

PROCUREMENT RULES, REGULATIONS & CONTRACT STANDING ORDERS – WAIVERS 2019/20

1. PURPOSE OF REPORT

- 1.1 This report updates Members on waivers to Procurement Rules, Regulations & Contract Standing Orders approved during 2019/20.

2. BACKGROUND

- 2.1 The Procurement Rules, Regulations & Contract Standing Orders provide the rules to be followed for the procurement of goods, services and works and ensure that the Council complies with Procurement Legislation whilst obtaining Value for Money in Purchasing.
- 2.2 Procurement Rules, Regulations & Contract Standing Orders must be followed by all individuals responsible for Procurement for, or on behalf of the Council.
- 2.3 The Regulations provide for limited exceptions to the prescribed rules which include the following:
- Procurement through a Consortium or similar body that the Council is a member of
 - Works carried out under an Agency arrangements which states that the Standing Orders of the Principal Authority apply
 - Appointment of specialist experts for legal matters and proceedings
 - Appointment of Counsel by Legal Services.
 - Financial advice sought by the s151 officer.
- 2.4 Where the above exceptions do not apply and a Contract Administrator has a valid reason for not complying with Standing Orders, an application for a waiver may be submitted for approval. Table 1 shows the level of approval required for waivers for 2019/20:

Table 1 – Delegated authority to approve waivers

Value of Contract	Approval Required
£0 – EU Procurement Levels	Executive Head of Governance and Regulation, Service Manager Legal, Solicitor

3. WAIVERS GRANTED 2019/20

- 3.1 There were 10 applications for a waiver against the Procurement Rules, Regulations and Contract Standing Orders between 1 April 2019 and 31 March 2020, of which 7 were approved. The total value of all approved waivers was £301,148.00. This compares with 39 applications submitted during 2017/18, with approved waivers totalling £2,964,979.96 and 14 applications in 2018/19 with a value of £409,695.00.

3.2 The standing orders that were waived are detailed in Table 2.

Table 2

Contract Standing Order (SO) Paragraph Number and Detail
SO6 Where the estimated value of a contract is between £15,000 and £25,000 a minimum of three quotations must be invited (via desk-top quotation) for a works, goods or services contract.
SO7 Where the estimated value of a works, goods or services contract is between £25,000 and £50,000 suitable suppliers for a restricted quotation should be nominated by the Service team and confirmed with Procurement. Procurement will invite quotations via the e-procurement system.
SO9 Where the estimated contract value for a works, goods or services contract exceeds £50,000 but does not exceed the relevant EU public procurement threshold (*see Annex A for EU threshold £ values) or does not fall within a category subject to the EU public procurement rules, an open tender should be issued by the Procurement team
SO21 Under Public Contracts Regulations 2015 (Reg 72), a modification to an existing pre-tendered contract may be possible, without the need to re-advertise or retender, in certain limited circumstances.

3.3 One waivers was over £100,000 in value.

3.4 There were 3 waivers that were rejected during the year. The reason for the rejections was due to insufficient information being provided to support the grant of a waiver.

4. FINANCIAL IMPLICATIONS

4.1 Procurement Rules, Regulations and Contract Standing Orders ensure that the most economically advantageous price is obtained in Procurement. Waivers sought need to demonstrate that where tenders or quotations are not obtained, that Value for Money can still be demonstrated.

5. CRIME & DISORDER IMPLICATIONS

5.1 Procurement Rules, Regulations and Contract Standing Orders provides procedures to limit the risk of collusive tendering (bid rigging).

6. ENVIRONMENTAL IMPLICATIONS

6.1 Procurement Rules, Regulations and Contract Standing Orders provide for tender evaluation models to include environmental and sustainability policies.

7. EQUALITY & DIVERSITY IMPLICATIONS

7.1 None.

8. RECOMMENDATIONS

8.1 That the Audit Committee notes the Waivers to the Council's Procurement Rules, Regulations and Contract Standing Orders approved during the financial year 2019/20.

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Background Papers:

Contract Standing Orders