

# Risk, Audit and Governance Committee

11 February 2025

Agenda item number 9

## Standing Orders Relating to Contracts

Report by Director of Finance

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### Summary

This report sets out the revised Standing Orders Relating to Contracts.

### Recommendation

To approve the updated Standing Orders Relating to Contracts.

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## 1. Introduction

- 1.1. The Standing Orders Relating to Contracts (SORC) are the rules that the Authority follows in procuring goods, services and works. The SORC was last considered by this committee in July 2023. Since then, it has been updated internally following changes required to the thresholds as set out in Procurement Policy Notes (PPN) issued under the Public Contracts Regulations 2015 (PCR).
- 1.2. The PCR had an EU focus and following Brexit there was a commitment to update the rules with new legislation. This has been achieved through the new Procurement Act 2023 and The Procurement Regulations 2024. These new rules are due to come into effect from 24 February 2025.
- 1.3. The new Procurement Act and regulations will change the way the public sector buys goods and services. As a contracting authority this will impact the way we do business with our suppliers, so if we commission services, goods or works, we will need to comply with these changes for all new procurement projects.
- 1.4. The aim of the new regulations is to create increased flexibility, innovation, transparency (acting with integrity), value for money, improved access for smaller businesses and wider society benefits in public procurement.
- 1.5. As a result of the changes the SORC have been updated and can be found in appendix 1 with tracked changes.

## 2. Amendments

- 2.1. The main change to SORC is that contracts will now be assessed based on Most Advantageous Tender (MAT), previously Most Economically Advantageous (MEAT). This

is to signify to suppliers that contracts are not awarded only on lowest price but other factors over the life of the contract. Details can be found in section 10.

- 2.2. Previously the Authority advertised its opportunities via Contract Finder (of Find a Tender Service for above threshold) but this is being replaced with a central platform where all notices will be published in one place. All notices must be published on the platform prior to advertising anywhere else. References to Contract Finder have been updated throughout.
- 2.3. The SORC sets out what contracts they apply to and its exemptions, these have been updated to reflect the Act, details can be found in section 3 and 5. The SORC waiver form has also been updated, see appendix 2.
- 2.4. The Broads Authority conducts most of its procurement in below threshold contracts. These thresholds are:
  - Goods/Services £214,904 (including VAT)
  - Works £5,372,609 (including VAT)
- 2.5. Where contracts are above these thresholds the transparency aspects increase considerably. Although extremely rare that the Authority would exceed these limits a new section has been added to highlight to officers the importance of gaining advice (section 17).
- 2.6. The new regulations require mandatory terms to be adopted for all new contracts, this includes implied payment and termination conditions. These can be found sections 29 and 30.

### 3. Conclusion

- 3.1. Updating of the SORC is the first stage of complying with the new rules. Once adopted the next step will be to update internal guidance, contract templates and the Procurement Strategy. The strategy will be brought back to the committee in due course.

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Date of report: 29 January 2025

[Broads Plan](#) strategic objectives: All

Appendix 1 – [DRAFT Standing Orders Relating to Contracts](#)

Appendix 2 – [Form to Waive Standing Orders relating to Contracts](#)

# Broads Authority

## Standing Orders Relating to Contracts

**Note:** These Standing Orders should be read in conjunction with the “Standard Terms for Contracts” which provide standard wording for use in tender documentation. All tenders must be reviewed by the Director of Finance, Senior Accountant or Financial Accountant and the appropriate Director prior to being issued. After consultation with Management Team legal advice may be obtained from the Authority’s Legal provider.

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## Application and exceptions

### 1. Purpose of Standing Orders

The overall purpose of these Standing Orders is as follows:

- (a) to ensure transparency and fairness in the procurement of works, supplies and services;
- (b) to ensure that the Authority gets best value from its procurements; and

(c) to protect those involved in the procurement process.

## 2. Duty to achieve best value

Every contract or official order made for works, supply and disposal of goods, materials and services must be for the purpose of achieving the Authority's statutory and approved objectives and must ensure best value, to secure continuous improvement in the exercise of all its functions, having regard to a combination of economy, efficiency and effectiveness.

## 3. Application

(a) These Standing Orders apply to every contract made by or on behalf of the Authority except contracts for:

(i) the acquisition or disposal of any interest in land; or

~~(ii) insurance or~~ the lending or borrowing of money;

~~(iii)~~ (iii) exempt legal services (judicial or dispute resolution); or

~~(iv)~~ (iv) the employment of any employee.

The engagement of consultants and other professional advisers must be in accordance with these Standing Orders unless the Authority or appropriate committee, or the Chief Executive in consultation with the Chairman (or in the Chairman's absence Vice-Chairman) of the appropriate committee, directs otherwise.

## 4. Compliance with UK Public Sector Regulations

Every contract must comply with The ~~Public Contracts~~ Procurement Regulations and with any relevant directives being in force in the United Kingdom. These Standing Orders have effect subject thereto.

## 5. General exemptions

(a) The Authority or the appropriate committee may authorise exemption from any of the following provisions of these Standing Orders where they are satisfied that the exemption is justified in special circumstances.

(b) The Chief Executive may approve contracts under £150,000 (unless stated otherwise under general or specific exemptions) and where budgetary provision already exists. Contracts above this value require Broads Authority approval.

(c) The Chief Executive may authorise exemption from any of the following Standing Orders by certifying that there is an extreme emergency.

(d) Every exemption authorised under these Standing Orders must be reported to the Authority and the report must specify the emergency or other special reason justifying it.

## 6. Specific exemptions

Quotations or tenders need not be invited in the case of a contract:

- (a) for the supply of goods or services where there is only one or two suppliers and no acceptable alternative;
- (b) for goods or materials to be purchased at an auction or second hand;
- (c) for goods or services to be purchased through any consortium, association or similar body (including the other UK National Parks) of which the Authority is a member, or under any other framework arrangement not negotiated by the Crown Commercial Services (CCS) for the benefit of public bodies;
- (d) for works of art, museum specimens or historical documents;
- (e) which constitutes an extension of an existing contract (such an extension to be approved by the Chief Executive in cases where the variation is up to 10% of the original price for goods or services, or 15% for works, or £25,000 (whichever is higher, but less than 50% of the original price); above that figure extensions ~~(but less than 50% of the original contract)~~ can only be approved by the Broads Authority);
- (f) for the execution of work or for the supply of goods or materials certified by the Chief Executive as being required so urgently as to preclude the invitation of quotations or tenders;  
  
(except where it is readily practicable to invite quotations or tenders) for repairs to, or the supply of, parts of existing proprietary or patented articles, including machinery or plant;
- (g) in relation to time-limited grant funding from an external body, where the time limitations will not allow a competitive procurement process to be completed and where the grant conditions allow this;
- (h) for which it is not considered reasonably practicable in the Authority's interest so to do, subject to a report to the Broads Authority;
- (i) on behalf of another body for which the Authority is acting as agent, provided any rules or standing orders of that body are complied with; or
- (j) where the Authority is undertaking work in partnership with another public sector organisation, and the work is being funded either entirely or more than 50% by that organisation, the Authority need not necessarily seek competitive quotations or tenders if that other organisation or another public body has already undertaken such a process, subject to the Authority being satisfied that the process was fair and robust and that the expenditure represents good value in the use of public money.

## Pre-estimate

### 7. Pre-estimate

Before any procurement is begun the budget holder (within their authorised limits) must estimate the value of the contract in order to determine which procurement route should be followed. The contract value estimation should be **inclusive of VAT**.

### 8. Hire of goods or services for an indeterminate period

(a) In the case of contracts for:

- (i) the hire of goods for an indeterminate period; or
- (ii) the provision of services for a period in excess of four years or for an indeterminate period;

the estimated value for both these types of contracts must be the estimated monthly costs multiplied by 48 or, the estimated annual cost multiplied by four.

(b) In the case of contracts for the supply of goods where the Authority enters into a series of contracts or a renewable contract, the estimated value of the contract is either:

(i) the aggregate value of similar contracts over the previous 12 months (adjusted for any known changes in demand);

(ii) the estimated value of similar contracts over the next 12 months; or

(iii) if the contract is for a definite term of more than 12 months, the estimated value for the period of the contract.

(c) Where (a) or (b) do not apply the estimated value for all supplies, services and works the total estimated value will be the period covered by the contract

(d) In the event that the contract estimate is incorrect, and quotations are received which would have resulted in a different procurement process being applied, the procurement process should either be re-run following the appropriate process, or a Waiver of Standing Orders be completed, depending upon circumstances.

## Contracts below £6,000 (inclusive of VAT)

### 9. Contracts below £6,000

Where the estimated value of a contract is below £6,000 (inclusive of VAT), it is good practice but not mandatory to obtain more than one quotation.

## Contracts of £6,000 and above (inclusive of VAT)

### 10. Award and evaluation criterion

(a) Before any quotations or tenders are sought where the estimated value of the contract is £6,000 or above (inclusive of VAT), the budget holder (within their

authorised limits) must decide and record the award criterion to be used when the quotations or tenders are received. This must be ~~either:~~

(i) the most advantageous tender (MAT).

~~the lowest price (where the Authority is to pay the supplier); or~~

~~the highest price (where the supplier is to pay the Authority); or~~

~~the most economically advantageous quotation or tender.~~

- (b) ~~If the chosen award criterion is the 'most economically advantageous,'~~ The Chief Executive or a Director must then decide and record in a list the evaluation criteria (in descending order of significance) upon which the quotations or tenders will be so evaluated. The criteria must relate to the contract, be proportionate, sufficiently clear, measurable and specific and comply with rules around technical specification. Each contract must consider value for money over the life of the contract and how barriers can be reduced for SME's so they can apply. Normally it is recommended that at least 50% of the award criterion should be based on the price for the product or service. The award criteria should be weighted by percentage, and displayed in a grid, as set out in the following example.

Award Criteria	Weighting
Price (including maintenance costs)	50%
Technical specification/expertise	20%
Trade references	10%
Environmental sustainability	10%
Timescale for completion of work	10%
Total	100%

**Note: The above is an example only for a service contract. ~~Tenders must be drawn up carefully having regard to the needs of the particular project.~~ The Procurement Strategy and the Carbon Reduction Project Manager can provide further guidance on environmental consideration criteria. Careful consideration on how each of the award criteria will be evaluated must be provided, to minimise as far as possible the element of subjectivity in the process.**

The Chief Executive or a Director must notify all those invited to submit quotations or tenders which award criterion is being used in the case of the contract in question and, where applicable, the evaluation criteria.

- (c) For contacts below £30,000 the quotation which best meets the award criterion must be accepted, except where otherwise agreed in writing by the Chief Executive or a



Director, stating why the quotation which best meets the award criterion has not been accepted.

- (d) Where the quotation has been otherwise agreed above, these cases will be reported to the Broads Authority or appropriate committee as an exception to Standing Orders.

## Contracts between £6,000 and £30,000 (inclusive of VAT)

### 11. Quotations

Where the estimated value of the contract is between £6,000 and £30,000 inclusive of VAT the Chief Executive or a Director must, unless impracticable, invite at least three written quotations.

## Contracts Above £30,000 (inclusive of VAT) but below threshold<sup>1</sup>

### 12. Tenders

- (a) Where the estimated value of a contract exceeds £30,000 (inclusive of VAT) but is below the ~~Find a Tender Service (FTS) limit~~threshold, and in any other cases where the Authority or the appropriate committee determines, tenders must be invited in accordance with either one of Standing Order 13, 14, 15 or 16.

~~(b) If the estimated value of any contract is above the FTS limit, then legal advice must be sought regarding the procedures which will need to be followed in letting the contract as public notice limits increase in these circumstances. The current threshold at January 2024 (inclusive of VAT) for works contracts is £5,372,609 and for supply, services and design contracts (estimated over 48 months) £214,904.~~

### 13. Open tendering

- (a) This Standing Order applies where the tenders for a contract are to be obtained by open competition.
- (b) At least 14 days public notice must be given in:
- (i) On ~~contract finder~~Find a Tender Service (FTS) and the Authority's website. Further notices can also be placed in other purchasing platforms such as the Crown Commercial Services and one or more relevant professional or trade list/source, or the local newspapers; and
  - (ii) wherever the estimated value of the contract exceeds £100,000, in one or more newspapers or journals circulating among persons or bodies who undertake such contracts.

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<sup>1</sup> The current threshold at January 2024 (inclusive of VAT) for works contracts is £5,372,609 and for supply, services and design contracts £214,904.

- (c) The notice must state what the contract is for and where further details may be obtained, invite tenders for its execution and state the last date and time when tenders will be received.

#### 14. Restricted tendering - Ad hoc list

- (a) This Standing Order applies where the Authority or appropriate committee has decided that invitations to tender for a contract are to be made to some or all of those persons or bodies who have replied to a public notice.

- (b) Public notice must be given:

- (i) On ~~contract finder~~ [FTS](#) and the Authority's website. Further notices can also be placed in other purchasing platforms such as the Crown Commercial Services and one or more relevant professional or trade list/source, or the local newspaper; and
- (ii) where the estimated amount or value of the contract exceeds £100,000, in at least one newspaper or journal circulating among such persons or bodies who undertake such contracts; and
- (iii) at the discretion of the Authority or appropriate committee to all or a selected number of persons or bodies named in the list maintained under Standing Order 15.

- (c) The public notice must:

- (i) specify what the contract is for;
- (ii) invite interested persons or bodies to submit a request to participate including information to be provided for selection; and
- (iii) specify a time limit, of at least 14 days, within which such applications must be submitted to the Authority.

- (d) After the expiry of the period specified in the public notice invitations to tender for the contract must be sent to:

- (i) at least three of the persons or bodies who applied for permission to tender, selected by the Chief Executive or a Director;
- (ii) where fewer than three persons or bodies have applied or are considered suitable, those persons or bodies which the Chief Executive or a Director considers suitable.
- (iii) Specify a time limit, of at least 14 days, within which full tenders must be submitted to the Authority.

## 15. Restricted Tendering - Standing List

- (a) This Standing Order applies where the Authority or appropriate committee has decided that invitations to tender for a contract are to be limited to those persons or bodies whose names are included in a list compiled and maintained for that purpose.
- (b) This list must:
  - (i) be compiled and maintained by the Chief Executive or Director;
  - (ii) contain the names of all persons or bodies who wish to be included and who are approved by the Authority or appropriate committee; and
  - (iii) indicate in respect of a person or body whose name is so included, the categories of contract and the maximum values or amounts in respect of those categories for which approval has been given.
- (c) At least four weeks before a list is first compiled, notices inviting applications for inclusion in it must be published:
  - (i) On ~~contract finder~~ [FTS](#) and the Authority's website. Further notices can also be placed in at least one relevant professional or trade list/source, or the local newspaper; and must state the purpose of the list.
  - (ii) include information that the persons or bodies must provide to be considered for selection; and
  - (iii) specify a time limit, of at least 14 days, within which such applications must be submitted to the Authority.
- (d) The list must be amended as required from time to time and must be reviewed at intervals not exceeding three years. At least four weeks before each review, everyone on the list must be asked whether they wish to remain there and notices inviting new applications for inclusion in the list must be published in the manner provided by paragraph 15. (c) of this Standing Order.
- (e) At each review the list must be reported to the appropriate committee with particulars showing those invited to tender, those responding and those successful, since the last review.
- (f) Where a standing list relates to Fen Management Contractors these will be allocated to contractors based on a specific area for the duration of the list.
- (g) Invitations to tender for a contract, that does not relate to Fen Management, must be sent to:
  - (i) at least three of those persons or bodies selected by the Chief Executive or a Director from among those approved for a contract of the relevant category and amount or value; or

- (ii) where fewer than three persons or bodies are approved for a contract of the relevant category and amount or value, all those persons or bodies.

Specify a time limit, of at least 14 days, within which full tenders must be submitted to the Authority.

## 16. Framework arrangements

- (a) A Framework Arrangement is a formal tendered arrangement which sets out terms and conditions under which specific purchases can be made throughout the term of the agreement, and supplies, services or works are procured from the successful tenderer in predicted quantities at various times during the period that the agreement is in force.
- (b) Finance hold and publish on the intranet a list of frameworks that the Authority can access, this currently includes the Crown Commercial Services (CCS). These frameworks cover a wide variety of areas from postage, to vehicles and Insurance. Public sector organisations have already tendered for these frameworks and completed the appropriate background checks. The individual frameworks provide details of the procedure to be followed.
- (c) If at any time the Authority proposes to enter into a Framework Arrangement for the provision of goods or services that is not on the list in b), then the Director of Finance will agree and update the list and advise on the procedures which need to be followed in using the framework.

## 17. Post-tender negotiations

- (a) The Chief Executive may (following the closing date for receipt of tenders but before acceptance of any tender) carry out post-tender negotiations to attempt to secure an improvement in the contract price or other conditions only in one or more of the following circumstances:
  - (i) where the ~~lowest submitted tender or the~~ most economically advantageous tender ~~(where this is the award criterion)~~ exceeds the estimated value of the contract;
  - (ii) where the Chief Executive considers that the price of the lowest tender submitted abnormally low;
  - (iii) where tenders have been invited only on the basis of unit prices or a schedule of rates and the lowest in aggregate is not the lowest on all items; or
  - (iv) where ~~the lowest submitted tender or~~ the most economically advantageous tender ~~(where this is the award criterion)~~ contains conditions, trading terms, specification, performance, guarantees, or service delivery less favourable than in other tenders, or than stipulated for, and this defect appears capable of being remedied by post-tender negotiations.

- (b) In carrying out Post Tender Negotiations, the Authority shall follow the procedures set out in the Appendix to these Standing Orders.

## Contracts above threshold

### 18. Tender Process

- (c) Where a contract is considered above threshold (works contracts is £5,372,609 and for supply, services and design contracts £214,904) then the procedures applicable under the Procurement Act 2023 and Procurement Regulations 2024 must be followed for covered procurements. Contracts can be procured via an open tender procedure, a competitive flexible tender procedure, frameworks or dynamic markets. The Authority does not traditionally procure contracts of this value, however if needed contact the Director of Finance who can advise on the appropriate method and notices required.

## Tenders

### 18.19. Invitations to tenders

- (a) Every invitation to tender must specify the latest day and hour and the place appointed by the Chief Executive for the receipt of tenders and must state the effect of Standing Order 17.
- (b) On receipt, envelopes containing tenders must be date and time stamped and kept by the Chief Executive until they are opened.
- (c) The invitation to tender should make clear that:
- (i) tenders may be submitted electronically, on a CD or other appropriate media posted to the Authority in the supplied tender envelopes; and
  - (ii) tenders submitted by email will only be accepted when sent exclusively to [tenders@broads-authority.gov.uk](mailto:tenders@broads-authority.gov.uk) with the subject clearly indicating the name of the tender. Any tenders not conforming to these requirements, or sent to an alternative email address, will be invalidated.

### 19.20. Invalid tenders

- (a) An invalid tender must not be accepted, unless otherwise agreed by the Authority or appropriate committee, or by the Chief Executive in conjunction with the Chairman (or in the Chairman's absence Vice-Chairman) of the Authority or appropriate committee.
- (b) A tender will only be valid if it has been delivered to the place appointed by the Chief Executive not later than the appointed day and hour either sealed in the pre- printed envelope provided by the Authority for this purpose or the tender mailbox.
- (c) A tender will not be valid if the envelope bears any name or mark indicating the sender.

## 20-21. Opening of tenders

- (a) Tenders received under one of Standing Order 13, 14, 15 or 16 must be opened at the same time and only in the presence of at least two officers of the Authority designated for the purpose by the Chief Executive, one of whom must be the budget holder, Director of Finance, Senior Accountant or Financial Accountant. The officers present at the opening must sign and date a summary of tenders received.
- (b) Any tender received at the appointed place later than the day and hour specified under Standing Order 18 may be opened and recorded on the summary of tenders stating the circumstances. The tender must be rejected unless it is subsequently approved by the appropriate committee, or the Chief Executive in consultation with the Chairman (or in the Chairman's absence Vice-Chairman) of the Authority or appropriate committee.
- (c) The Director of Finance must retain all tenders received, including any invalid tenders, and their envelopes for a period of two years from the return date. The accepted tender must be retained for six years after the final contract payment.
- (d) Any tender opened in error before the date and time set for opening tenders shall be immediately resealed and a record made of the event signed by the Director of Finance in the Register of Tenders held by the Director of Finance.
- (e) If it is necessary to extend the date for receiving tenders, this shall be recorded by the Director of Finance in the Register of Tenders, setting out the reason for extending the deadline.
- (f) Any tender documents which are received electronically to the tender mailbox shall only be accessible by the Director of Finance, Senior Accountant and the Financial Accountant. They will make arrangements for a copy of the tender to be printed for the designated officer to open the tenders at the same time as those received by post under Standing Order 20. (a) (either a Director, Director of Finance, Senior Accountant or Financial Accountant).

## 21-22. Acceptance of tenders

- (a) The Chief Executive or a Director may only accept the tender which best meets the award criteria except where otherwise agreed by the Authority or appropriate committee, or the Chief Executive in consultation with the Chairman (or in the Chairman's absence Vice-Chairman) of the Authority or appropriate committee.
- (b) Acceptance of tenders must be in writing and signed by the Chief Executive or an officer designated by the Chief Executive for that purpose.
- (c) A contract award notice will be made on Contract Finder-FTS no later than 30 days after the award of the successful tenderer including the amount. Unsuccessful tenderers must also be notified via email at the same time as the successful tenderer including the reasons for the decision.

- (d) It is good practice to include a standstill period of at least 14-8 working days prior to official contracts being signed for contracts below the FTS thresholds. Contracts above must have the standstill period incorporated.

### 22.23. Errors or Discrepancies in Tenders

- (a) Where examination of tenders reveals errors or discrepancies which would affect the tender figure in an otherwise successful tender, the tenderer must be provided with written details of each error and discrepancy. The tenderer will be afforded the opportunity either:
- to confirm in writing and accept the error if it is in the Authority's favour; or
  - to correct the error(s) and to revise the tender downwards. Any revisions must be confirmed in writing; or
  - to withdraw the tender. This must be confirmed in writing.
- (b) Tenders must not be revised upwards.
- (c) Errors and discrepancies in unsuccessful tenders must not be revised even if, after correction, they would make the tender successful.
- (d) If the tenderer withdraws, the next tender in competitive order is to be examined and then dealt with in the same way.
- (e) Any exception to this procedure may be authorised only by the Authority or appropriate committee, or the Chief Executive in consultation with the Chairman (or in the Chairman's absence Vice-Chairman) of the Authority or appropriate committee.

### 23.24. Contract variations

- (a) All requests to suppliers to amend any contract or requirement must be made in writing and must include authorisation at the same level as the original instruction or at a higher level if the level of expenditure exceeds the original authorisation level.
- (b) When the Purchase Order has been issued, any changes in the requirement must be notified to the supplier in writing by an amendment to the Purchase Order and if relevant a Contract Variation.

## Miscellaneous matters

### 24.25. Register of contracts

A register of all contracts placed by the Authority must be kept and maintained by the Director of Finance. For each contract the register must specify the name of the contractor, the works to be executed or the goods to be supplied and the contract value. It must be open to inspection by any member of the Authority.

### 25.26. Document Retention

Please refer to the Authority's Data retention and information management policy, in particular the Finance and Contracts and Procurement records section. This is available on

the intranet,

<http://basps/sites/gov/Governance%20documents/Data%20retention%20and%20informati%20on%20management%20policy.doc> -Finance will organise the storage of these documents.

### **26-27. Financial interests of officers**

The Head of HR must record in the Register of Officers' Interests details of any notice given to the Authority by an officer under Section 117 of the Local Government Act 1972 of a financial interest in a contract. The Register must be open during office hours for inspection by any member of the Authority.

### **27-28. Supervision of contracts by third parties**

- (a) It must be a condition of any contract between the Authority and any person (not being an officer of the Authority) who is required to supervise a contract on behalf of the Authority that in relation to that contract the requirements of these Standing Orders must be complied with as if that person were the Chief Executive.
- (b) Such person must:
  - (i) at any time during the carrying out of the contract produce to the Chief Executive on request all records maintained in relation to that contract;
  - (ii) on completion of the contract transmit all records to the Chief Executive.

### **28-29. Nominated sub-contractors and suppliers**

Where a sub-contractor or supplier is to be nominated to a main contractor, the following rules apply:

- (a) Where the estimated amount of the sub-contract or the estimated value of the goods to be supplied by the nominated supplier does not exceed £30,000, quotations must be invited for the nomination in accordance with Standing Order 9 or 11 unless the Chief Executive considers in respect of any particular nomination that it is not reasonably practical to obtain competitive quotations.
- (b) Where the estimated amount of the sub-contract or the estimated value of the goods to be supplied by the nominated supplier exceeds £30,000, tenders must be invited in accordance with one of Standing Order 13, 14, 15 or 16 unless the Authority or appropriate committee decides in respect of any particular nomination that it is not reasonably practicable to obtain competitive tenders.
- (c) Standing Orders 18 to 22 apply to tenders received under this Standing Order.
- (d) Sub-contractors or suppliers must send with their tender an undertaking that if they are selected they will:
  - (i) be willing to enter into a contract with the main contractor; and
  - (ii) indemnify the main contractor in respect of the sub-contracted works or materials; :- and



~~(ii)~~(iii) have implied payment terms that a contractor or subcontractor will be paid within 30 days of invoice, unless it is invalid or disputed.

- (e) The Chief Executive must nominate to the main contractor the person whose quotation or tender best meets the award criterion. Where it is proposed to award the quotation or tender to a person whose quotation or tender does not best meet the award criterion, the circumstances must:
- (i) in the case of quotations under paragraph 268. (a) above, be reported to the Authority or appropriate committee; or
  - (ii) in the case of tenders under paragraph 268. (b) above, be agreed, before any nomination is made, by the Authority or appropriate committee or, in cases of emergency, by the Chief Executive in consultation with the Chairman (or in the Chairman's absence Vice-Chairman) of the Authority or appropriate committee.

### 29.30. Contract conditions

- (a) Every contract which exceeds £6,000 in value or amount must:
- (i) be in writing and signed by the Chief Executive or an officer designated by the Chief Executive for the purpose;
  - (ii) 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 discounts or other deductions, the periods within which the contract is to be performed and such other conditions and terms as may be agreed between the parties; and
  - (iii) in appropriate cases, where a contract exceeds £100,000 in amount or value, provide for the payment of liquidated damages by the contractor for failure to complete the contract within the time specified;
  - (iv) include a clause prohibiting the contractor from transferring or assigning or sub-letting to any person any portion of the contract without the written permission of the Authority signed by the Chief Executive;
  - (v) where applicable, require the contractor to indemnify the Authority against claims in respect of employers' liability and/or public liability. The amount normally required for public liability insurance cover is £5,000,000;
  - (vi) where applicable, for example where professional advice is being given, require the contractor to indemnify the Authority against claims in respect of matters relating to the advice or service provided. The amount normally required for professional indemnity insurance is £5,000,000;
  - (vii) where appropriate include a clause giving tenderers the opportunity to state how much the required insurance would cost (for the duration of the contract) if they do not have it already in place. This must then be added to the cost of the tender;

(viii) state that all goods, materials and work must comply with any relevant British Standards Specification ~~or~~ Code of Practice or non-UK equivalent in force at the date of the quotation or tender;

(ix) state that the Authority can ~~cancel~~terminate the contract and recover any resulting losses if the contractor or the contractor's employees or agents, with or without the contractor's knowledge:

- the contract was awarded or modified in breach of the Procurement Act 2023 or regulations made under it does anything improper to influence the Authority to give the contractor the contract; or
- has become an excluded or excludable supplier/subcontractor as defined by section 78 (2) of the Procurement Act 2023 commits an offence under the Prevention of Corruptions Acts 1889 to 1916 or Section 117(2) of the Local Government Act 1972.

(x) where the contract relates to the processing of personal data, state they must comply with GDPR legislation.

~~(x)~~(xi) State that all valid, undisputed invoices will be paid within 30 days of the invoice.

(b) Where it is considered that the total amounts of insurance, as set out in paragraphs ~~2730~~. (v) and ~~2730~~.(vi), are not considered to be appropriate or necessary, the Chief Executive may approve deviations to this figure.

(c) It is good practice to ask tenderers for a certified copy of the public liability and / or professional indemnity insurance, especially from new or unknown contractors.

(d) Every contract over £100,000 must be under seal.

(e) The Authority may also require a contractor to give sufficient security for completing the contract.

### ~~30~~31. VAT

All the financial limits contained within these Standing Orders include VAT where it is payable.

### ~~31~~32. Review

The Authority will review these Standing Orders at intervals not exceeding three years.

### ~~32~~33. Interpretation

In these Standing Orders, unless the context otherwise requires:

(a) "appropriate committee" means the committee or sub-committee to which the power to make the contract has been delegated;

(b) "most ~~economically~~ advantageous" normally means the outcome that achieves value for money across the life of the contract. As part of the economy, efficiency and

~~effectiveness; quality, social value and public benefit should be considered. lowest if payment is to be made by the Authority and the highest if payment is to be made to the Authority, but should also take into account quality and other measures, which will be set out in the evaluation criteria and which should be specified in advance of the contract evaluation. In such cases t~~The method of scoring such measures and the weighting of evaluation will be clearly set out in the contract specification.

(c) "Person" includes a partnership, body corporate or unincorporated association.

**Note: All references to the Chief Executive in this document apply to that person and his / her nominated representative, who are, a Director, and any other officers who are authorised to act in particular circumstances in accordance with the Scheme of powers Delegated to the Chief Executive other authorised officers.**

## Appendix – Post tender negotiations

### Procedural Rules

1. In Post Tender Negotiations carried out under Standing Order 17:

~~a. Where price is the award criterion the tenderers submitting the lowest tender and all those the value of which is within 5% of the lowest tender or, if there is no such tender, the tenderer submitting the second lowest, may be invited to participate in Post Tender Negotiations.~~

~~b.a.~~ \_\_\_\_\_ Where the most ~~economically~~ advantageous tender is the award criterion the tenderers submitting the most ~~economically~~ advantageous tender and the second most ~~economically~~ advantageous tender may be invited to participate in Post Tender Negotiations.

2. Post Tender Negotiations may only be authorised by the Chief Executive. In the case of contracts with an estimated value exceeding £30,000 the Chief Executive must also consult the Legal provider who must thereafter be notified of the time and venue of all negotiations carried out and who will be entitled to be represented at any such negotiations.

3. In the case of all Post Tender Negotiations the senior officer carrying out the negotiations must record in writing the objective to be secured by such negotiations and forward a copy of this record to the Director of Finance and, for contracts with an estimated value exceeding £30,000, the Legal provider.

4. Unless other arrangements are specifically agreed by the Chief Executive, all negotiations must take place at the Authority's premises with both the tenderer and the relevant officers of the Authority present.

5. During negotiations with the tenderer there must always be present at least two officers of the Authority.

6. A note of the negotiations will be made by one of the officers present recording those present, the time and location of the negotiations, details of the discussion and any agreement reached. The note shall be signed by all officers present and will be kept on file with a copy sent to the Director of Finance and, for all contracts with an estimated value exceeding £30,000, the Legal provider.
7. At no time must a tenderer be informed of the detail of any other tender submitted or as to whether or not the tender submitted was the ~~lowest or the most economically~~ advantageous tender ~~(where this is the award criterion)~~.
8. Acceptance of tenders following Post Tender Negotiations must be in accordance with Standing Orders except that the Chief Executive must also inform the Legal provider and Monitoring Officer of the name of the successful tenderer and of the tender price regardless of the estimated value of the contract.
9. The Director of Finance will maintain a record of all post tender negotiations relating to contracts with an estimated value in excess of £30,000. This record must show the date of the tender, the date of any Post Tender Negotiations, the names of tenderers involved in negotiations, the original price, the revised price, the revised specification, the names of the officers involved and details of the contract awarded.
10. Legal advice should be sought where the officer dealing with this matter is under any uncertainty regarding the procedure to be followed.

## Standing Orders relating to Contracts

### Request for Approval to waive Standing Orders

The Authority's Standing Orders relating to Contracts require that:

- for contracts where the estimated value is below £6,000, it is good practice but not mandatory to obtain more than one quotation;
- for contracts between £6,000 and £30,000, three written quotations must be received;
- for contracts above £30,000, a quotation must be sought by means of a public notice placed on ~~contract finder~~ Find a Tender and the Authority's website; and
- in all cases for contracts of £6,000 and above, the Authority must accept the most ~~financially~~ advantageous quotation.

There are a number of exceptions set out in the Standing Orders relating to contracts (sections 5 and 6). Differing processes are required depending on the specific exemption however all waivers will be recorded and reported to committee.

Waivers that the Chief Executive can approve under the value of £150,000 (unless otherwise stated below) and where budgetary provision already exists:

- where the Chief Executive certifies that there is an extreme urgency;
- where there are only one or two suppliers for the supply of goods or services, and no other acceptable alternatives;
- where goods or materials are to be purchased via an auction or second-hand, including historical documents;
- for extensions to existing contracts, providing that the variation is not more than 10% of the original contract sum for goods or services, or 15% for works, or £25,000 (whichever is higher, but less than 50% of the original price); above that figure extensions (~~but less than 50% of the original contract~~) can only be approved by the Broads Authority;
- for repairs to, or supply of, parts to existing machinery or plant;
- where it is not considered reasonably practicable, or in the interests of the Authority, to do so, subject to a report to the next meeting of the appropriate committee; and
- where the Authority acts as an agent for another body or in 50% partnership where the other bodies own Standing Orders have been complied with.

All waivers that exceed the above require Committee approval.

All requests must be set out on the attached form which should be completed (including the comments of the appropriate director) and submitted to the Director of Finance. This form must be used for all contracts over £6,000 where three quotes have not been received.

## Request for Approval to waive Standing Orders

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Details of project/work to be carried out:

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Estimated cost (inclusive of VAT):

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Budget linecode:

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Proposed supplier/provider:

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Reasons for seeking approval to waive Standing Orders (please include specific exemption):

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Submitted by:	Date:
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Comments of appropriate Director

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Comments of Director of Finance:

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Is consultation with the Chairman/Vice-Chairman of the appropriate committee required?

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Does this need to be reported to the Broads Authority or appropriate committee?

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Comments of Chief Executive:

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Request approved:      Yes/No
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Date:
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