

**SOUTH WEST OF SCOTLAND
TRANSPORT PARTNERSHIP**

PROCUREMENT STANDING ORDERS

Procurement Standing Orders

1. Purpose

The purpose of Procurement Standing Orders is to set clear rules for the procurement of goods, works and services for the South West of Scotland Transport Partnership ("the Transport Partnership"). The rules should ensure that the Transport Partnership complies with its legal obligations and is fair and accountable in its dealings with contractors and suppliers. These Standing Orders are also intended to ensure that the Transport Partnership obtains best value for money and that it is taking good care of the public pound.

2. Compliance

2.1 The Board of the Transport Partnership may approve guidance notes on procurement procedures for any contract or type of contract let by or on behalf of the Transport Partnership. Any such guidance notes once approved shall form part of these Standing Orders and shall be complied with.

2.2 Every procurement on the Transport Partnership's behalf must comply with the Transport Partnership's Procurement Standing Orders and the Transport Partnership's Financial Regulations.

2.3 In the event of conflict, EU, UK and Scottish legislation overrides these Standing Orders.

3 Variation and Revocation

3.1 These Standing Orders may be varied or revoked by the Board of the Transport Partnership. Any variation to or revocation of the Standing Orders will be effective on the first working day after the conclusion of the Board meeting at which it was approved.

3.2 These Standing Orders or any part of them may be suspended by the Lead Officer, provided that there are special circumstances justifying such suspension and that it is in the interests and within the powers of the Transport Partnership, and that there is written agreement from Dumfries and Galloway Council's procurement or legal advisers.

4. Exemptions

4.1 There shall be exempted from the provisions of these Standing Orders all contracts for the supply of goods or materials for the provision of services or for the execution of works where:-

[a] In the opinion of the Lead Officer of the Transport Partnership urgent action is required to prevent danger to life, serious risk to health or damage to property. In such circumstances a report will be submitted to the Board at the first available subsequent meeting detailing both the circumstances justifying use of this exemption and the action taken.

[b] The goods materials or services required are subject to copyright or patent and are only sold/provided by one supplier in the European Union.

[c] The services are the appointment of legal counsel (for the avoidance of doubt the appointment of Solicitors is not exempt).

(d) The contract is being funded by money provided by the government or a public body (including funds from the Big Lottery) and the award of that money to the Transport Partnership is subject to such conditions that make it impractical for the Transport Partnership to comply with these standing orders in letting the contract. In such circumstances clause 3.2 must be followed.

[e] The Contract relates to the performing arts.

(f) The goods are on sale by auction or on line auction. In these circumstances, guidance must be sought from Dumfries and Galloway Council's procurement officers to ensure audit requirements are met.

5. Financial Provision

No tender shall be invited or offer made or accepted unless appropriate financial provisions have been made and approved by the Transport Partnership in terms of the Transport Partnership's Financial Regulations or funding is being provided by a third party which has been approved by the Transport Partnership.

6. Best Value

6.1 All procurement of goods works and services below the EU threshold should be based on "Best value". "Best value", in this context, is defined as the optimum combination of whole life cost and quality (or fitness for purpose) to meet the user's requirements.

6.2 All procurements which are subject to the EU procurement directives should be awarded on the basis of the "most economically advantageous tender". Failure to advise bidders in advance of the criteria against which tenders will be evaluated means that legally the decision may only be based on lowest price.

7 Existing contracts

7.1 Where there is an existing contract for the provision of goods, works or services which has been competitively tendered and awarded, this contract must be used for all procurements covered by that contract.

7.2 These Standing Orders do not apply to procurements under framework or contract agreements by Office of Government Commerce Supplies (OGC Supplies). Where consideration is being given to purchasing under a contract or framework agreement put in place by another Council or public sector body, other than OGC, legal advice must be taken to ensure that the contract is one to which the Transport Partnership can be party and that no further compliance procedures on the part of the Transport Partnership are necessary.

8 Value of Contract

8.1 For the purposes of these Standing Orders, the value of a contract must be calculated over the whole life of the contract not the annual value. Where it is likely that a supply of goods or services will be required on a continuing basis over a number of years, the anticipated duration of the continuing supply should be taken into account when estimating the value of the contract for the purposes of these Standing Orders. When it is not possible to anticipate the length, the annual contract value shall be multiplied by 4 to reach an indicative contract value.

8.2 It is not permissible to disaggregate a contract in order to circumvent the requirements of these Procurement Standing Orders.

8.3 For the avoidance of doubt, the values stated are exclusive of any Value Added Tax that may be levied.

9 Form of Contract

All contracts shall be in writing. All contracts above £50,000 must be approved by the Lead Officer before being committed to by the Transport Partnership. The Lead Officer shall take appropriate legal advice before approving the contract.

10 Value of proposed procurement below £3000

10.1 In the case of a proposed procurement value being less than £3000, a minimum of three telephone quotations or internet prices shall be obtained and the details of each quote or price shall be kept on file. Public Contracts Scotland Quick Quote Service may also be used

10.2 Contracts in this category should be awarded on the basis of the lowest price tender who can meet the Transport Partnership's delivery and quality specifications.

11 Value of proposed procurement £3001- £20,000 (goods and services) and £3001-£250,000 (works)

For all goods, services and works, written/faxed/email quotes or Quick Quotes should be received from a minimum of three suppliers who can meet the required delivery and quality specifications. This procurement standing order does not apply in respect of any small works' contracts having a maximum value of £250,000 and awarded to Dumfries & Galloway Council directly without competition where best value can be demonstrated. Any contract subject to such direct award shall not be sub-let or sub-contracted in whole or in part by Dumfries & Galloway Council without the specific approval of the Lead Officer of the Transport Partnership.

12 Value of proposed procurement £20,001 – £50,000 (goods and services) and (£250,001 - £850,000 (works)

For all goods, services or works:-

Public Contracts Scotland Quick Quote service should be used to invite a minimum of five suppliers/ contractors who are capable of supplying the goods/ services to the required quality, inviting them to quote. Letters or e-mails may also be used in exceptional circumstances. In the event of five suppliers or contractors with relevant experience not being known, advice should be taken from Procurement on appropriate advertising that will allow adequate competition.

13 Value of proposed procurement £50,001- EU thresholds (goods and services) and £850,001 – EU thresholds (works)

13.1 Formal sealed tender bids are required for procurements in this category

13.2 For all contracts for goods, works and services, where the estimated value of the contract lies within this category, officers must use whichever of the following methods will achieve best value for money and ensure adequate competition for their procurement:-

1. Selection of contractors/providers under the Open Tendering Procedure
2. Selection of contractors/providers under the Restricted Tendering Procedure

13.4 The choice of procedure will depend on, amongst other things, the type and complexity of the goods, services or works being procured; the likely level of market interest; whether the open procedure would generate such interest that the cost of evaluating the number of tenders would be disproportionate to what is being purchased. Advice is available from the Council's Procurement Team to help the Transport Partnership reach a decision.

14 Open Tendering Procedure (below EU threshold)

14.1 This is a procedure where the contract is publicly advertised and all interested parties are able to tender.

14.2 Under this procedure the contract must be advertised on:-

- The Transport Partnership's website and Public Contracts Scotland

14.2.1 Once the web site advertisement has appeared, letters or emails can also be written to providers who might be interested in tendering, drawing their attention to the advertisement.

14.3 Contract advertisements under this procedure must include

- Details of the proposed contract
- Details of any restrictions as to who can participate eg the minimum qualifications (technical/financial/ professional) required
- Details as to where contractors might apply for the tender documents
- Clear instructions as to where tender documents should be sent
- A deadline for the receipt of applications with a statement that applications received after the deadline may not be considered. The

deadline must be at least 14 calendar days from the date of publication of the advertisement

- The name, address, phone number and email address of an officer who can be contacted in the event of any queries

14.4 Invitations to tender must contain

- Details of the proposed contract requirements
- An invitation to tender
- Clear instructions for the receipt of tenders
- A deadline for delivery of tenders together with a statement that tenders received after the deadline may not be considered. The deadline must be at least 21 calendar days from the date of publication of the advertisement. 2pm is the preferred time of day for the tender deadline
- A statement that the tenders shall remain open for acceptance for a period specified in the tender documents
- A statement that the Transport Partnership reserves the right to reject all tenders and not award a contract
- Details of the number of unsigned copies of the tender to be submitted together with the one signed tender
- Evaluation criteria

14.5 Tenders must be assessed against criteria that have been determined before contractors are invited to tender. The assessment of tenders against pre-determined criteria must be recorded in writing.

15 Restricted Tendering Procedure (below EU threshold)

15.1 Under this procedure the contract is publicly advertised to invite potential providers to express an interest in tendering. However, rather than all interested providers being invited to tender, tenders are invited only from a limited number of persons selected on behalf of the Transport Partnership.

15.2 The selection takes place by asking all who ask to be considered to complete and return a pre-qualification questionnaire. A style pre-qualification questionnaire is available from the Council's Procurement Team. The pre-qualification questionnaire is then assessed to ensure that the provider meets pre-determined minimum criteria in terms of, amongst other things, financial and economic standing, the appropriate level of insurance, health and safety policies (where appropriate), technical capacity and ability and relevant experience.

15.3 From those who return the questionnaire, the minimum number that should be selected is 5 and the maximum number that should be selected is 20. However, where less than 5 providers meet the minimum pre-qualification criteria, all who do meet the criteria must be asked to tender.

15.4 Under this procedure the contract must be advertised on

- The Transport Partnership's website and Public Contracts Scotland

15.4.1 Once the web site advertisement has appeared, letters or emails can also be written to providers who might be interested in applying, drawing their attention to the advertisement.

15.5 Contract advertisements under this procedure must include

- Details of the proposed contract
- An invitation to contractors to apply for permission to tender for the contract within a specified period
- Details as to where contractors might apply for an application form
- Clear instructions for the receipt of applications
- A deadline for the receipt of applications (date and time) with a statement that applications received after the deadline may not be considered. The deadline must be at least 14 days from the date of publication of the advertisement. 2pm is the preferred time of day for the application deadline
- The name, address, phone number and email address of an officer who can be contacted in the event of any queries

15.6 Invitations to tender must contain

- Details of the proposed contract requirements
- An invitation to tender
- Clear instructions for the delivery and receipt of tenders
- A deadline for delivery of tenders (date and time) together with a statement that tenders received after the deadline may not be considered. The deadline must be a minimum of 21 days after the despatch of the Invitation to Tender documents to all selected to tender. 2pm is the preferred time of day for the tender deadline.
- A statement that the tenders shall remain open for acceptance for a period specified in the tender documents
- A statement that the Transport Partnership reserves the right to reject all tenders and not award a contract
- Details of the number of unsigned copies of the tender to be submitted together with the one signed tender
- Evaluation criteria

15.7 Tenders must be assessed against criteria that have been determined before contractors are invited to tender. The assessment of tenders against pre-determined criteria must be recorded in writing.

16 Procurement above EU thresholds

16.1 All procurement which falls within this category must be carried out in accordance with EU procedures.

16.2 Any procurement which falls or is likely to fall within this category must be notified to the Council's Procurement Team who having taken appropriate legal advice will give advice and support.

16.3 Thresholds for the two year period commencing 1 January 2012 are as follows:-

Goods and Services	£173,934
Works	£ £4,348,350

These figures shall be revised from time to time to comply with EU requirements

17 Framework agreements

Where there is likely to be a repeated need for a particular supply service or works, this can be procured by way of a Framework Agreement. The Lead Officer shall seek appropriate assistance and guidance before proceeding by way of a Framework Agreement. No Framework agreement shall last longer than 4 years except in exceptional circumstances approved by the Board.

18 Receipt and Custody

18.1 Where tenders are invited, no tender will be considered unless it is received by the time fixed on the tender document (unless that time has been altered by the Lead Officer for all tenderers at least 14 days prior to the original tender date) and unless it is contained in a plain envelope securely sealed and bearing the word "Tender" followed by the subject to which the tender relates. The envelope must not bear any distinguishing mark intending to indicate the identity of the sender. Prospective tenderers must be notified of these requirements. Any tender failing to meet these requirements may be considered only with the express consent of the Lead Officer who shall take appropriate legal advice.

18.2 The envelope containing the tender shall be addressed to the postal address specified on the tender document concerned in whose custody it shall remain until the time arranged for its opening.

18.3 A record shall be kept showing the time and date of receipt of tenders.

18.4 Prior to the award of a contract, tender documents should be kept in a secure place.

18.5 Tender documentation shall be kept for a minimum of 12 months after the closing date for receipt of tenders, after which time the unsuccessful tenders should be destroyed.

18.6 All tenders for contracts of £50,000 and above must be addressed to the Lead Officer for opening.

19 Late Tenders

Tenders received after the closing date and time specified in the tender documents, or at a place other than the place specified therein, shall only be considered with the approval of the Lead Officer. Such late tenders that are not to be considered will be returned to the tenderer with a covering letter explaining why the tender is not being considered. Such late tenders that are not to be considered may be opened to identify the name of the tenderer but no details of such a tender shall be disclosed. Any tender received after the opening of tenders described in Procurement Standing Order 20 shall not be considered under any circumstances.

20 Opening of Tenders

20.1 All tenders for the same contract shall be opened at the one time.

20.2 The particulars of each tender opened will be recorded on opening and a record will be kept by the Lead Officer.

20.3 All tenders properly received in terms of the Standing Order must be opened as soon as reasonably practicable after the date set for the return of the tender documents.

20.4 All tenders must be opened by no less than two persons who have the authority to open tenders on behalf of the Transport Partnership.

21 Validation, Clarification and Correction of Tenders

21.1 All tenders shall be subject to checking by the Lead Officer or nominated officer.

21.2 Between the last time and date for the receipt of tenders and the date on which a decision is taken as to which, if any, tender is to be accepted the Lead Officer may instruct staff to contact a tenderer where such contact is necessary to validate or clarify the terms of the tender, including the withdrawal of any qualification to the tender or to effect any necessary adjustments. A full written record shall be kept of all such contacts and shall be retained with the original tender.

21.3 An arithmetical check of all tenders will be carried out. Where examination of the tenders reveals arithmetical errors, or obvious errors in the rates tendered or discrepancies, the tenderer will be given the opportunity of confirming, amending (in the case of arithmetical errors only) or withdrawing his tender. All correspondence relating to such matters must be in writing or in email and shall be retained with the original tender.

22 Post -Tender Negotiations

No post-tender negotiations shall be entered into without the prior express approval of a legal adviser and the Dumfries and Galloway Council's Chief Internal Auditor, since under certain EU procedures these are prohibited

23 Tender Database

23.1 The Lead Officer shall keep and maintain a database of tenders received and opened in respect of each contract of £50,000 and over and shall include thereon the name of each tenderer, the value or amount of the tender.

23.2 The tender database register shall also list any tenderers who were issued with contract documents but who failed or declined to submit a tender.

24 Notification of Award

24.1 All tenderers shall be informed in writing of the success or otherwise of their tender as soon as is reasonably practicable after the approval of the successful tender.

24.2 Where the tenders are subject to EU procurement procedures, advice should be sought from Dumfries and Galloway Council's Procurement Team or a legal adviser on the wording of these letters.

25 Mandatory Standstill Period

Where tenders are for a contract subject to the full scope of the EU procurement rules, a period of not less than 10 or 15 calendar days (dependent on the method of communication) must elapse between the written communication of the intended award decision to all tenderers and contract commencement. The written communication must in all cases be in terms specifically approved by Dumfries and Galloway Council's Procurement Team or a legal adviser.

26 Technical and Financial Checks

26.1 No contractor may be awarded a contract for the supply of goods, materials or services or the execution of works unless a satisfactory review of the proposed contractor has been carried out as to:-

- the technical capability of the tenderer; and
- in conjunction with Dumfries and Galloway Council's Director of Finance, the financial standing of the tenderer.

26.2 It shall not be necessary to review the financial standing of proposed contractors where

- the estimated value of the contract is £50,000 or below;
- it has been reviewed in the preceding 12 months from the date of the tender; or

- the Contractor will not be paid until completion of the contract.

27 Health and Safety

No contract shall be awarded to a contractor unless the contractor satisfies the Transport Partnership that they are operating health and safety policies which conform to the current legislation.

28 Equal Opportunity in Employment

Before any contract is awarded, the Transport Partnership shall obtain from the contractor an assurance in writing that, to the best of the contractor's knowledge and belief, the contractor has complied with all statutory requirements in respect of ensuring equal opportunity in employment.

29 Equality Requirements

No contract shall be awarded to a contractor unless the contractor confirms to the Transport Partnership that they are complying with the Equality Act 2010.

30 Specification of Standards

Where there is a recognised British, European or International Standard applicable to any contract which is current at the date of tender, the tender and or documents shall require that the goods, materials or services supplied by the workmanship shall at least meet the requirement of that standard

31 Contracts Register

Within 14 days of the commencement of a contract, the Lead Officer, or an officer to whom the Lead Officer has delegated responsibility for the contract, shall forward the name and address of the supplier, the nature of the supply, the duration of the contract, the price pertaining to the supply together with any other material information on the contract to Dumfries and Galloway Council's Procurement Team who will maintain a Contracts Register on behalf of the Transport Partnership.

32 Extension of Contract Duration

32.1 Where appropriate and in conformity with EU legislation, provision can be made in a contract for a period of extension but such extension must not be for more than 50% of the original duration of the contract.

32.2 The Lead Officer may extend the duration of a contract where provision for this has been included in the original agreement and value for money can be demonstrated. This should only be done following receipt of legal advice.

33 Assignment and Sub-contracting

In every contract for the supply of goods or services or the execution of work, there shall be included a provision whereby the contractor shall be prohibited from transferring or assigning to any firm or company or person whomsoever, the contract or any portion of the contract, without the prior written consent of the Lead Officer.

34 Liquidate and Ascertained Damages

All procurement contracts for the supply of goods, services or execution of works by a particular date or dates shall provide, where appropriate, for liquidate and ascertained damages, with the amount thereof to be specified in each contract.

35 Building or Civil Engineering Contracts

34.1 The Lead Officer can authorise additional work of an emergency nature on a building or civil engineering contract up to 5% of the contract value. Such extensions must be reported retrospectively to the Board.

34.2 Except as provided for in 34.1 above, contract variations for building/civil engineering works which exceed the provision for contingencies in the project estimate may not be instructed without prior Board approval.

35 Pilot Projects

These Standing Orders shall apply to any procurements related to pilot projects for which the Transport Partnership has responsibility whether or not fully or part funded by the Transport Partnership, the Scottish Executive or another third party.

36. Sustainable Development

36.1 When entering into any contract the Lead Officer must take into account the social, economic and environmental impacts of the proposed contract and whether the contract will contribute to the achievement of sustainable development

36.2 In the context of these Standing Orders “sustainable development” shall be taken to mean development which secures a balance of social, economic, health and environmental wellbeing in the impact of activities and decisions, and which seek to meet the needs of the present without compromising the ability of future generations to meet their own needs

36.3 The transport partnership shall, within limits placed on it by legislation, ensure fairly traded products are part of the product range purchased where these are available.

37 Commencement Date

These Standing Orders shall come into effect on the first working day after the Board meeting at which they are approved.