

Appendix 1

CONTRACT STANDING ORDERS

H. CONTRACT STANDING ORDERS (Approved by Council April 2017)

A. PURPOSE AND SCOPE OF CONTRACT STANDING ORDERS

A1. Legislation Governing these Contract Standing Orders

1. Contract Standing Orders (“CSOs”) form part of the Constitution of the London Borough of Camden (“the Council”) and govern contracts as described below in CSO A2 (Scope of Contract Standing Orders).
2. The Council is legally obliged to have standing orders. CSOs must include provision for securing competition in the award of contracts and for regulating the manner in which tenders are invited.
3. These CSOs must be complied with¹, together with the Council’s Financial Standing Orders. It is suggested CSOs are reviewed every two years or where there is a change in procurement legislation or amended guidance from a procurement policy note issued by the Cabinet Office.
4. **It may be a disciplinary offence for officers not to follow the CSOs.** Staff have a duty to report breaches to an appropriate senior manager at Chief Officer² level, the Borough Solicitor and the Head of Internal Audit and Risk.
5. A decision taken by the Council may either be a non-key executive or a key decision. Key decisions must be included on the forward plan, and published. Non-key executive decisions do not require inclusion on the forward plan, however the decision and report must be published in line with the Local Authorities Regulations 2012. The process is set out in guidance notes held by Committee Services³.

A2. Scope of Contract Standing Orders

1. These CSOs apply to all contracts awarded by the Council for works, services or supplies, regardless of the source of funding for the contract,

¹ The CSOs should be read in conjunction with the Council’s Procurement Toolkit and Guide to CSOs which sets out guidance on the application of these principles and compliance with these CSOs. A link will be added.

² As per Article 13 of the Constitution, the term Chief Officer includes the Chief Executive, all Executive Directors, Directors, Chief Digital and Information Officer, the Borough Solicitor and the Director of Public Health.

³ Guidance note for Departmental Coordinators and Report Authors: Process for Non-Key Executive Decisions – this is available from Committee Services.

and to the award of concession contracts. They apply equally to contracts awarded by any person, firm or body acting on the Council's behalf.

2. In addition, each Directorate must have and adhere to the Financial Scheme of Delegation. The Financial Scheme of Delegation will set out what level of financial authority officers in each Directorate have.
3. Where works, services or supplies are awarded (called off) from a framework agreement (and the Council is satisfied that the framework has been set up in accordance with EU-UK law) then they must be awarded in line with the terms of the framework agreement. The method of call-off (e.g. mini-competition or direct award) must be endorsed by the relevant Chief Officer⁴.

4. Where such works, services or supplies are to be awarded (called off) from a framework agreement procured in line with UK Procurement Legislation Regulations ⁵ the Public Contract Regulations 2015, the procurement procedures set out in C1 to C3 do not apply.

4.5. In certain cases, the Council may enter into partnership agreements or shared services with other parties, including other councils. Such agreements may contain delegations to either individual officers, joint committees or other Councils to authorise procurement strategies and/or contract awards in compliance with a third party's contract standing orders. The partnership agreement/shared services arrangement must be authorised at the outset at the appropriate level pursuant to section C3.4 and C3.5 of these CSOs, relevant to the potential aggregate value of the contracts to be entered into.

5.6. These CSOs **do not** apply to:

- Grant Arrangements;
- ~~Contracts of employment;~~
- Land Transactions (which solely relate to interest in land);
- Contracts for the provision of packages of social care, educational and welfare services to individual clients, where the aggregate value of such contracts does not exceed the EU-UK Procurement Threshold for supplies and services, ~~and there is no cross border interest~~⁶;

⁴ The method of call-off must be endorsed by the Chief Officer in line with the processes and procedures detailed in the Council's procurement toolkit and guide to CSOs.

⁵ This includes Public Contracts Regulations 2015 the Concession Contract Regulations 2016 and other associated procurement legislation.

⁶ EU-Procurement Thresholds for supplies or services are subject to change. The current threshold can be found at <http://www.ojec.com/thresholds.aspx>. (As at January 2016 the threshold is £164,176 for a sub-central contracting authority). The Public Procurement

- Contracts with agencies for the provision of individual temporary staff where the Head of Procurement, (after liaison with the Director of People and Inclusion) agree that use of the vendor managed service is not appropriate.
- ~~○~~ Contracts with Barristers for particular instructions where the Borough Solicitor considers the instructions do not require a procurement exercise and can be commissioned outside of any current framework agreement for those services.
- Contracts entered into for or by school governing bodies are covered by separate standing orders issued as part of the Council's scheme for financing schools.

A3. Roles and Responsibilities

1. Chief Officers have responsibility for all contracts let by their Directorate, with the Council's Section 151 Officer (held by the Executive Director Corporate Services)⁷ having an oversight over all contracting activity across the Council. The Council's Executive Director Corporate Services is responsible for ensuring that relevant processes and procedures are in place in relation to the endorsement of procurement related reports.
2. Chief Officers are responsible for ensuring that mandatory processes under ~~EU law,~~ UK law and Council Policy are adhered to, that good practice is followed, and for taking immediate action in the event of a breach of CSOs within their area.

B. REQUIREMENTS FOR ALL PROCUREMENTS AND CONTRACTS

B1. Contract award principles

1. The Council has a statutory duty to achieve best value and it is in the Council's best interests to spend public money in this way. Therefore, every contract for the procurement of goods, works and services by the Council must be for the purpose of achieving the Council's statutory or approved objectives.
2. Contracts must be awarded on the basis of the most economically advantageous tender, quotation or proposal, as determined by such

[\(Agreement on Government Procurement\) \(Thresholds\) \(Amendment\) Regulations 2021 \(legislation.gov.uk\)](#). [The Public Contracts Regulations 2015 \(legislation.gov.uk\)](#)

⁷ The Executive Director Corporate Services holds the statutory Section 151 Officer post. This is also referred to as the Chief Financial Officer post and refers to the officer appointed under section 151 of the Local Government Act 1972 which requires every local authority to appoint a suitably qualified officer responsible for the proper administration of its affairs. Functions include ensuring lawfulness and financial prudence of decision-making, administration of financial affairs, advising whether cabinet decisions are within the budget and policy framework.

criteria as are relevant to the type of goods, works or services. This will generally cover the optimum combination of whole life costs and benefits, including such factors as quality, initial price, running costs and disposal costs.

B2. Estimating Value

1. Before entering into any contract an estimate of contract value must be calculated. The estimated value is to be based on the total amount payable to the supplier over the whole contract period, net-inclusive of VAT. This is to include any option(s) to extend the contract as set out in the procurement documents.
2. In the case of framework agreements and dynamic purchasing systems, the value to be taken into consideration shall be the maximum estimated value of all call-offs inclusive of VAT.
3. In the case of works contracts, the calculation of the estimated value is the total amount payable including the cost of the works and the total estimated value of the supplies and services made available to the contractor, inclusive of VAT.
- 2.4. In the case of supplies and services contracts without a fixed term or with a term greater than 48 months the estimated value shall be the monthly value multiplied by 48 net-inclusive of VAT.
- 3.5. The value of concession contracts shall be the estimated total turnover of the concession generated over the duration of the contract, net inclusive of VAT.

C. PROCUREMENT PROCEDURES

C1. **Contracts with an Estimated Value of less than ~~£45,000~~£25,000 and contracts required to allow the Council to comply with its regulatory/safety requirements of less than £150,000**

1. A Head of Service (tier 3 in the Council's organisational structure), must determine the best method of appointing a provider where the total contract value is estimated to be ~~below £45,000 or below~~below £25,000.
2. A Chief Officer may determine the best method of appointing a provider where the total contract value is estimated to £150,000 or below for those works to enable the Council to comply with its regulatory requirements and for reasons connected with the safety of the public and/or staff such to be confirmed in writing by the authorising Chief Officer and agreed by the Borough Solicitor

2.3. The method chosen must be able to objectively demonstrate that both best value has been obtained for the Council and that there has been consideration of local and/or SME suppliers being invited to quote.

C2. Contracts with an Estimated Value of £45,001, or in the case of contracts subject to C2.2 of £150,001 and above, 25,000 or more but less than the UK EU Public Contracts Regulations Procurement Threshold(s)⁸

1. A Chief Officer must approve the strategy and award of contracts with a value between £45,001-25,000, or in the case of contracts required to ensure the Council complies with its regulatory or safety requirements between the value of £150,000 –and the EU Public Contracts UK Procurement Threshold for supplies and services. Contracts of this value must be procured by inviting at least 3 written quotations, including a Camden local/and or SME supplier where possible. This The quotes and a record of the process shall be retained so that it-they may be used for audit purposes.
2. Requests for quotations must be submitted electronically sought via the Council's approved electronic tendering system and advertised on Contracts Finder where applicable.

C3. Contracts with an Estimated Value over the UK EU Public Contracts Regulation Procurement Threshold(s)

1. Contracts with an estimated value in excess of -(or within 10% of) the relevant (Supplies or Services or Works) EU-UK Procurement Public Contracts Regulations Threshold⁹, in accordance with the subject matter be it supplies, services or works, must be subject to a competitive tendering process unless they are specifically excluded, or any exemptions apply, under UK Procurement Regulationthe Public Contracts Regulations 2015 (PCR).

⁸ EU Public Contracts Regulations Procurement Thresholds for supplies or services are subject to change. The current threshold can be found at The Public Procurement (Agreement on Government Procurement) (Thresholds) (Amendment) Regulations 2021 (legislation.gov.uk)http://www.ojec.com/thresholds.aspx. (As at January 2016 the threshold is £164,176 for sub-central contracting authority).

⁹ EU Public Contracts Regulations Procurement Thresholds for supplies or services are subject to change. The current threshold can be found at The Public Procurement (Agreement on Government Procurement) (Thresholds) (Amendment) Regulations 2021 (legislation.gov.uk)http://www.ojec.com/thresholds.aspx. (As at January 2016 the threshold is £164,176 for a sub-central contracting authority).

1.2. If the estimated contract value is within 10% of the relevant UK procurement threshold (Supplies or Services or Works), advice from the Procurement must be sought on the appropriate procedure.

2.3. Tenders must be submitted electronically via the Council's approved electronic tendering system and in accordance with the instructions set out in the invitation to tender.

3.4. The following tables provide the final approval routes for each level of decision making¹⁰.

4C4. Approval processes

1. Revenue Contracts

Revenue contracts relate to the purchase of services or the supply of goods, such as office supplies or mobile phones. Approval for revenue contracts must be sought as follows:

Total Estimated Contract Value (for the life of the contract)	Procurement Strategy– Final Approval	Contract Award – Final Approval
EU threshold(s) for Supplies and Services to £500,000	Chief Officer(s)	Chief Officer(s)
£1 to £45,000	N/A	Head of Service
£45,001 to £500,000	Chief Officer(s)	Chief Officer(s)
£500,001 to £1,000,000	Executive Director(s)	Chief Officer(s)
£1,000,001 to £2,000,000	Executive Director(s) in consultation with the relevant Cabinet Member(s)	Chief Officer(s)
£2,000,001 to £5,000,000 (or less than £2,000,000 per annum)	Cabinet Member(s)	Executive Director(s)
£5,000,001 to £10,000,000	Cabinet	Cabinet Member(s)

¹⁰ The full approval routes are set out in detail in the Procurement Toolkit and Guide to CSOs.

£10,000,001 and greater (or £2,000,000 or greater per annum)

Cabinet

Cabinet

REVENUE CONTRACTS		
TOTAL ESTIMATED CONTRACT VALUE (FOR THE LIFE OF THE CONTRACT)	PROCUREMENT STRATEGY – FINAL APPROVAL	CONTRACT AWARD – FINAL APPROVAL
EU threshold(s) ¹⁴ for Supplies and Services to £500,000	Chief Officer(s)	Chief Officer(s)
£500,000 to £1 million	Executive Director(s)	Chief Officer(s)
£1 million to £2 million	Executive Director(s) in consultation with the relevant Cabinet Member(s)	Chief Officer(s)
£2 million to £5 million (or less than £2 million per annum)	Cabinet Member(s)	Executive Director(s)
£5 million to £10 million	Cabinet	Cabinet Member(s)
£10 million and greater (or £2 million or greater per annum)	Cabinet	Cabinet

¹⁴ Public Contracts Regulations EU Procurement Thresholds for supplies or services are subject to change. The current threshold can be found at The Public Procurement (Agreement on Government Procurement) (Thresholds) (Amendment) Regulations 2021 <http://www.ojec.com/thresholds.aspx>. (As at January 2016 the threshold is £164,176 for a sub-central contracting authority).

2. 5. Capital and Concession Contracts

Capital For example, these contracts that relate to the acquisition of long-term assets, such as buildings or equipment. Approval for capital contracts must be sought as follows:

<u>Total Estimated Contract Value (for the life of the contract)</u>	<u>Procurement Strategy– Final Approval</u>	<u>Contract Award – Final Approval</u>
<u>EU threshold(s) for Supplies and Services to £500,000</u>	<u>Chief Officer(s)</u>	<u>Chief Officer(s)</u>
<u>£1 to £45,000</u>	<u>N/A</u>	<u>Head of Service</u>
<u>£45,001 to £500,000 *</u>	<u>Chief Officer(s)</u>	<u>Chief Officer(s)</u>
<u>£500,001 to £2,000,000</u>	<u>Chief Officer(s)</u>	<u>Chief Officer(s)</u>
<u>£2,000,001 to £5,000,000</u>	<u>Executive Director(s) in consultation with the relevant Cabinet Member(s)</u>	<u>Executive Director(s)</u>
<u>£5,000,001 to £10,000,000</u>	<u>Cabinet</u>	<u>Cabinet Member(s)</u>
<u>£10,000,001 and greater (or £2,000,000 or greater per annum)</u>	<u>Cabinet</u>	<u>Cabinet</u>

*** Refer to C1.2 for approval processes for certain works contracts valued between £45,001 and £150,000**

<u>CAPITAL AND CONCESSION CONTRACTS</u>		
<u>TOTAL ESTIMATED CONTRACT VALUE (FOR THE LIFE OF THE CONTRACT)</u>	<u>PROCUREMENT STRATEGY – FINAL APPROVAL</u>	<u>CONTRACT AWARD – FINAL APPROVAL</u>
<u>EU Procurement Threshold(s) for Supplies and Services to £500,000</u>	<u>Chief Officer(s)</u>	<u>Chief Officer(s)</u>

£500,000 to £2 million	Chief Officer(s)	Chief Officer(s)
	Executive Director(s) in consultation with the relevant Cabinet Member(s)	Executive Director(s)
£2 million to £5 million	Cabinet	Cabinet Member(s)
£5million to £10 million		
£10 million or greater (or £2 million or greater per annum)	Cabinet	Cabinet

D. CONTRACT CONDITIONS

1. All contracts of ~~£45,001~~ ~~25,000~~ and over in value must be in writing save for contracts made in extreme urgency which must be subsequently confirmed in writing.
2. Contracts of ~~£45,001~~ ~~25,000~~ and over in value must be signed by one officer authorised by the Financial Scheme of Delegation.
3. Contracts in excess of ~~£1,000,000~~ ~~500,000~~ must be forwarded to Law and Governance for execution as a deed unless the Monitoring Officer (post held by the Borough Solicitor¹²) agrees otherwise.
4. Standard contract clauses, as approved by legal services, must be used in any contract worth ~~£45,000~~ ~~125,000~~ or more. Further legal advice must be sought where necessary.

E1. MODIFICATION/VARIATION AND EXTENSION OF CONTRACTS WITHIN THE TERMS OF THE CONTRACT

1. Contracts may be modified/varied or extended, in the circumstances provided for in if allowed within the UK Procurement Legislation ~~Public Contracts Regulations 2015~~, and such changes are provided for within the terms of the contract. Legal advice should be sought before any changes are executed.

¹² The Borough Solicitor holds the Monitoring Officer post which performs the following functions; maintaining the Constitution, ensuring lawfulness and fairness of decision-making, supporting the Standards Committee and conducting investigations.

2. Where the Contract was awarded by the Cabinet or a Cabinet Member, an extension to the length of a contract or a variation of a contract, allowable under the terms of the contract ~~may~~must be agreed by the Chief Officer only after consultation with the relevant Cabinet Member who made the original decision, or who is responsible for that area should the matter have been agreed by Cabinet. Where contracts were awarded by an officer, then the same level of officer must agree the extension or variation.
3. Where the contract was awarded by the Cabinet or a Cabinet Member, any significant modification/variation must be agreed by the Chief Officer, only after consultation with the relevant Cabinet Member who made the original decision or who is responsible for that area should the matter have been agreed by Cabinet. A significant modification is defined as in excess of a 25% increase to the aggregate contract price originally approved. Legal services must also be consulted before a significant modification is implemented to ensure such modification complies with the UK Procurement Legislation~~Public Contracts Regulations 2015~~. Where contracts were awarded by a Chief Officer or other officer, then the same level of officer must agree the modification/variation.

E2. MODIFICATIONS/VARIATIONS THAT FALL OUTSIDE THE TERMS OF THE CONTRACT

1. A Chief Officer ~~may~~must authorise modifications/variations and extensions to an existing contract, that are not provided for in the terms of the contract, in the circumstances provided for in the UK Procurement Legislation~~Public Contracts Regulations 2015~~.
2. A modification or extension to the length of a contract not allowable under the terms of the contract requires a waiver in line with CSO F2, based on the value of the extension or modification. The general provisions in F1 also apply. Where CSOs apply to a contract, any individual provision may be waived so long as this will not lead to a breach of ~~EU rules~~UK law on tendering.

F1. WAIVING CONTRACT STANDING ORDERS

1. Following consideration of a written waiver report, exceptions to these CSOs may be granted. The grounds for granting waivers set out at CSO F2 must be complied with at all times.

F2. WAIVER GROUNDS:

1. The grounds for granting waivers are as follows. No exception to these CSOs may be permitted unless the authoriser (acting with the agreement

of the Council's Executive Director Corporate Services or another Executive Director) is satisfied that:

- i) the circumstances of the proposed waiver are permitted by ~~EU and~~ English law; and
- ii) there are exceptional circumstances that have led to a need to depart from the CSOs and evidence has been provided which demonstrates the waiver is necessary to achieve the Council's objectives; ~~or and~~
- iii) the nature of the market for the works to be carried out, or the services or supplies to be provided, has been investigated and it has been demonstrated that due to a lack of competition in the market, a departure from the requirements of CSOs is justifiable; or
- iv) the contract is for works, services or supplies that are required in circumstances of an emergency and as such could not reasonably have been foreseen.

F3. WAIVER APPROVAL

1. Waivers relating to contracts with a total value of up to ~~£45,000 25,000~~ must be granted by the relevant Chief Officer.
2. Waivers relating to contracts with a total value between ~~£45,001 25,000~~ and £100,000 ~~may~~ must be granted by the relevant Chief Officer, subject to the approval agreement of the Director of Finance.
3. Waivers relating to contracts with a total value ~~of over~~ £100,001 to £500,000 100,000 ~~may~~ must be granted by the relevant Chief Officer ~~or~~ subject to the approval of the Executive Director Corporate Services, or another Executive Director if the waiver is requested by Corporate Services.
4. Waivers relating to contracts with a total value of between £500,001 and £2,000,000 must be granted by the relevant Chief Officer, with agreement by the Executive Director Corporate Services, or another Executive Director if the waiver is requested by Corporate Services, subject to approval and approved. ~~For waivers relating to contracts with a total value that exceeds £500,000 additional agreement must be sought by the relevant Cabinet Member. For contracts of £2,000,001 and above the same process applies but approval must be sought from Cabinet.~~
 - i) ~~If it is between £500,000 and £2 million the relevant Cabinet Member must agree.~~

ii) — If it is over £2 million then the Cabinet has to agree.

G. CONTRACT NOVATION

1. A Chief Officer may agree the novation (transfer) of any contract subject to UK law~~EU rules~~.
2. Legal advice should be sought and the UK Procurement Legislation
~~Public Contracts Regulations 2015~~ must be adhered to.
3. A contract novation must be approved as per the thresholds referenced in CSO C4.1 or C4.2G5. The value used to determine the level of approval should be the value of the remaining term of the contract.