

## Appendix A

### Recommended changes to London Councils Financial Regulations

#### 5 Accounting and Document Retention

- 5.1 All accounts, financial records, including computerised records, and financial administration procedures shall be kept or undertaken in a form approved by the Finance Officer who shall also be responsible for keeping the principal accounting records. It is the responsibility of the Chief Executive to retain securely, and in an easily retrievable form, all other information relating to the Organisation's financial and operational activity in support of the accounting and final account process.
- 5.2 In the allocation of accounting duties, the following principles shall be observed:-
- 5.2.1 The duties of providing information regarding sums due to or from London Councils and of calculating, checking and recording these sums, shall be separated as completely as possible from the duty of collecting or disbursing them;
- 5.2.2 Officers charged with the duty of examining and checking the accounts of cash transactions shall not themselves be engaged in any such transactions.
- 5.3 The Chief Executive shall make returns of outstanding expenditure, income and any other relevant information in the form and by the date specified by the Finance Officer for the reporting process detailed in Financial Regulation 9.6 and the closure of the annual accounts.
- 5.4 All computerised financial systems should be capable of producing relevant accounting analysis capable of transfer in a format, level of detail and manner approved by the Finance Officer. The information transfer should include specific types of transaction such as write offs. The Chief Executive shall consult with the Finance Officer before introducing, amending or discontinuing any record or procedure relating to financial transactions or accounting.
- 5.5 All accounting records shall be retained in safe custody for such a period as shall be determined by the Finance Officer and all vouchers must be kept for a period of ~~six~~<sup>seven</sup> years in line with HMRC guidance after the specified accounting period has elapsed. The ultimate disposal of financial records should be arranged by the Chief Executive as "confidential waste" and on no account should sensitive information be disposed of through the normal waste collection process. All such confidential waste disposal arrangements shall be subject to the prior approval of the Finance Officer.
- 5.6 The Finance Officer in consultation with the Chief Executive shall be responsible for the production and publication of the organisation's final accounts in such a form and in accordance with such a timetable as to make them consistent with any relevant statute and the general directions of London Councils and any Sectoral joint or associated committee.

- 5.7 As soon as practicable after the end of each financial year and before the 30 June, the Finance Officer in consultation with the Chief Executive shall report provisional out-turn figures for income and expenditure to London Councils and any Sectoral joint or Associated committee, comparing these to the approved estimates. The Finance Officer shall present the Statement of Accounts for the year in question to London Councils' External Auditors as early as possible following the presentation of the provisional outturn figures to the London Councils Executive.
- 5.8 The Finance Officer shall retain, in safe custody, copies of audited Statements of Accounts including the External Auditor's signed certificate and opinion and annual report. The Finance Officer shall present the audited Statement of Accounts to London Councils Audit Committee for approval by 30 September. All significant issues raised by the External Auditor's annual report on the accounts together with any accompanying management letter must be reported to London Councils Audit Committee, including the issues that relate solely to the accounts of any Sectoral joint committee. The Finance Officer in consultation with the Chief Executive shall be responsible for the production and publication of the organisation's final accounts in such a form and in accordance with such a timetable as to make them consistent with any relevant statute and the general directions of London Councils and any Sectoral joint or Associated committee.

## **8 Contracts & Procurement**

- 8.1 All contracts and procurement that exceed the current EU threshold<sup>1</sup> of £139,892 are regulated by EU Procurement Directives regulations, and UK domestic legislation law as defined in the Public Contracts Regulations (PCR) 2006/2015. In addition, each and every contract shall also comply with these Financial Regulations. The EU regulations and UK law take precedence over the Financial Regulations and no deviations or exceptions are permitted for contracts in excess of the threshold. Also, cContracts with a full life value between £25,000 and below the EU threshold are governed under Part 4 of the PCR 2015 by the Financial Regulations and no exception from any of the following provisions shall be made otherwise than at the direction of London Councils or any Sectoral joint or associated committee, as appropriate. Every exception made by a Committee Member or an officer to which the power of making contracts has been delegated shall be reported to the relevant committee, and the report shall specify the emergency by which the exception shall have been justified.
- 8.2 Contracts may be defined as being agreements for the supply of goods or materials, or the carrying out of works or services. Contracts are also deemed to include the engagement of professional consultants (excluding Counsel).
- 8.3 It is a breach of the Financial Regulations to artificially divide contracts where the effect is to circumvent the regulations concerning the following financial threshold limits.

<sup>1</sup> The current Threshold for public supply and service contracts is €207,000 / £172,514. This is reviewed every two years, the next due January 2016

#### 8.4 Financial Thresholds

- 8.4.1 The following minimum number of invitations to tender or quote shall apply, subject to EU procurement rules (including aggregation) and the exemptions, before any order for works, supplies or services is placed:

Procurement Threshold	Procedure
(a) up to £10,000	No formal tender process required. At least one written quotation obtained, duty to secure reasonable value for money
(b) between £10,001 and <del>£50,000</del> <u>£25,000</u>	Obtain 3 documented quotations <del>or use formal tender process if desirable</del>
(c) between <del>£50,001-001</del> <u>£25,001-001</u> and EU limit (currently £172,514) (€207,000)	The use of the formal tender process is mandatory <u>advertising the opportunity on Contract Finder</u>
(d) over EU limit (currently £172,514 ((€207,000)) and £249,999	The use of the formal tender process is mandatory and subject to the EU procurement rules.
(e) £250,000 and over	Committee approval prior to formal tender process and subject to the EU procurement rules.

- 8.5 Each proposed contract for works or services, with an estimated value equal or greater than £250,000 must be the subject of a separate detailed report to London Councils or any Sectoral joint or associated committee as appropriate, requesting approval to seek tenders for the recommended design solution. This report must state the size of any contingency provision to be included in the tender documents or estimated costs, as well as any prevalent risks to the organisation as a result of the recommended design solution.

- 8.6 No contract shall be made, nor any tender invited, unless provision has been made in the annual budget for the proposed expenditure or that written confirmation has been received from the appropriate third party that external funding is available to fund the full contract and associated costs.

#### 8.7 Formal Tender Process

- 8.7.1 Competitive tendering will be required where the estimated value of the contract is expected to exceed ~~£50,000~~£25,000. which is split into two categories

##### 8.7.2 Below Threshold ( £25,000 to less than the EU limit £172,514

8.7.2.1 It is now a requirement that for any contracts estimated to be between £25,000 and the EU limit in force at the time (currently 172,514), the contracting authority must advertise the opportunity on Contracts Finder.

##### 8.7.3 Above Threshold £172,514 where full EU processes apply

8.7.3.1 For above threshold ~~The~~ tendering the choice of procedure are detailed and regulated in the PCR.( Chapter 2 Rules on Public

Contracts) options are to noting that when awarding public contracts, contracting authorities shall apply procedures that conform to the regulations.

**Open Tendering** — whereby any person wishing to submit a bid must be allowed to do so;

**Selective Restrictive Tendering** — where only a certain number of bidders are allowed to tender, usually following a pre-assessment stage;

**Selective Tendering using an Approved List** — where bidders are invited to tender from an approved list of contractors.

**Competitive Dialogue** — for complex procurements where the restricted procedure may be too inflexible, in such cases officers could follow the competitive dialogue procedure.

8.7.2 All public procurement in the UK is governed by the EU Treaty and the EU Procurement Directives and UK Procurement Regulations that implement the Directives. This legal framework helps to ensure that public procurement is conducted in a fair and open manner both within the UK and across the EU. Every tender must comply within the legal framework of both the EU Treaty and Common law rules. This applies to all contracts and/or commissioning and the acquisition of goods and services. Detailed guidance on procurement procedures is provided in the Procurement Toolkit (Appendix 6), reflecting the PCR and any specific guidance as the Minister for the Cabinet Office may issue.

## 8.8 Contract Advertising

8.8.1 Contracts above the EU financial thresholds prevailing at the time as for Supplies and Services set out in the Regulations should be advertised in the Official Journal of the European Union (OJEU). Procurement opportunities where the value falls below these limits and £25,000 must be placed on Contracts Finder, with no exceptions. In addition all contracts should be advertised on London Councils website In addition, in order to fully test the market, it may be desirable to place an advert in the appropriate trade journals.

8.8.2 Advertising tenders below these thresholds or supplementing OJEU contract notices with internet or journal advertising for above threshold contracts are at discretion of the appropriate Corporate Director.

8.8.3 Due to the high value, contracts above the EU Threshold are considered to be of high risk and, therefore, it is advisable that consultation with affected stakeholders is carried out prior to advertising.

~~8.8.4~~ 8.8.2 No contract which exceeds £50,000 in value or amount for the supply of goods or services shall be made unless at least 10 days public notice has been given on the London Councils website, unless the relevant committee has agreed that for a particular contract

~~tenders can be sought from a selected list. In addition, in order to fully test the market, it may be desirable to place an advert in the appropriate trade journals.~~

~~8.8.5 Steps should be taken to ensure that minority interest groups are advised of forthcoming tender opportunities. As a minimum, any advert placed in trade journals shall include a journal having a substantial ethnic minority readership.~~

~~8.8.68.8.3~~ After the expiration of the period specified in any notice, invitations to tender for the contract shall conform with Section 5 sub section 7 of the PCR, ( paragraphs 65 and 66 refer), ~~be sent to not less than 3 persons selected in the manner determined by the committee, or if fewer than 3 persons have applied and/or are considered suitable, to all such persons.~~

## 8.9 Receipt of Tenders

8.9.1 Every invitation to tender shall state that no tender will be accepted unless it is received in a plain sealed envelope or package which shall bear the words TENDER - followed by the subject to which the tender relates, and shall not bear any name or mark indicating the sender. Every invitation to tender should also state the deadline date and time (usually 12 noon) for receipt. When received, an entry shall be made upon such envelopes or packages indicating the time and date of receipt and these will then remain in the custody of the Chief Executive or the Finance Officer until the time appointed for their opening.

8.9.2 Electronic versions of the tender submission will be accepted; however these are to be received **in addition** to hard copies. Electronic tenders must be received by the deadline date and time, with the hard copy being received by 5pm on the deadline date. Electronic tender submissions sent by e-mail should be sent to: tenders@londoncouncils.gov.uk. E-mailed tenders will not be accepted in isolation.

8.9.3 All tenders received after the deadline date and time shall not be opened and will be disregarded for the purposes of the tender exercise to which they relate.

## 8.10 Opening of Tenders

Tenders shall be opened at one time in the presence of:-

8.10.1 For tenders valued at over ~~£5025~~,000 but less than £250,000 – in the presence of two officers appointed by the Chief Executive;

8.10.2 For tenders valued at £250,000 and over – such members of a committee as may be designated for the purpose by London Councils or any Sectoral joint or associated committee as appropriate, to which the power of making the contract to which the tenders relate has been delegated

## 8.11 Acceptance of Tenders and Quotations

## Quotations

- 8.11.1 Where the value is under £10,000, the appropriate Corporate Director, or one of his/her designated authorised signatories, shall be authorised to accept the quotation by signing off the purchase order to place the order with the supplier;
- 8.11.2 Where the value is between £10,001 and £50,000, the appropriate Corporate Director shall be authorised to evaluate and accept the quotation by signing off the purchase order to place the order with the supplier;

## Tenders

- 8.11.3 Where the ~~lowest tender~~ tender is between the £25,000 and the prevailing EU Limit £50,000 or less, the Chief Executive ~~or his nominated representative~~ shall be authorised to evaluate and accept the tender;
- 8.11.4 Where the ~~lowest~~ tender is above the EU Threshold and £249,999 £50,000, the Chief Executive in consultation with the Chairman, Deputy-Chairman and one other Member of the appropriate committee shall be authorised to evaluate and accept the ~~lowest~~ tender;
- 8.11.5 For tenders of £250,000 and over – such members of a committee as may be designated for the purpose by London Councils or any Sectoral joint or associated committee as appropriate, to which the power of making the contract to which the tenders relate has been delegated, shall be authorised to evaluate and accept the lowest tender;
- 8.11.6 A tender which exceeds the approved estimate shall be referred to the appropriate committee for consideration. Where the tender can be amended to fall within the approved budget by a minor adjustment to the approved works, goods or services and otherwise complies with these regulations order, the Chair or Vice Chair of the appropriate committee or Sub committee should be consulted with regard to the necessary adjustment.
- 8.11.7 ~~Where the recommended tender is above £50,000 and is not the lowest tender, a report must be made to a meeting of the appropriate committee, for approval to accept the tender. If necessary a special meeting of the appropriate committee shall be convened for this purpose.~~
- ~~8.11.8 Where the recommended tender or quotation is below £50,000 and is not the lowest tender, the approval of the Chairman, Deputy-Chairman and one other member of the appropriate committee must also be obtained to authorise the acceptance of the tender.~~
- 8.12 Contract Provisions and Payments
- 8.12.1 Every contract in writing (unless such contract is let by a Lead Authority in accordance with Schedule 8) shall be signed by the Chief Executive or the Finance Officer.
- 8.12.2 Every contract in writing shall specify:-
- 8.12.2.1 the work, materials, matters, or things to be furnished, had or done;

8.12.2.2 the price to be paid, with a statement of discounts or other deductions;

8.12.2.3 the payment process, including the process for resolving disputes;

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8.12.2.4 the time or time within which the contract is to be performed;

8.12.2.5 insurance, employers liability and professional indemnity;  
and,

8.12.2.6 the place or places for delivery of performance.

~~8.12.2.3 the time or time within which the contract is to be performed;~~

~~8.12.2.4 insurance, employers liability and professional indemnity;~~

~~and, 8.12.2.5 the place or places for delivery of performance.~~

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8.13 Contracts where tenders are not required.

8.13.1 Contracts or orders which exceed £10,000 and not exceeding £~~5025~~,000 in value require at least 3 written quotations from suitable suppliers before the contract order is placed. The formal tender process can be used for contracts or orders under £50,000, if desirable.

8.13.2 Quotations may be submitted by post, facsimile or e-mail.

8.13.3 If the full life value of a contract is below the ~~current EU threshold of £25,000~~~~139,893~~, it shall not be obligatory to invite formal tenders, nor give public notice of the intention to enter into a contract where:-

8.13.3.1 effective competition is prevented by Government control, or

8.13.3.2 the special nature of the work to be executed limits the number of contractors capable of undertaking the work to less than 3  
~~of contractors capable of undertaking the work to less than 3,~~

or

8.13.3.3 the goods, services or materials to be purchased are only available from less than 3 suppliers, or  
~~available from less than 3 suppliers, or~~

8.13.3.4 the work is a continuation of a previous contract or order, or

8.13.3.5 a corporately tendered and managed or framework

contract has been established for all officers of the ~~organisation~~  
organisation- to use:

e.g. supplies of Stationery, Computers, Office Furniture etc.-, or  
~~etc., or~~

8.13.3.6 goods or services are of a proprietary manufacture, including sole distribution or fixed price, or the services to be provided are of a proprietary nature , or

8.13.3.7 any repairs or works to be executed or parts, goods or materials to be supplied in connection with existing machinery, vehicles plant or equipment are of a proprietary nature and involve sole distribution or fixed price, or  
~~to be supplied in connection with existing machinery, vehicles plant~~



~~or equipment are of a proprietary nature and involve sole distribution or fixed price, or~~

8.13.3.8 urgent supplies necessary for the protection of life or property.

8.13.4 The Chief Executive shall maintain a record of those contracts let without competitive quotations as detailed in 8.13.3, detailing the reasons why these have not been obtained.

8.13.5 The EU regulations and ~~UK law~~PCR do not provide for any exemptions from the tendering process for contracts which exceed the EU threshold

#### 8.14 Withdrawal of Tender

8.14.1 In the event of any person withdrawing a tender, or not signing the contract after his/her tender has been accepted, or if the Chief Executive or the Committee are satisfied that a Contractor has not carried out a contract in a satisfactory manner, or for any other justified reason, then tenders will not be accepted from such contractors in future, except after specific Committee approval.

#### 8.15 Communications with Tenderers

8.15.1 Accounting records for all contracts must be maintained as agreed by the Finance Officer.

8.15.2 No members of the relevant Committee shall have or allow any interview or communications with any person or representative of any person proposing to tender or contract, except by the authority of that Committee. Where such interview or communication does, nevertheless, take place then it is to be reported to the relevant Committee at the first available opportunity.

#### 8.16 Contract Variations

8.16.1 Subject to the provisions of the contract, every variation shall be instructed in writing and signed by the designated officer prior to the commencement of work on the variation concerned or as soon as possible thereafter. Designated officers may authorise variations which are essential for the completion of a contract, and minor variations of an optional nature, provided the cost remains within the approved estimate. Major variations to contracts shall require the approval of the appropriate committee.

#### 8.17 Contract Payments

8.17.1 All ex gratia and non contractual claims from contractors shall be referred to the Finance Officer and also to the Chief Executive for comments before settlement is reached.

8.17.2 Where contracts, valued in excess of £~~50~~25,000, provide for payments to be made by installments, all payments to contractors shall be made on a certificate issued and signed by London Councils designated officer. Those contracts not subject to the issue of certificates, may be paid on invoices and/or any means allowed by the Finance Officer.

8.17.3 The Finance Officer shall, to the extent he/she considers necessary, examine the final accounts or interim valuations for contracts and he/she shall be entitled to make all such enquiries and receive such information and explanations as he/she may require in order to be satisfied as to the



accuracy of the accounts.

8.17.4 The final certificate for the payment of any contract, where the final cost exceeds £5025,000, shall not be issued until the Supervising Officer under the contract has produced to the Finance Officer a detailed statement of account with all relevant documents. Such papers shall be lodged with the Finance Officer two months prior to the due date of the final certificate or in exceptional circumstances a previously agreed period in order to allow a thorough review of their contents prior to the issue of the final certificate. In addition, all consultants' fee accounts that in total exceed £30,000 in value shall be forwarded to the Finance Officer for verification prior to the respective final payments being processed. A clause to this effect shall be inserted in the appropriate contract, bills of quantities, or specification.

8.17.5 Wherever works or services are let on a dayworks contract then every payment costing in excess of £100 shall be supported by daywork sheets. Such dayworks sheets shall contain adequate descriptions of the work carried out and the names of the operatives involved, together with details of the times during which the work was performed, the hourly rates applied and any plant or materials used. Daywork sheets shall be signed by the designated officer indicating that the amount claimed reasonably reflects the labour and materials content of the works executed.

#### 8.18 Lead Borough Arrangements

8.18.1 Any contract let by a Lead Authority, in its capacity as administrator of an activity delegated by London Councils or any Sectoral joint or associated committee, as appropriate, shall be deemed to comply with these Financial Regulations so long as it is in compliance with the Financial Regulations and Standing Orders of that Lead Authority.

#### 8.19 Corrupt Practices

8.19.1 Every written contract shall include the following clause:

“Any person firm or company engaged or appointed by London Councils to either provide services or execute works or supply goods or materials of any kind or nature whatsoever who shall give offer or allow either commission gratuity gift or benefit of any kind to any person in London Councils employ contrary to the provisions of the Public Bodies (Corrupt Practices) Act 1889 and the Prevention of Corruption Acts 1906 and 1916 (or any statutory amendment or re-enactment thereof for the time being in force) shall be liable to criminal prosecution and shall not be employed by London Councils or any of its committees in respect of any further works or services whatsoever”

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#### 8.20 Claims from Contractors

8.20.1 Claims from contractors in respect of matters not clearly within the terms of any existing contract shall be referred by the Chief Executive to London Councils Legal Adviser for consideration of the Organisation's Association's legal liability and, where necessary, to the

Finance Officer for financial consideration before a settlement is reached. No payment will be made to a contractor without the specific approval of London Councils.

#### 8.21 Bonds and Other Security

8.21.1 Every contract that exceeds £150,000 in value or amount and is for ~~the~~

~~the~~ execution of works or for the supply of goods or materials otherwise than at one time, shall require the contractor to provide sufficient security for the due performance thereof, except where the Divisional Director and Finance Officer consider this to be unnecessary.

8.21.2 Every contract for the demolition of premises shall require the contractor

to pay a deposit to the ~~Organisation Association~~ in a sum to be determined by the Service Head concerned unless he/she considers this to be unnecessary.

#### 8.22 Use of Consultants

8.22.1 Consultants shall be engaged only where it is not feasible or cost effective to carry out the work in-house either by using existing staff or by employing new or permanent staff.

### 15 Write Offs

15.1 No debt, asset, or benefit due to London Councils, including Liquidated Damages, shall be written off without first obtaining the approval of the Finance Officer. The Chief Executive shall submit a list of such items to be written off, together with details of the reasons. The writing off of any such item valued in excess of £~~1,05~~000 must also be subject to the prior approval of London Councils or the relevant Sectoral joint or associated committee. Any report seeking such approval must detail the actions taken to recover these debts, assets or benefits.

15.2 The Chief Executive shall maintain a file for each debt to be written-off, containing relevant documentation to support the validity of the write-off. The file should also identify whether appropriate actions have been taken to recover or mitigate the loss.

### 21 Travelling and Subsistence Claims

21.1 Claims for travelling, subsistence and minor expenses other than those reimbursed via the ~~imprest accounts payroll system~~, are to be reimbursed ~~by cheque through the Organisation's creditor via the payroll~~ system. Each claim shall be promptly submitted to the Finance Officer for payment and shall be presented on an approved form clearly detailing the expenditure incurred, supported by receipts where applicable, dated, coded, signed by the claimant and counter-signed by the appropriate authorising officer. Claims with a total value of less than £50 (inclusive of VAT) may be met from ~~an imprest petty cash accounts~~.

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- 21.2 Every officer who receives a car loan or car allowance, whether casual or essential, must produce to the Chief Executive the registration document of the car, a valid and adequate certificate of insurance and an assurance to take all reasonable steps to maintain the car in an efficient and roadworthy condition. This is to take place on a yearly basis, but the Chief Executive shall be promptly informed of any subsequent changes to the above details.
  - 21.3 All car allowances are to be paid through the payroll system.
  - 21.4 The Chief Executive shall supply the Finance Officer with specimen signatures of all persons in the Organisation who are authorised to certify travelling and subsistence claims and the Finance Officer shall be notified of any changes as they occur.
  - 21.5 The certification by or on behalf of the Chief Executive shall be taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenses properly and necessarily incurred and all the requirements of the appropriate approved scheme have been observed.

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