the subject to which it relates, but shall not bear any name or mark indicating the sender, and such envelopes shall remain in the custody of the Chief Executive until the time appointed for their opening.
- 8.5 Tenders shall be opened at one time and in the presence of at least two officers from a panel of officers appointed by the Chief Executive to the PCC. When the tenders have been opened and the details recorded, the tender documents shall be transmitted direct to the officers responsible for the contract.

9. Electronic Tendering

- 9.1 Requests for Quotations and Invitations to Tender should be transmitted electronically via the corporate e-tendering software. A corporate contract exists to support this way of working and is the only approved software route for e-tenders. Quotations and tenders shall be submitted via the corporate e-tendering solution provided that:
- (a) evidence that the transmission was successfully completed is obtained and recorded;

- (b) quotations or tenders will only be accepted by electronic means if the tenderer has complied fully with the requirements for the receipt under the core ICT system for e-tendering which ensures that electronic tenders are kept in a separate, safe and secure folder under the control of an officer authorised for this purpose by the appropriate Chief Executive. This folder shall remain unopened until the published deadline has passed for receipt of tenders;
- (c) the requirements in the Regulations in respect of electronic signatures must be complied with.

10. Invalid Tenders

- 10.1 A tender received by post after the time specified but before tenders are opened can be deemed valid at the discretion of the Chief Executive provided the post mark would have brought about delivery in this time in the normal course of post. The decision and reasons shall be documented.
- 10.2 Except where deemed valid as above, invalid tenders due to late delivery shall be opened and their value recorded but in a manner that indicates their invalidity.

11. Amendment of Tenders

- 11.1 No tenderer shall be allowed to amend a tender figure after the deadline for the receipt of tenders provided that, where significant arithmetical errors or discrepancies are discovered before acceptance, the tenderer should be afforded the opportunity of confirming the price, of amending it to take account of such genuine errors or of withdrawing their tender.

12. Approval of Shortlist of Tenderers

- 12.1 The PCC's Chief Executive and CFO and the Chief Constable's CFO may agree to the use of the shortlisting procedure and approve a shortlist of tenderers for any contract where the drawing up of a shortlist is deemed necessary. Records relating to the shortlisting process will be maintained, including a record of the reason for the use of the shortlisting procedure.
- 12.2 Any procedure operated under this Standing Order shall be modified as the PCC may direct to secure compliance with the Regulations.

13. Evaluation of tenders

13.1 Tenders subject to the Regulations shall be evaluated in accordance with the relevant regulations and the evaluation criteria set out in the invitation to tender or invitation to negotiate. All other tenders shall be evaluated in accordance with the evaluation criteria notified to tenderers in the contract notice and/or invitation to tender or invitation to negotiate. All contracts, except where lowest price was predetermined to be the appropriate contract award criterion, shall be awarded on the basis of the offer which represents the Most Economically Advantageous offer to the PCC. The evaluation criteria shall be predetermined and listed, together with pre-determined scores and/or weightings in the invitation to tender, invitation to negotiate or invitation to participate. In addition, the evaluation criteria shall be strictly observed at all times throughout the contract award procedure by any person involved in the tender evaluation.

13.2 Definition of 'Most Economically Advantageous Offer'

Most economically advantageous offer may be assessed by reference to quality, price, technical merit, aesthetic and functional characteristics, running costs, cost effectiveness, after sales service and technical assistance, company finances, delivery date and delivery period or period of completion.

14. Acceptance of a Tender other than the highest or lowest

14.1 Where payment is to be received by the PCC and provided that the tender is within the approved estimate, a tender other than the highest tender in terms of monetary value shall not be accepted unless approved by the PCC.

14.2 Where payment is to be made by the PCC, and provided that the tender is within the approved estimate, a tender other than the lowest tender in terms of monetary value or the most economically advantageous tender, depending upon the evaluation criteria which is being implemented, shall not be accepted unless approved by the PCC.

14.3 This Standing Order shall not place the PCC under an obligation to accept any tender.

14.4 The PCC's Chief Executive and CFO and the Chief Constable's CFO, if satisfied that it is not in the PCC's interest to accept the lowest or the most economically advantageous quotation, may negotiate a lower or more economically advantageous quotation with the person or company submitting the lowest or most economically advantageous quotation, and keep a record of such negotiations attached to the original tender documentation.

15. Withdrawal of Tenders

- 15.1 In the event of any person or firm withdrawing a tender or declining to sign the contract upon being called upon to do so after his or their tender has been accepted, or if the PCC is satisfied that the contractor has not carried out that contract in a satisfactory manner, the person or firm or contractor shall not be allowed to tender or shall be removed from the approved lists thereafter for a period of three years, or such other period as may be agreed by the PCC in individual cases.

16. Written or Sealed Contracts

- 16.1 All contracts and orders shall be made in the name of the Police and Crime Commissioner for Lancashire.
- 16.2 All contracts which relate to the acquisition and disposal of land, or which have potential long term liabilities and would benefit from the added legal protection afforded by the process of sealing shall be made by affixing the Common Seal which shall only be attested by the PCC's Chief Executive or person authorised by him/her.
- 16.3 All contracts and orders shall be made in writing.

17. Joint Procurement

- 17.1 These Standing Orders shall apply to any procurement where tenders are invited by the PCC on behalf of police forces, emergency services and other public bodies and any partnership, consortium, association or similar body of which the PCC is a member, or where the PCC is participating in any procurement exercise where it is not the lead body.

Other Issues in Respect of Contracts

18. Liquidated Damages and Bonds for Non-Performance

- 18.1 Every contract which exceeds £70,000 in value or amount and is either for the execution of works or the supply of goods or materials otherwise over a period of time, shall provide for the payment of liquidated damages by the contractors in case the terms of the contract are not duly performed, and the PCC shall require and take sufficient security or guarantee for the due performance of every such contract, unless such security or guarantee is provided for by general arrangements made by the PCC.

19. Damages for Bribery or Treating

19.1 In every written contract a clause shall be inserted to secure that the PCC shall be entitled to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancellation, if the contractor, its employees, agents or sub-contractors shall have committed any offence under the Bribery Act 2010.

20. Third Parties

20.1 In cases where a third party such as an agent or consultant is employed to act for the PCC in the carrying out of works or purchase of supplies, it shall be a term of the appointment that the following shall be complied with:-

20.1.1 observe or otherwise secure the observance of the procedures prescribed in these Standing Orders;

20.1.2 at any time during the execution of the contract, the PCC's Chief Executive and CFO and the Chief Constable's CFO produce on request, all the records maintained in relation to the contract; and

20.1.3 on completion of a contract, transmit all such records to the PCC's Chief Executive and the Chief Constable's CFO as appropriate.

21. Assignment

21.1 In every written contract the contractor shall be prohibited from transferring or assigning directly or indirectly to any person or persons whatever, any portion of the contract without the written permission of the PCC. Sub-letting, other than that which may be customary in the trade concerned, shall be prohibited.

22. Review

22.1 These Standing Orders shall be reviewed annually.

22.2 Amendments of a significant nature (such as go to change materially a process or approach) shall only be approved by the PCC, after consideration of the proposal is given by the Monitoring Officer and PCC's CFO. If the Monitoring Officer and CFO are of the view that the proposal is unlawful, then it shall be rejected with proper reasons being given. Otherwise, the Monitoring Officer or CFO shall prepare a report with such recommendations for consideration by the PCC.

22.3 Amendments of a minor nature may be approved by the PCC CFO, in consultation with the PCC, and the Chief Executive/Monitoring Officer, but only those which are lawful may proceed.