

The Lambeth Contract Standing Orders

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An Introduction to the Lambeth Contract Standing Orders

These Contract Standing Orders are supplemental to the Financial Regulations and the Procurement Guide and are made under the delegated powers of the Executive Director of Finance and Resources. These contract procedure rules are intended to promote good purchasing practice, public accountability and deter corruption. Following the rules is the best defence against allegations that a purchase has been made unfairly, incorrectly or fraudulently. Officers responsible for purchasing must comply with these contract procedure rules. They lay down minimum requirements, though a more thorough procedure may be appropriate for a particular contract. For example, if Rule 8.1 would normally require that quotes be obtained, it might be appropriate in particular circumstances to seek additional quotations in writing or tender submissions. Equally, it may not always be appropriate to make use of an exemption under Rule 3 even if one might apply or be granted. For the purpose of these rules, where there is a requirement for communication to be in writing, this shall be deemed to include e-mail and fax transmissions as well as hard copy.

The Executive Director of Finance and Resources may make amendments to these contract procedure rules after consultation with the Corporate Procurement team Strategic Procurement Board and the Lambeth Legal team. All costs stated in these contract procedure rules are exclusive of VAT and staff costs. Terms appearing in the definitions appendix are italicised. Further advice can be had by contacting your departmental procurement team in the first instance; they may advise you to contact the Lambeth Legal Team or the Corporate Procurement Team directly:

The Lambeth Legal Team
Contact: Andrew Pavlou
Phone: 020 7926 2506
Lambeth Town Hall, London SW2 1RW
Mail: apavlou@lambeth.gov.uk

The Lambeth Corporate Procurement Team
Phone: 020 7926 9358
Mail: CorporateProcurement@lambeth.gov.uk

Access the Corporate Procurement intranet site here:
<http://intranet.lambeth.gov.uk/StaffServices/FinanceAndProcurement/Procurement/> and confer with your procurement colleagues at: LambethProcurementForum@lambeth.gov.uk.

Section 1: Scope of Contract Procedure Rules

1.0 Basic Principles

1.1 All purchasing procedures must:

- a. Achieve value for money for all public money spent
- b. Be consistent with the highest standards of integrity
- c. Ensure fairness and transparency in allocating public contracts
- d. Comply with UK & EU law and all legal requirements
- e. Ensure that non-commercial considerations do not influence any contracting decision
- f. Support the Council's codes of practice and corporate and departmental aims and policies and the Lambeth Procurement Guide
- g. Comply with the Council's corporate procurement strategy and competition policy
- h. Ensure that contracts are likely to be sustainable and, as far as possible, environmentally friendly

2.0 Officer Responsibilities

2.1 Officers

2.1.1 Officers responsible for purchasing must comply with these contract procedure rules, the guidance set out in the Lambeth Procurement Guide, Financial Regulations, the Lambeth Staff Code of Conduct and Scheme of Delegation and with all UK and European Union binding legal requirements. Officers must ensure that any agents, consultants and contractual partners acting on their behalf also comply.

2.1.2 Officers must:

- a. Follow the rules in the Lambeth Contract Standing Orders and the Lambeth Procurement Guide when purchasing goods, services and building works
- b. Have proper regard for all necessary legal, financial and professional advice
- c. Declare any personal financial interest in a contract. Corruption is a criminal offence
- d. Conduct any value for money review and appraise the purchasing need
- e. For ANY contract, use the Council's approved supplier database, wherever possible
- f. Check whether there is an existing corporate contract that can be used before undergoing a competitive process
- g. Allow sufficient time for the submission of bids
- h. Keep all supplier bids confidential
- i. Keep records of all dealings with suppliers
- j. The project manager should ensure the safe keeping of contract documentation in line with Lambeth's document retention policy. Contract documents need to be on controlled premises, though not necessarily on Council premises.
- k. Obtain all required approvals and complete a written contract (and sealed, as required) before placing an order or raising a purchase order for any supplies, services or works
- l. Where appropriate, not award a contract until the standstill period is over
- m. Enter all purchase order information onto the Oracle financial system
- n. Identify a contract manager with responsibility for ensuring the contract delivers as intended. Officers must monitor each contract afterwards to see how well it met the purchasing need and value for money requirements

- o. Ensure that there is adequate budget provision for the procurement exercise undertaken
- p. Must not divide up any contract in order to avoid any rules set out in the Contract Standing Orders or Procurement Guide
- q. Ensure that the procurement is appropriate to the needs of the Council and its declared objectives
- r. Ensure that contracts are legally, financially and technically capable of delivery to the Council
- s. Where lawful and appropriate give regard to the local economy

2.1.3 When any employee either of the authority or of a service provider may be affected by any transfer arrangement, Officers must ensure that the Transfer of Undertaking (Protection of Employment - TUPE) issues are considered and obtain legal advice before proceeding with inviting tenders or quotations.

2.2 Executive Directors

2.2.1 Executive Directors must:

- a. Ensure that their staff comply with Rule 2.1
- b. Keep records of all purchases and contracts valued below £25,000
- c. Ensure that all signed and sealed contracts valued at £25,000 and greater are scanned and entered onto the Contract Register
- d. Ensure that all Waivers are recorded under Rule 3.1 and 3.2

3.0 Waivers, Collaborative & eProcurement Arrangements

3.1 The Council and its cabinet have power to waive any requirements within these contract procedure rules for specific projects, and any such decision may be a key decision. These rules are delegated for recommendation to the Procurement Boards, the Chief Executive and Lambeth Executive Directors.

3.2 In exceptional circumstances, an Executive Director also has the power, under the scheme of delegation in the Constitution, to waive any requirements within these contract procedure rules. Waivers must not be made retrospectively.

3.3 Where a proposed contract is likely to exceed the EU threshold, an Executive Director has no delegated powers and the matter has to be determined by the Strategic Procurement Board under delegated powers - see Rule 3.1. No exemption can be used if the EU procurement procedures apply.

3.4 Where a waiver is necessary because of an unforeseeable emergency involving immediate risk to persons, property or serious disruption to Council services, an Executive Director may approve the waiver (in the form of a report), observing the Lambeth Scheme of Delegation. The waiver report and form shall be submitted to the relevant Procurement Board, as appropriate.

3.5 All waivers, and the reasons for them, must be recorded using the required forms. Waivers valued from £0.00-£25,000 must have their forms signed by the relevant Divisional Director of Resources. Waivers valued at £25,000 and greater must be signed by the chair of the relevant Procurement Board and the relevant Executive Director.

3.6 Each department must keep a record of all their waivers valued from £0.00-£25,000. The Procurement Boards must monitor the use of all waivers.

- 3.7 In order to secure value for money, the authority may enter into a procurement arrangement with a Central Purchasing Body or CPB. In these cases the Officer must seek procurement approval from the relevant Procurement Board if the aggregate value is at £25,000 and greater. The terms and conditions of the CPB must be fully complied with, including any requirement to undertake competition between providers.
- 3.8 In order to secure value for money, the authority may enter into collaborative procurement arrangements with another local authority, government department, primary care trust, statutory undertaker or other contracting authority. In these cases the Officer must seek procurement approval for award of contract or before entering into the agreement. This must be obtained from the relevant value based Procurement Board.
- 3.8.1 All purchases made via a public body are deemed to comply with these contract procedure rules and no exemption is required. However, purchases above the EU threshold must be let under the EU procedures, unless the consortium has satisfied this requirement already by letting their contract in accordance with the EU procedures on behalf of the authority and other consortium members.
- 3.8.2 Any contracts entered into through collaboration with other local authorities or other public bodies, where a competitive process has been followed that complies with the contract procedure rules of the leading organisation, will be deemed to comply with these contract procedure rules and no waiver is required. The Officer must seek procurement approval for award of contract or before entering into the agreement and this must be obtained from the relevant value based Procurement Board.
- 3.9 The use of e-procurement technology does not negate the requirement to comply with all elements of these contract procurement rules and any of the guidance set down in the Lambeth Procurement Guide, particularly those relating to competition and value for money.
- 3.9.1 In an electronic reverse auction procurement route, the nature of the auction is such that an immediate purchase decision will have to be made by the officer leading the auction on behalf of the Council. As this process does not allow for Lambeth's contract award process under Scheme of Delegation to take place in advance of purchase, the procurement officer must obtain permission to award the contract under Scheme of Delegation before the auction takes place.
- 3.9.2 Where a tender is run using the Council's electronic procurement system, there is no requirement for hard copies of the supplier's bid to be returned. All electronic tender documentation will be securely accessed and retained on the Council's e-procurement website.

4.0 Relevant Contracts

- 4.1 All relevant contracts must comply with these Contract Standing Orders. A relevant contract is any arrangement made by, or on behalf of, the authority (including schools) for the carrying out of works or for the supply of goods, materials or services. These include arrangements for:
- a. The supply of products or goods
 - b. The hire, rental or lease of goods or equipment
 - c. The provision of consultancy or other professional services
 - d. The delivery of services, including (but not limited to) those related to:

- i. The recruitment of staff
- ii. Land and property transactions
- iii. Financial and consultancy services

4.2 Relevant contracts do not include:

- a. Contracts of employment which make an individual a direct employee of the authority
- b. Agreements regarding the acquisition, disposal, or transfer of land (for which Financial Regulations shall apply)
- c. Contracts for the provision of any product or service that has been manufactured or delivered by an illegal means

Section 2: Common Requirements

5.0 Steps Prior to Purchase

5.1 The Officer must appraise the purchase in a manner commensurate with its complexity and value. The Officer must also take into account the guidance in the Lambeth Procurement Guide, by:

- a. Including the requirements from any relevant value for money review
- b. Appraising the need for the expenditure and its priority
- c. Defining the objectives of the purchase
- d. Assessing the risks associated with the purchase and how to manage them
- e. Considering what procurement method is most likely to achieve the purchasing objectives, including:
 - i. Internal or external sourcing
 - ii. Shared services
 - iii. Partnering arrangements and collaborative procurement arrangements with another local authority, government department, Primary Care Trust, statutory undertaker other contracting authority
 - iv. Packaging strategy
 - v. Use of Central Purchasing Bodies such as the LCSG or the OGC
- f. Consulting users as appropriate about the proposed procurement method, contract standards and performance and user satisfaction monitoring
- g. Using relevant terms and conditions that are to apply to the proposed contract

5.2 And by confirming that:

- a. They have the authority to spend, have obtained the required approval(s) for the expenditure and the purchase accords with the Lambeth Internal Procurement Framework and Scheme of Delegation
- b. If the purchase is valued at £500,000 and greater, an entry onto the Council's Forward Plan has been made
- c. If the purchase is valued at £100,000 and greater, their relevant departmental executive Member has been consulted

6.0 Records

6.1 Where the Total Value is less than £25,000, the relevant Business Unit Manager or Head of Service must ensure that the following records are kept:

- a. Invitations to quote and quotations
- b. A record of any waivers to the procurement process and the reasons for them
- c. A record of the reason if the lowest price is not accepted
- d. Written records of communications with the successful contractor or an electronic record if a written record of the transaction would normally not be produced

- 6.2 Where the total value exceeds £25,000, the relevant Business Unit Manager or Head of Service must ensure that the following records are kept:
- a. The method for obtaining bids (see Rule 8.1)
 - b. The calculation of the estimated value
 - c. Any contracting decision and the reasons for it
 - d. Any waiver under Rule 3 together with the reasons for it
 - e. The award criteria in descending order of importance
 - f. tender documents sent to and received from tenderers
 - g. Pre-tender research, benchmarking and consultation information
 - h. Any post-tender clarification information, to include minutes of meetings
 - i. The contract documents
 - j. Contract implementation evaluation and ongoing contract monitoring and management information
 - k. Communications with all tenderers throughout the tendering exercise and with the successful supplier(s) throughout the period of the contract
 - l. That all contracts valued at £25,000 and greater are entered onto the Council's contract register
 - m. The project manager should ensure the safe keeping of contract documentation in line with Lambeth's document retention policy. Contract documents need to be on controlled premises, though not necessarily on Council premises
 - n. Where an electronic procurement has taken place, all electronic records pertaining to the tender and the tendering process must be retained on the Council's e-procurement system
- 6.3 Records required by this rule must be kept in accordance with the Lambeth document retention policy.

7.0 Advertising, Departmental Approved Lists & Framework Agreements

7.1 Identifying and Assessing Potential Candidates

- 7.1.1 Officers shall ensure that, where proposed contracts, irrespective of their total aggregate value, might be of interest to potential suppliers located in other member states of the EU, a sufficiently accessible advertisement is published. Generally, the greater the interest of the contract to potential bidders from other member states, the wider the coverage of the advertisement should be. Advertisements for tenders must be placed as below:
- a. For procurements valued below £25,000 officers are not obliged to formally advertise the purchase but may do so using the Council's public website
 - b. For procurements valued at £25,000 and greater, the Council's public website must be used for tender advertisement, as well as 1 other government supplier portal
 - c. For procurements valued at £100,000 and greater, the same as above but officers may also use advertisements in national official journals or specialist trade papers, if relevant and if affordable
 - d. Where the value exceeds the EU threshold, tender advertisement rules must be followed in accordance with the current EU Public Procurement Directive. See details in the Procurement Guide

- 7.1.2 Officers are responsible for ensuring that all candidates for a purchase or relevant contract are suitably pre-qualified. The pre-qualification process shall establish that the suppliers have sound:
- a. Economic and financial standing
 - b. Technical ability to fulfil the requirements of the authority
 - c. Capacity to fulfil the requirements of the authority
- 7.1.3 This shall be achieved in respect of proposed purchases and contracts by selecting firms:
- a. That are on an approved supplier database, maintained by the authority or on its behalf
 - b. That have successfully completed the Authority's pre-qualification application
 - c. That have been pre-qualified by or within a Central Purchasing Body (CPB), public sector collaborative contract, Shared Services agreement or another public sector purchasing agent whose pre-qualification processes have been approved by the Authority
 - d. For construction work valued below the EU threshold, firms must be selected from the Authority's approved supplier database
- 7.1.4 Public advertisements issued in respect of Rule 7.1.3 above shall reflect the potential degree of interest from candidates located within other member states of the EU.

7.2 Departmental Approved Lists

- 7.2.1 Departmental Approved Lists should:
- a. Be used where recurrent transactions of a similar type are likely but where such transactions need to be priced individually and cannot easily be aggregated and priced in a single tendering exercise
 - b. Be used where a corporate or other departmental contract or list that covers the requirement is not already in place
 - c. Never be used exclusively where the EU threshold for advertisement has been reached
 - d. Only be set up after approval by an officer's Departmental Head of Procurement and the Corporate Head of Procurement, to prevent duplication of lists
- 7.2.2 Executive Directors may draw up:
- a. Departmental Approved Lists of suppliers ready to perform contracts to supply goods, services or works of particular types including without limitation on the basis of agreed contract terms
 - b. Criteria for shortlisting from the lists
- 7.2.3 No supplier may be entered on a Departmental Approved List until there has been an adequate investigation into both their financial and their technical capacity to perform the contract, unless such matters will be investigated each time bids are invited from that list.
- 7.2.4 Departmental Approved Lists must be drawn up after an advertisement inviting applications for inclusion on the list. The advertisement must be placed to secure the widest publicity among relevant suppliers throughout all member states of the EU. Persons may be entered on a list between the initial advertisement and re-advertisement provided the requirements of Rule 7.2.3 are met.

- 7.2.5 The list and shortlisting criteria must be reviewed at least annually and re-advertised at least every three years. On re-advertisement, a copy of the advertisement must be sent to each supplier on the list, inviting them to reapply. Review means:
- a. The reassessment of the financial and technical ability and performance of those suppliers on the list, unless such matters will be investigated each time bids are invited from that list
 - b. The deletion of those suppliers no longer qualified, with a written record kept justifying the deletion.
- 7.2.6 All Departmental Approved Lists shall be maintained in an open, fair and transparent manner and be open to public inspection.
- 7.2.7 A register of pre-qualified contractors and consultants maintained by or on behalf of central or local government (e.g. OGC trading bodies, LCSG, Exor or Constructionline) will be equivalent to a Departmental Approved List for the purpose of these contract procedure rules but shall not be subject to the requirements of Rules 7.2.2 to 7.2.6 inclusive. Constructionline should only be used where a need cannot be met by Exor.

7.3 Framework Agreements

- 7.3.1 Where commissioned under European rules the term of a framework agreement must not exceed four years, save in exceptional cases duly justified, in particular by the subject of the framework agreement. Contracting authorities may not use framework agreements improperly or in such a way as to hinder, restrict or distort competition. Also, while an agreement may be entered into with one provider, where an agreement is concluded with several organisations, there must be at least three in number.
- 7.3.2 Contracts based on framework agreements may be awarded by either:
- a. Applying the terms established in the Lambeth Scheme of Delegation and the framework agreement itself (where such terms are sufficiently precise to cover the particular call-off) without reopening competition, or
 - b. Where the terms laid down in the framework agreement are not precise enough or complete for the particular call-off, by holding a mini -competition in accordance with the following procedure:
 - i. Inviting all the organisations within the framework agreement that are capable of executing the subject of the contract to submit written tenders
 - ii. Fixing a time limit which is sufficiently long enough to allow tenders for each specific contract to be submitted, taking into account factors such as the complexity of the subject of the contract
 - iii. Awarding each contract to the tenderer who has submitted the best tender on the basis of the award criteria set out in the specifications of the framework agreement

Section 3: Purchasing Rules

8.0 Competition Requirements for Purchases and Partnership Arrangements

All Officers must calculate the total aggregate value of any contract or purchase. The following procedures apply where there are no other procedures which take precedence. Other procedures may include agency agreements with government. If in doubt, Officers must seek the advice of the Lambeth Legal team.

8.1 Purchasing - Competition Requirements

8.1.1 Where the total value for a purchase is within the values in the first column below, the procedure in the second column must be followed. Approval is received from the persons specified in the third column.

Total Aggregate Value	Procedure	Approval	Other Essential Requirements	Procurement Guide Resource
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A	£0.00 to £5,000	One written quotation	Business Unit Manager or Other Manager	The quote must represent value for money	Section 3: Purchasing, tendering & Contract Award
B	£5,000 and up to £25,000	Three written quotes	Business Unit Manager or Other Manager	At least one quotation must be from a local Lambeth supplier, wherever possible	Section 3: Purchasing, tendering & Contract Award
C	£25,000 and up to £500,000	Formal tendering (EU rules if over £173,934 for supplies and services, £4,348,350 for works)	£25,000-£50,000: Business Unit Manager or Other Manager. £50,000-£100,000: Head of Service or Assistant Director £100,000-£1 million: Divisional Director and Divisional Director of Resources	Procurement Board compliance check. Details onto Contract Register £100,000 and greater: contract placed under Lambeth seal £100,000 and greater: award decision reported to Officer Decisions	Section 3: Purchasing, tendering & Contract Award
D	£500,000-£10 million	Formal tendering (EU rules if over £173,934	£100,000-£1 million: Divisional Director and Divisional	Procurement Board compliance check & contract award approval	Section 3: Purchasing, tendering & Contract Award

		for supplies and services, £4,348,350 for works)	Director of Resources £1 million-£10 million: Executive Director and Divisional Director of Resources	Details onto Contract Register Details onto Forward Plan Contract placed under Lambeth seal Award decision reported to Officer Decisions External advertisement Executive Member informed CPT and Legal team involvement	
E	£10 million and greater	Formal tendering (EU rules if over £173,934 for supplies and services, £4,348,350 for works)	£10 million and greater: Executive Director of Finance and Resources	All as above	Section 3: Purchasing, tendering & Contract Award

8.1.2 Where it can be demonstrated that there are insufficient suitably qualified candidates to meet the competition requirement, all suitably qualified candidates must be invited.

8.1.3 In procedures A and B, where suitably qualified local Lambeth suppliers are available, a minimum of one of these suppliers must be invited.

8.1.4 An Officer must not enter into separate contracts nor select a method of calculating the total value in order to minimise the application of these contract procedure rules.

8.1.5 Where the EU procedure is required, the Officer shall consult their departmental or section head of procurement to determine the method of conducting the purchase. If a department or section does not have a head of procurement to consult, the Corporate Procurement or Legal teams must be consulted.

8.1.6 Where extensions of time or variations in price (or both together) are made to an existing contract, Officers must compute the amount of the variation and seek approval in accordance with the Scheme of Delegation (see chart 8.1.1 above) and by following guidance set down in the Procurement Guide. Approval must be based on the total value of the extension and/or variation only, not the extension and/or variation plus the original value of the contract.

8.2 Contract Termination

8.2.1 Where a contract is to be terminated before its contracted termination date, this must be approved by the relevant department's Executive Director. The relevant Executive Director must take advice from the Lambeth Legal team in advance of any contract termination.

8.3 Providing Services to External Purchasers

- 8.3.1 The Lambeth Legal team must be consulted where contracts to work for organisations other than the authority are contemplated.

8.4 Collaborative and Partnership Arrangements

- 8.4.1 Collaborative and partnership arrangements are subject to all UK and EU procurement legislation and must follow these contract procedure rules.

8.5 The Appointment of Consultants to Provide Services

- 8.5.1 Consultant architects, engineers, surveyors and other professional consultants shall be selected and commissions awarded in accordance with the procedures detailed within these contract procedure rules and as outlined in the Procurement Guide.
- 8.5.2 The engagement of a consultant shall follow the agreement of a specification that adequately describes the scope of the services to be provided.
- 8.5.3 Records of consultancy appointments shall be maintained in accordance with Rule 6.
- 8.5.4 Consultants shall be required to provide evidence of, and maintain professional indemnity insurance policies to the satisfaction of the Council for the periods specified in the respective agreement.

9.0 Pre-tender Market Research & Consultation

9.1 The Officer responsible for the purchase:

- a. May consult potential suppliers prior to the issue of the invitation to tender in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, provided this does not prejudice any potential candidate
- b. Must not seek or accept technical advice on the preparation of an invitation to tender or quotation from anyone who may have a commercial interest in them, if this may prejudice the equal treatment of all potential candidates or distort competition
- c. Where the aggregate value of the contract or purchase is valued at £100,000 and greater, the officer must consult with their departmental cabinet member before tender approval is given
- d. Should seek advice from their departmental procurement team

10.0 Standards & Award Criteria

10.1 The Officer must ascertain the relevant EU, UK, European or international standards which apply to the subject matter of the contract. The Officer must include those standards which are necessary properly to describe the required quality. The Lambeth Legal team must be consulted if it is proposed to use standards other than European standards.

10.2 The Officer must define award criteria that are appropriate to the purchase and designed to secure an outcome giving Value for Money for the authority. The basic criteria shall be:

- a. 'Most economically advantageous', where considerations other than price also apply
- b. 'Lowest price' where payment is to be made by the authority
- c. 'Highest price' if payment is to be received

If the first criterion is adopted, it must be further defined by reference to sub-criteria which may refer only to relevant considerations. These must include price and quality of the goods and or services in addition to service, quality of goods, whole life costs, technical merit, previous experience, delivery date, cost effectiveness, quality, relevant environmental considerations, aesthetic and functional characteristics (including security and control features), safety, after-sales services, technical assistance and any other relevant matters.

10.3 Award Criteria must not include:

- a. Non-commercial considerations
- b. Matters which discriminate against suppliers from the European Economic Area or signatories to the Government Procurement Agreement

11.0 Invitations to tender & Quotations

11.1 The invitation to tender shall state that no tender will be considered unless it is received by the date and time stipulated in the Invitation to tender. No tender delivered in contravention of this clause shall be considered, except in respect of any provision made in accordance with rule 13.8, following.

11.2 All tenders valued at £25,000 and greater must be completed online. Officers and suppliers will be provided with guidance and support on how the system works and where they can get help.

11.3 In exceptional circumstances paper tenders may be returned but these must be approved by the Corporate Procurement Team in advance of the tender's return.

11.4 All Invitations to tender shall include the following:

- a. Stipulation that all tenders valued at £25,000 and greater must be completed online.
- b. A specification that describes the authority's requirements in sufficient detail to enable the submission of competitive offers
- c. A requirement for tenderers to declare that the tender content, price or any other figure or particulars concerning the tender have not been disclosed by the tenderer to any other party (except where such a disclosure is made in confidence for a necessary purpose)
- d. A requirement for tenderers to complete fully and sign all tender documents including a form of tender and certificates relating to canvassing and non-collusion
- e. Notification that tenders are submitted to the Council on the basis that they are compiled at the tenderer's expense
- f. A description of the award procedure and, unless defined in a prior advertisement, a definition of the award criteria in objective terms and if possible in descending order of importance
- g. The method by which any arithmetical errors discovered in the submitted tenders is to be dealt with; in particular, whether the overall price prevails over the rates in the tender or vice versa

11.5 All Invitations to tender or quotations must specify the goods, service or works that are required, together with the terms and conditions of contract that will apply (see Rule 16).

11.6 The invitation to tender or quotation must state that the Council is not bound to accept any quotation or tender.

11.7 tenders that are returned without a signed Form of tender (which also declares the supplier's acceptance of Lambeth's terms and conditions of contract) will be known as non-compliant and will not be considered for further competition.

11.8 All candidates invited to tender or quote must be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis.

12.0 Shortlisting

12.1 Any shortlisting must have regard to the financial standing and technical capacity relevant to the contract and the award criteria. Special rules apply in respect of the EU Procedure; see section 3 of the Procurement Guide.

12.2 The Officers responsible for shortlisting are specified in Rule 8.1.1.

12.3 Where Departmental Approved Lists are used, shortlisting may be done by the Officer in accordance with the shortlisting criteria drawn up when the Departmental Approved List was compiled (see Rule 7.2.2). However, where the EU procedure applies, Departmental Approved Lists may not be used.

13.0 Submission, Receipt & Opening of tenders & Quotations

13.1 tenders can be returned to Lambeth by one of four routes:

- a. tenders of £25,000 or greater must be returned directly via the Council's e-procurement system. tenders must be submitted directly to the website and opened by 2 officers – one of whom must be independent of the procurement exercise.
- b. An electronic reverse auction can only be used with the specific permission of the Head of Lambeth Corporate Procurement. The procedure enables suppliers/providers to adjust their tender price in the light of information from the tender prices submitted by competing suppliers/providers, then alterations will be accepted as permitted by the auction process. Any tenders not using the Council's e-procurement or an e-auction system must be returned via one of the two following routes.
- c. All tenders valued from £0.00 to £100,000 must be returned to the Officer leading the procurement exercise or to the departmental procurement team and will be the responsibility of the relevant department Executive Director for which the tender is received; tenders valued at £25,000 and greater must be returned electronically. Each tender must be:
 - i. If a paper tender it must be recorded on a tender opening form in order to verify the date and time it was received
 - ii. Adequately protected immediately on receipt to guard against amendment of its contents
 - iii. All tenders must be opened in the presence of two or more Officers; one Officer must be the lead Officer for that procurement exercise or his or her representative
- d. Paper tenders valued at £100,000 and greater are the responsibility of the Chief Executive and must be returned to the Lambeth Town Hall Post Room, in care of the Chief Executive. All paper tenders must be opened at the same time, on the next working day after the tender

submission date. This will allow for any tenders delivered to the incorrect office or location. Each tender must:

- i. Be recorded immediately on receipt in the Post Room tender Record Log in order to verify the date and time it was received
- ii. Be adequately protected immediately on receipt to guard against amendment of its contents
- iii. Be opened in the presence of two or more Officers if valued at £100,000 and greater. One Officer must be the Lambeth Post Room Officer who is authorised to open tenders or a representative from Corporate Procurement
- iv. Not be received by direct e mail if valued at £100,000 and greater. These tenders will be rejected

13.2 Candidates must be given an adequate period in which to prepare and submit a proper quotation or tender, consistent with the complexity of the contract requirement. Normally at least four weeks should be allowed for submission of tenders. The EU procedure lays down specific time periods (see guidance in section 3 of the Procurement Guide).

13.3 Officers must notify all candidates of the correct tender return instructions, including to whom (Officer name) and where (Lambeth address) the tenders must be returned. In relation to paper tenders, tender instructions or notice shall state that no quotation or tender shall be received by the Council except in a plain sealed envelope/package which shall bear the words "tender / quotation" (as appropriate) followed by the subject matter to which it relates, but shall not bear any name or mark which would identify the sender.

13.4 Any tender that does not comply with the Council's requirement as set out in the tender invitation e.g. arrives late and /or after other tenders had been opened, should normally be excluded from consideration, with the circumstances recorded on the Council e-procurement system or tender Record Log and any evidence of the relevant events retained (i.e. envelope, packaging, receipt documentation etc.). Officers may, however, seek the agreement of the Head of Lambeth Corporate Procurement to relax these requirements in appropriate circumstances. Any such relaxation shall be identified when seeking any necessary authorities required before the acceptance of a tender.

13.5 Upon opening, a summary of the main terms of each tender (i.e. significant issues that are unique to each tender submission and were not stated in the tender invitation documents such as tender sum, construction period, etc) must be recorded in the tender Record Log either in the e-procurement system or on the e-auction or by the Project officer or initialled on behalf of the Chief Executive (when paper tenders are returned to the Town Hall)

14.0 Pre and Post tender Clarification Procedures

14.1 Providing clarification of an invitation to tender to potential or actual candidates or seeking clarification of a tender, whether in writing or by way of a meeting, is permitted. Discussions with tenderers after submission of a tender and before the award of a contract (post tender clarification) with a view to clarifying mistakes or errors in the tender submitted, operational provisions or terms and conditions of contract are permitted. Where post tender clarification discussions are to take place with a supplier, all tenderers involved in the respective exercise must be notified and all information must be documented by the Officers conducting the clarification.

14.2 However, discussions with tenderers after submission of a tender and before the award of a contract with a view to obtaining adjustments in scope, price, delivery or content (i.e. post-tender negotiations) must not be conducted – this is a distortion of competition.

14.3 Where post-tender clarification results in a fundamental change to the specification (or contract terms) the contract must not be awarded but re-tendered, following the guidance set out in the Procurement Guide.

15.0 Evaluation, Award of Contract & Debriefing of Candidates

15.1 Apart from the debriefing required or permitted by these contract procedure rules, the confidentiality of quotations, tenders and the identity of candidates must be preserved at all times and information about one candidate's tender submission must not be given to another candidate.

15.2 Contracts must be evaluated and awarded in accordance with the award criteria. During this process, Officers shall ensure that submitted tender prices are compared with any pre-tender estimates and that any discrepancies are examined and resolved satisfactorily.

15.3 The arithmetic in compliant tenders must be checked. If arithmetical errors are found they should be notified to the tenderer, who should be requested to confirm or withdraw their tender. Alternatively, if the rates in the tender, rather than the overall price, were stated within the tender invitation as being dominant, an amended tender price may be requested to accord with the rates given by the tenderer.

15.4 Officers may accept quotations and tenders received in respect of proposed contracts, provided they have been sought and evaluated fully in accordance with these contract procedure rules and in respect of the Lambeth Scheme of Delegation.

15.5 Where the total value is at £25,000 and greater, the Officer must notify all candidates simultaneously and as soon as possible of the intention to award the contract to the successful candidate. Where the standstill period applies Officers must send the following to all persons submitting an expression of interest:

- a. The award criteria
- b. Where appropriate the score the tenderer obtained against the criteria
- c. Where appropriate the score the winning tenderer obtained
- d. The name of the winning tenderer

In this event the Officer must provide unsuccessful candidates with a period of at least ten working days in which to challenge the decision before the Officer awards the contract. If the decision is challenged by an unsuccessful candidate then the Officer shall not award the contract and shall immediately seek the advice of the Lambeth Legal team.

15.6 The Officer shall debrief all those candidates who submitted a bid about the characteristics and relative advantages and disadvantages of the bid they submitted. No information, other than the following, should be given without taking the advice of the Head of Legal Services:

- a. How the award criteria were applied
- b. The prices or range of prices submitted, in either case not correlated to candidates' names
- c. The names of candidates where there were three or more candidates

- 15.7 If a candidate requests in writing the reasons for a contracting decision, the Officer must give the reasons in writing within 15 days of the request. If requested, the Officer may also give the debriefing information at Rule 15.6 above to candidates who were deselected in a pre-tender shortlisting process.

Section 4: Contract & Other Formalities

16.0 Contract Documents

16.1 Relevant Contracts

- 16.1.1 All relevant contracts that exceed £25,000 shall be in writing and must set out the parties' obligations, rights and risk allocations.
- 16.1.2 All relevant contracts, irrespective of value, shall clearly specify:
- What is to be supplied (i.e. the works, materials, services, matters or things to be furnished, had or done)
 - The provisions for payment (i.e. the price to be paid and when)
 - The time, or times, within which the contract is to be performed
 - The provisions for the Council to terminate the contract.
- 16.1.3 The Council's terms and conditions of contract must be used wherever possible rather than the suppliers. If you intend to use the suppliers terms advice must be sought from the Legal team.
- 16.1.4 In addition, every relevant contract of purchase over £25,000 must also state clearly as a minimum:
- That the contractor may not assign or sub-contract without prior written consent
 - How the contractor would indemnify the Council against any negligent act or omission
 - Any insurance requirements
 - How the contract may be ended because of non performance or otherwise
 - How intellectual property is dealt with
 - How services may be varied
 - Important performance indicators
 - Health and safety requirements
 - Ombudsman requirements, if relevant
 - Data protection requirements, if relevant
 - That charter standards are to be met if relevant
 - Race relations requirements
 - Disability Discrimination Act requirements
 - Freedom of Information Act requirements
 - Where Agents are used to let contracts, that Agents must comply with the Council's contract procedure rules
 - A right of access to relevant documentation and records of the contractor for monitoring and audit purposes if relevant
- 16.1.5 The formal advice of the Lambeth Legal team must be sought for the following contracts:
- Where the total value exceeds £100,000
 - Those involving leasing arrangements
 - Where it is proposed to use a supplier's own terms

- d. Those that involve insourcing or outsourcing

16.2 Contract Formalities

16.2.1 Agreements shall be completed as follows:

Total Value	Method of Completion	By
Up to £25,000	Verbal or signature (standard terms on a Purchase Order)	a. £0 to £500.00: lead Officer and any manager b. £500.00-£25,000: lead Officer and Business Unit Manager
£25,000 to £500,000	Signature (Any contract not sealed must be signed by two officers with the appropriate level of delegated power)	a. Chair of the Procurement Board and: b. £25,000 - £50,000: Business Unit Manager c. £50,000 - £100,000: Head of Service or Assistant Divisional Directors (see Rule 16.2.3)
Above £100,000	Sealing	See Rule 16.3

16.2.2 All contracts must be concluded formally in writing before the supply, service or construction work begins, except in exceptional circumstances, and then only with the written consent of the Head of Lambeth Corporate Procurement. An award letter is insufficient.

16.2.3 The Officer responsible for securing signature of the contract must ensure that the person signing for the other contracting party has authority to bind it.

16.2.4 Where a contract or purchase value is valued at £100,000 and greater, the procurement Officer responsible for that procurement exercise must inform their departmental Executive Director of the procurement exercise. This must be done immediately upon receipt of formal approval for the procurement exercise to commence.

16.3 Sealing

16.3.1 Where contracts are completed by each side adding their formal seal, such contracts shall be attested by officers so authorised under the Council's Constitution.

16.3.2 Every Council sealing will be consecutively numbered, recorded and signed by the person witnessing the seal. The seal must not be affixed without the authority of the Legal Team, acting under delegated powers.

16.3.3 A contract must be sealed where:

- a. The Council wishes to enforce the contract more than six years after its end
- b. The price paid or received under the contract is a nominal price and does not reflect the value of the goods or services
- c. There is any doubt about the authority of the person signing for the other contracting party
- d. The total value is at £100,000 and greater

17.0 Bonds & Parent Company Guarantees

17.1 The Officer must consult the Lambeth Legal team about whether a Parent Company Guarantee is necessary when a Candidate is a subsidiary of a parent company and:

- a. The total value exceeds £250,000, or
- b. Award is based on evaluation of the parent company, or
- c. There is some concern about the stability of the candidate

17.2 The Officer must consult the Lambeth Legal team about whether a Bond is needed:

- a. Where the total value exceeds £1,000,000, or
- b. Where it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the contract and there is concern about the stability of the candidate

18.0 Prevention of Corruption

18.1 The Officer must comply with the Lambeth Code of Conduct and must not invite or accept any gift or reward in respect of the award or performance of any contract. High standards of conduct are obligatory; it will be for the Officer to prove that anything received was not received corruptly. Corrupt behaviour will lead to dismissal and is a crime under the statutes referred to in Rule 18.2 below.

18.2 The following clause must be put in every written Council contract:

“The Council may terminate this contract and recover all its loss if the Contractor, its employees or anyone acting on the Contractor’s behalf do any of the following things:

- a. Offer, give or agree to give to anyone any inducement or reward in respect of this or any other Council contract (even if the Contractor does not know what has been done), or
- b. Commit an offence under the Prevention of Corruption Acts 1889 to 1916 or Section 117(2) of the Local Government Act 1972, or
- c. Commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors or employees. Any clause limiting the Contractor’s liability shall not apply to this clause.”

19.0 Declaration of Interest

19.1 If it comes to the knowledge of a member or an employee of the authority that a contract in which he or she has a pecuniary interest has been or is proposed to be entered into by the Council, he or she shall immediately give written notice to the chief executive and their departmental executive director. The chief executive shall report such declarations to the appropriate committee.

- 19.2 Such written notice is required irrespective of whether the pecuniary (financial) interest is direct or indirect. An indirect pecuniary interest is distinct from a direct pecuniary interest in as much as it is not a contract to which the member or employee is directly a party.
- 19.3 A shareholding in a body not exceeding a total nominal value of £1,000 or 1% of the nominal value of the issued share capital (whichever is the less) is not a pecuniary interest for the purposes of this standing order.
- 19.4 Executive Directors in all departments shall maintain a record of all declarations of interests notified by Members and Officers.
- 19.5 The chief executive shall ensure that the attention of all Members is drawn to the National Code of Local Government Conduct.

Section 5: Contract Management

20.0 Managing Contracts

- 20.1 Heads of service in sponsoring departments are to name contract managers for all new contracts. All contracts must have a named Council contract manager for the entirety of the contract.
- 20.2 Contract managers must follow the procedures set out in the Council's Contract Standing Orders and in the Lambeth Procurement Guide.

21.0 Risk Assessment & Contingency Planning

- 21.1 Provision for resources for the management of the contract, for its entirety, must be identified in the business case.
- 21.2 For all contracts with a value of over £25,000, contract managers must:
- a. Maintain a risk register during the contract period
 - b. Undertake appropriate risk assessments and for identified risks
 - c. Ensure contingency measures are in place

22.0 Contract Monitoring, Evaluation & Review

- 22.1 All contracts are to be subject to regular formal reviews with the contractor. An initial review must be done at the first 3 months of a contract start date and ongoing reviews will then be conducted on a regular schedule, as determined by the relevant Procurement Board.
- 22.2 A formal review process must be applied to all contracts deemed to be High Risk, High Value, or High Profile. This process must be applied at key stages of major procurements.
- 22.3 During the life of the contract, the Officer must monitor a contract in respect of:
- a. Performance and compliance with specification and contract
 - b. Cost and any value for money requirements
 - c. User satisfaction and risk management