



BRECON BEACONS NATIONAL PARK AUTHORITY

STANDING ORDERS

relating to

CONTRACTS

Review Date: 2017

CONTENTS

Standing Order No.		Page No.
1.	Application and Interpretation of Orders	3
2.	Compliance with Standing Orders and European Community (EC) Directives	4
3.	Contracts not exceeding £25,000	5
4.	Contracts exceeding £25,000	6
5.	Selective Tendering - Ad Hoc List	7
6.	Selective Tendering - Standing List	8
7.	Open Tendering	9
8.	Submission of Tenders	10
9.	Opening and Acceptance of Tenders	11
10.	Adjustment of Tenders	12
11.	Nominated Sub-contractors and Suppliers	13
12.	Contract Conditions	14
13.	Indemnity and Insurance	15
14.	Environmental Purchasing Policy	16
15.	Contractor Selection	17

Standing Order No. 1
Application and interpretation
of
Standing Orders

Application

- 1.1 The objective of these Standing Orders is to ensure that the Authority enters into contracts for the supply and/or disposal of goods, materials and services or for the execution of works on the most economically advantageous terms through the application of sustainable, ethical, consistent, and transparent practices and procedures.
The entry into those contracts shall at all times be subject to these Standing Orders, and the Financial Regulations. of the Authority.
- 1.2 In relation to “Works Contracts” and “Functional Work” as defined in the Local Government Planning and Land Act 1980 and the Local Government Act 1988 and all other enactments, the additional provisions of those Acts must be observed.

Interpretation

- 1.3 For the purpose of these Standing Orders:

“authorised officer” means an officer of the Authority duly authorised to sign Orders on behalf of the Authority up to a level specified in the Authority’s Financial Regulations;

the term “contract” shall apply to all agreements by or with the Authority and one or more parties for the supply or disposal of goods, materials or services or for the execution of works but shall exclude contracts of employment or for the sale and purchase of any interest in land;

a “quotation” means a written offer made by a supplier in response to a request received from the appropriate officer of the Authority in respect of the supply and/or disposal of goods, materials or services or for the execution of works;

a “tender” means a sealed bid to supply or receive goods, materials or services or for the execution of works which may only be amended

and/or varied in accordance with the provisions of these Standing Orders;

The “value” of a contract shall be the total value over the entire term of the contract.

“Appropriate media” shall include the public sector procurement website operated by Value Wales, supplemented by specialist or local publications, websites or electronic media if these are deemed appropriate by the Chief Executive or responsible officer.

Standing Order No. 2.
**Compliance with Standing Orders and
European (EU) Directives**

- (1) Every contract made by the Authority or by a Committee or officer acting on their behalf shall comply with these standing orders unless an exemption has been given in accordance with paragraph (5) of this Order.
- (2) Every such contract shall comply with the Treaty of Rome and with any relevant legislation of the European Union? for the time being in force in the United Kingdom.
- (3) The provisions of these Standing Orders are subject also to such Directives as are issued from time to time by the European Union relating to public works, public supply and service contracts.

(These Directives contain procedures for advertising and awarding of public sector supplies, construction and service contracts.)

- (4) It shall 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 their behalf, that in relation to such contract, he/she shall comply with the requirements of such standing orders as relate to contracts as if he/she were an authorised officer of the Authority.
- (5) Exemption from any of the following provisions of these standing orders may be made by direction of the Authority, a Committee duly authorised in that behalf, or for contracts that do not exceed £5000, two officers with appropriate delegated authority (as provided for in SO 3), where they are satisfied that the exemption is justified in special circumstances and would not place the Authority in breach of relevant legislation.
- (6) Every exemption made by the direction of a Committee to which the power of making contracts has been delegated shall be reported to the Authority.
- (7) A record of any exemption made in accordance with paragraph (5) of this Order shall, if not made in the minutes of the Authority, be made in the minutes of the Committee to which the report referred to in that standing order is made.

- (8) In connection with procurement in general, informal contact between the Authority and suppliers or potential suppliers is permitted, but negotiations shall be subject to documentary evidence being retained of all such discussions and outcome.

Standing Order No. 3
Contracts not exceeding
£25,000

- (1) If a national framework exists it must be used if it secures best value for the Authority.
- (2) Every invitation to provide written quotations will include the following wording in relation to the *Freedom of Information Act 2000*.

*“The Authority must fulfil its obligations under the **Freedom of Information Act 2000** (the ‘Act’) and Environmental Information Regulations. The Act provides public access to recorded information held by public authorities. Therefore by progressing with this tender or quotation you are agreeing to certain information being released if requested under the Act. Please note however, commercially sensitive information will be protected under section 43 of the Act, and therefore exempt from disclosure subject to the public interest test. In order to identify what information you consider to be ‘commercially sensitive information’, please can you detail the same, and for how long you consider it to be ‘commercially sensitive information’, on an appendix to your tender. This will assist the Authority in determining whether or not the s43 exemption applies when considering information requests.”*

- (3) Where a proposed contract does not exceed £2,000 the authorised Officer must invite not less than 3 verbal quotations, except where there are less than 3 available providers. Appropriate notes should be kept of such quotations and Officers must be able to demonstrate value for money. Where a proposed contract does not exceed £500 the authorized Officer should seek not less than 3 quotations insofar as this is practicable and secures best value for the Authority.
- (4) Where a proposed contract is between £2,001 and £10,000 the authorised officer must invite not less than 3 written quotations, except where there are less than 3 available providers. Officers must be able to demonstrate value for money.
- (5) Where a proposed contract is greater than £10,000 but does not exceed £25,000 in value or amount, the authorised Officer must advertise the contract in “Appropriate media”. In all cases written evidence of the procurement process and of a formal quotation evaluation exercise must be retained.

Where the authority has advertised a contract under Standing Order 3 (4) additional suppliers may be invited to quote on the same terms as advertised, at the discretion of the authorised officer.

- (6) Where a proposed contract is equal to or does not exceed the value of £5,000 and a case can be made that:
- a) the requirement for the goods or services is urgent insofar as there is insufficient time to submit a report to the next NPA to suspend Contract Standing Orders; or
 - b) there would be a reputational risk to the Authority by awarding the contract to an organization other than the selected supplier; or
 - c) there is only one appropriate supplier of the goods or services

then the case shall be made in writing to two of the following post holders who are not involved directly or indirectly with the procurement, namely the Chairman, Chief Executive Officer, Director of Countryside, Director of Planning, Section 151 Officer or Monitoring Officer and provided that the two post holders to whom the case has been made to confirm their agreement in writing, then Contract Standing Order 3(1) shall be deemed to be suspended.

Standing Order No. 4

**Contracts exceeding
£25,000**

Where the estimated value or amount of a proposed contract exceeds £25,000 and in any other case where the Authority or appropriate committee determine, contractors shall be selected by the Chief Executive or appropriate Director of Department by one of the following methods:-

- i) Ad-hoc selective tendering under Standing Order 5
 - ii) Selective tendering from approved contractors under Standing Order 6
 - iii) Open competitive tendering by advertisement on the Welsh Government procurement website, plus other “appropriate media” if required, under Standing Order 7
-
- (1) If the estimated value of a proposed contract exceeds the related EU Threshold it must be advertised in accordance with the EU Regulations and must be confirmed with the Finance Manager.
 - (2) The contract must be awarded on the basis of the most economically advantageous tender, as assessed by the Authority, or an officer appropriately authorised in that regard.
 - (3) the Authority and its appropriately authorised officers must have regard to the procurement policy and guidance issued by the Welsh Government from time to time for procurements exceeding £25,000,

- (4) Every invitation to tender will include as part of the tender documentation, the following wording in relation to the *Freedom of Information Act 2000*;

*“The Authority must fulfil its obligations under the **Freedom of Information Act 2000** (the ‘Act’) and Environmental Information Regulations. The Act provides public access to recorded information held by public authorities. Therefore by progressing with this tender or quotation you are agreeing to certain information being released if requested under the Act. Please note however, commercially sensitive information will be protected under section 43 of the Act, and therefore exempt from disclosure subject to the public interest test. In order to identify what information you consider to be ‘commercially sensitive information’, please can you detail the same, and for how long you consider it to be ‘commercially sensitive information’, on an appendix to your tender. This will assist the Authority in determining whether or not the s43 exemption applies when considering information requests.”*

Standing Order No. 5
Selective Tendering - Ad
Hoc List

- (1) This standing order shall apply where the Authority or a Committee duly authorised in that behalf, have 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. In all instances where no specific prior decision has been made, the Chief Executive or appropriately authorised officer may decide to utilise this method of tendering.
- (2) For the purposes of this standing order, public notice shall be given by means of:
 - (a) A published notice on the Welsh Government procurement website, plus other “appropriate media” as determined by the Chief Executive or other officer appropriately authorised for the purpose.
- (3) The public notice shall:
 - (a) Specify details of the contract into which the Authority wishes to enter;
 - (b) Invite persons or bodies interested, to apply for permission to tender;
 - (c) specify a time limit, being not less than 14 days, within which such applications are to be submitted to the Authority; and
 - (d) State the criteria which will be applied by the Authority to the selection of potential suppliers.
- (4) After the expiry of the period specified in the public notice invitations to tender for the contract shall be sent to:
 - (a) not less than 4 of the persons or bodies who applied for permission to tender, selected by the Chief Executive or appropriately authorised officer;
 - (b) where fewer than 4 persons or bodies have applied or are considered suitable, those persons or bodies which the Chief Executive or authorised officer considers suitable. Alternatively, the contract may be re-advertised.

Standing Order No. 6

**Selective Tendering -
Standing List**

- (1) This standing order shall apply if the Authority or appropriate Committee or the Chief Executive decides that invitations to tender for a contract are to be limited to those persons or bodies whose names have been included in a list compiled and maintained for that purpose, in the form of a 'framework agreement' maintained and published by the Welsh Government through Value Wales or by the Government Procurement Office.

- (2) Officers shall arrange for invitations to tender for a contract to be sent to:
 - (a) not less than three potential suppliers who are contained on the relevant part of a suitable a framework agreement

 - (b) where fewer than three potential suppliers are approved for a contract of the relevant category and amount, all those on the framework agreement.

Standing Order No. 7

Open Tendering

- (1) This standing order shall apply either where the value of the contract exceeds £25,000 or the Authority or an officer duly authorised in that regard have decided that tenders for a contract are to be obtained by open competition.
- a) The tender shall be advertised on the Welsh Government procurement website and, if it is determined appropriate by the authorised officer, in “Appropriate media” giving at least 14 days’ notice of the tender submission deadline.
 - b) The criteria to be used for award of the contract must be provided with the advertisement and accompanying documentation.
 - c) Instructions on submission of tenders must be included in the advertisement.

Standing Order No. 8

Submission of Tenders

Tenders may be submitted either on paper or electronically subject to the following conditions:-

- (1) Where in pursuance of these standing orders invitation to tender is made, every invitation shall state that no paper tender will be received unless it is enclosed in a plain sealed envelope which shall bear the word "Tender" - followed by the title of the contract to which it relates but no other name or mark indicating the sender. The Tender must be addressed to the Finance Manager.
- (2) Paper tenders shall be kept sealed in the custody of the Finance Manager until the time and date specified for their opening.
- (3) Electronic tenders must be submitted through a secure electronic mailbox maintained by the Authority for this purpose or through the secure electronic postbox provided and maintained by the Welsh Government on its procurement website.
- (3) No tender received after the time and date specified in the invitation shall be accepted or considered under any circumstances.

Standing Order No. 9
Opening and Acceptance
of Tenders

- (1) Tenders received under either Standing Order 5, 6 or 7 shall be opened at one time and only in the presence of the appropriate Director of Department and the Finance Manager or any duly authorised representatives. This requirement may be met by electronic tender submission in accordance with Standing Order no 8, access to specific authorised officers (to include the Finance Manager) being permitted only after the submission deadline.
- (2) All tenders received shall be recorded.

Standing Order No. 10

Adjustment of Tenders

(I) Correction of Errors in Tenders

- (a) The following arrangements are to apply where the examination of tenders reveals arithmetical errors or discrepancies in any of the tenders and which would affect the tendered price. The appropriate Head of Department will decide whether the tenderer will be asked to either:
- stand by the original tender, with the option of withdrawing; or
 - stand by the original tender, with the option of revising it following the correction of the errors and discrepancies.
- (b) If the tenderer opts to stand by the original tender then an endorsement shall be added to the priced bill(s) indicating that all rates or prices (excluding primary items, contingencies, prime cost and provisional sums) inserted by the tenderer are to be considered as reduced or increased by the same proportion as a corrected total of priced items exceeds or falls short of such items. The endorsement shall be signed by both parties to the contract.
- (c) If the contractor is given permission to adjust the tender to correct the errors and discrepancies, and chooses to do so, then an appropriate endorsement shall be added to the bills and signed by both parties to the contract.

Standing Order No. 11
**Nominated Sub-contractors
and Suppliers**

Where a sub-contractor or supplier is to be nominated to a main contractor, the following provisions shall have effect:

- (1) 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 £25,000 then, unless the appropriate Director of Department is of the opinion in respect of any particular nomination that it is not reasonably practicable to obtain competitive quotations, quotations shall be invited for the nomination.
- (2) Where the estimated amount of the sub-contract or the estimated value of the goods to be supplied by the nominated supplier exceeds £25,000 then, unless the Authority or an officer duly authorised in that behalf determine, in respect of any particular nomination, that it is not reasonably practicable to obtain competitive tenders, tenders shall be invited in accordance with either Standing Order 5, 6 or 7 as the case may be.

Standing Order No. 12

**Form and Content of
Contracts**

- (1) Every contract shall:
- (a) be in writing and authorised by an officer of the Authority duly authorised in that behalf;
 - (b) specify:
 - i) the goods, materials or services to be supplied and the work to be executed;
 - ii) the price to be paid together with a statement as to the amount of any discount(s) or other deduction(s);
 - iii) the period(s) within which the contract is to be performed
 - iv) any liquidated damages payable by the contractor if such provision is required pursuant to paragraph (1) (c) below;
 - v) the specifications and standards to be applied to the contract;
 - vi) monitoring of the contract, together with controls over sub-contractors;
 - vii) such other conditions and terms as may be agreed between the parties;
 - (c) where after consultation with the Authority's legal services provider, the Chief Executive or authorised officer considers it to be appropriate, there shall be provision for liquidated damages or other sufficient security for due performance; and
 - (d) comply with all legislative requirements
- (2) There shall be inserted in every written contract, in addition to conditions covering the matters specified in paragraph 1(b) above, a clause empowering the Authority to cancel the contract and to recover from the contractor the amount

of any loss resulting from such cancellation, if the contractor shall have offered, or given, or agreed to given to any person, any gift or consideration of any kind as an inducement or reward for doing, or forbearing to do, or for having done, or forborne to do any action in relation to the obtaining or execution of the contract, or any other contract with the Authority, or, for showing or forbearing to show favour, or disfavour, to any person in relation to the contract, or any other contract with the Authority; or if the acts shall have been done by any person employed by him/her, or acting on his/her behalf (whether with or without the knowledge of the contractor), or, if in relation to any contract with the Authority, the contractor or any person employed by him/her, or acting on his/her behalf, shall have committed any offence under the Prevention of Corruption Acts 1889 to 1916, or, shall have given any fee or reward, the receipt of which is an offence under Section 117(2) of the Local Government Act 1972.

- (3) A register of all contracts over £25,000 entered into on behalf of the Authority shall be kept and maintained by the Finance Manager. Such register shall, for each contract, specify the name of the contractor, the works to be executed or the goods to be supplied and the contract value. The register shall be open to inspection by any member of the Authority or the public.

Standing Order No. 13
Indemnity and Insurance

In any contract for the execution of any work or for the supply of goods or materials, the Contractor shall be required to indemnify the Authority against:

- (a) any claim which may be made in respect of Employers' Liability against the Authority or the contractor by any workman employed by the contractor or any sub-contractor in the execution of the works;
- (b) any claim for bodily injury to or damage to property of third parties to the value of at least £2 million;

The contractor shall, before the commencement of any contract, produce to the responsible officer satisfactory evidence of insurance against such claims

Standing Order No. 14
Sustainable Purchasing Policy

- (1) For procurements with a total value of greater than £25,000, a sustainability risk assessment should be completed in accordance with Welsh Government procurement policy. A record of all such risk assessments should be maintained by a designated officer in the required format and reported to Welsh Government as required.
- (2) In the evaluation of any quotation or tender where a scoring process is used, a section of the scoring will include appropriate reference to the:
- (a) whole life costs: minimising waste, energy consumption or other adverse environmental impacts in their use and disposal;
 - (b) distance goods and services are sourced from
 - (c) suppliers' environmental practices and/or environmental management system- and external accreditation
 - (d) impact on equality and diversity
 - (e) social impact: impacts on people and communities
 - (f) ethical issues

Decisions will normally be based on the information made available by suppliers or by the trade and consumer press

Standing Order No. 15

Contractor Selection

- (1) The Authority or its duly authorised officer shall apply current Welsh Government policy guidance on supplier selection and qualifications and comply with the requirements of the Public Contracts Regulations 2015. Contractors will be disqualified from consideration for any contracts let by the Authority if any of the conditions for ineligibility set out in Regulation 57 (1-7) of the Regulations apply.
- (2) The Authority or its duly authorised officer will carry out appropriate checks on the financial standing, probity, environmental and social responsibility of potential contractors, their current and past relationships with the Authority and its Members and employees, insurance cover requirements, competence and capacity, record of performance and Welsh Language Act compliance. The Authority will have regard to the outcome of these checks when selecting a contractor in accordance with the criteria established in advance as part of the selection process.
- (3) The Authority or its duly authorised officer will maintain a record of information sought and obtained, evaluation processes and criteria/scoring applied as appropriate to the value of the procurement. Such records will include updates to the public sector procurement website maintained by Welsh Government where a contract has been advertised on the site.