

APPENDIX A TO REPORT DSFRA/24/18

DEVON AND SOMERSET FIRE AND RESCUE AUTHORITY

CONTRACT STANDING ORDERS

PAGE NO.

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DEFINITIONS

Authority (the)	Means the independent body which ensures that the local fire and rescue services (the Service) performs efficiently and in the best interests of the public and the community it serves and is the legal entity for undertaking the procurement process and entering into the Contract.
Contracting Authority	Means the State, regional or local authorities, bodies governed by public law, associations formed by one or more such authorities or one or more such bodies governed by public law.
Contractor	Means an individual or organisation that contract with the Authority to provide goods or services or works.
Contract	Means a formal legal agreement between the Authority and any Contractor for the supply of works, goods or services but does not include any contract of employment or the acquisition, lease of land or real estate.
Corporate Contract Agreement	Means a contract agreed and let on behalf of the whole Service in the name of the Authority.
Disclosure Register	Means a register held by Democratic Services where contracts are let in the name of the Authority by the Service that do not comply with the Contract Standing Orders.
Executive Director	Means the Executive Directors which comprises of those Service Directors who, together with the Treasurer to the Authority, set the strategic direction of the Devon & Somerset Fire & Rescue Service and provide the most senior officer level of decision making on strategic planning and policy to deliver the organisation's purpose and vision.
Framework Agreement	Means an existing agreement, which may have been let by a contracting authority other than the Devon and Somerset Fire and Rescue Authority, which enables the Authority to call-off from a Contractor to provide services, goods or works at agreed standards and prices. If the Authority calls off services, goods or works from the Contractor then a binding contract comes into place.
Heads of Service	Means members of the Service Leadership Team which comprises those uniformed Area Managers and non-uniformed Heads of Department responsible for the day-to-day running of the Service and making recommendations to the Executive Board on strategic change, based on service delivery and support experience and feedback.
Lead Organisation	Means a different Contracting Authority to the Devon and Somerset Fire and Rescue Authority acting on behalf of the Authority.
Monitoring Officer	is that person duly appointed by the Authority to discharge those functions specified in Section 5 of the Local Government and Housing Act and who will have responsibility for providing or procuring appropriate legal advice and assistance to the Authority and its Officers to ensure compliance with all legal, statutory and judicial processes.

Service Officer	Means all persons in the appointment of either the Authority or the Devon & Somerset Fire & Rescue Service.
Service (the)	Means Devon and Somerset Fire and Rescue Service as set up by the Authority to deliver its statutory functions.
Tender	Means a written offer to supply or purchase goods, execute works or provide services at a stated price.
Value for Money	Means the optimum combination of whole life costs, quality and benefits, including economic, environmental and social value to meet the customer’s requirement.

1. GENERAL INTRODUCTION

- 1.1 The Devon and Somerset Fire and Rescue Authority (“the Authority”) is the independent body which ensures that the local fire and rescue services (discharged by Devon & Somerset Fire & Rescue Service (“the Service”)) performs efficiently and in the best interests of the public and the community it serves. This means that the Service is answerable for its actions and performance to the general public.
- 1.2 The Service spends approximately £20 million per annum on the procurement of goods, services and works. The Authority has a public duty to ensure this money is spent in the most effective way, delivers value for money, and complies with its statutory duties. Accordingly, it is essential for the Service to have in place effective and efficient procurement processes and procedures, to secure competition and to regulate the manner in which tenders are invited for the supply of goods, services, materials or the execution of works. These Contract Standing Orders form part of the constitutional governance of the Authority.
- 1.3 The Contract Standing Orders must be considered in conjunction with other relevant documents regarding the constitutional governance of the Authority including but not limited to the Financial Regulations, Standing Orders, Gifts and Hospitality, Whistleblowing Code and Strategy on the Prevention and Detection of Fraud and Corruption and The Bribery Act 2010 which affects all Service Officers. The Authority constitutional governance documents can be found on both [the Service intranet here](#) and [the Authority website here](#).
- 1.4 The Monitoring Officer is the custodian of the Contract Standing Orders on behalf of the Authority. The Corporate Procurement Manager is responsible for keeping them under review and effective. If any EU or UK Law (Directive or Regulation) is changed in a way that affects the Contract Standing Orders, then the applicable law must be observed until the Contract Standing Orders can be revised. If the Contract Standing Orders appear to conflict with other legislation, then the legislation takes precedence. As a minimum these Contract Standing Orders will be reviewed every year.
- 1.5 The rules within these Contract Standing Orders have four main purposes:
 - i. To comply with the laws and principles that govern the spending of public money

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- ii. To deliver value for money and best value services to the public through generating market competition and demonstrating a transparent and consistent way of working
- iii. To ensure procurement practices and Contracts comply with all relevant legislation, regulations and duties including but not limited to Health and Safety, Equality and Diversity, Social Value (Economic, Environmental and Social), Data Transparency and Information Assurance.
- iv. To protect individuals, the Service and the Authority from professional misconduct or misadministration.

2. STATUS OF CONTRACT STANDING ORDERS

- 2.1 These Contract Standing Orders provide delegated authority to those Service Officers with procurement and contract responsibilities to conduct procurement activity and enter into Contracts on behalf and in the name of the Authority. All invitations to tender and contract documentation must be in the name of the Devon and Somerset Fire and Rescue Authority (the Authority) as the Authority, not the Service, is the legal entity.
- 2.2 The Contract Standing Orders set out the minimum rules. All Service Officers with procurement and contract responsibilities shall maintain awareness and follow guidance relating to the Contract Standing Orders, procurement strategy, procurement and contract documentation, processes and systems implemented by the following departments:
 - Democratic Services;
 - Procurement Department;
 - Finance Department.
- 2.3 The Contract Standing Orders apply to all spend with external Contractors irrespective of the source of funding or types of purchase, and include but are not limited to:
 - Revenue;
 - Capital;
 - Grants;
 - ring-fenced government money; and or
 - third party funding, leasing or hire.
- 2.4 The Contract Standing Orders are mandatory for all Service Officers and contravention, or breach is a serious matter that may result in disciplinary action. A breach of the Contract Standing Orders will be reported to the Treasurer or Monitoring Officer, who will take any further action required including investigation and/or disciplinary action.

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- 2.5 In accordance with [the Strategy on the Prevention and Detection of Fraud and Corruption](#), Service Officers must declare any direct or indirect pecuniary interests they may have in procurement or contracts activity within the Authority. The procurement team will follow the Chartered Institute of Procurement and Supply (CIPS) Professional Code of Conduct.

3. EXCEPTIONS TO CONTRACT STANDING ORDERS

- 3.1 The following contracts are not within the scope of the Procurement Act 2023 and therefore Contracts may be entered into on behalf of the Authority other than in accordance with the Contract Standing Orders in the following circumstances :
- a. Contracts for the acquisition or lease of land and/or real estate
 - b. Contracts of employment
 - c. A declared emergency as defined by the Civil Contingencies Act 2004 where the works, supplies or services are necessary and proportionate for the protection of life, property or the environment, or to maintain the functioning of the local fire and rescue services for which the Authority is responsible.
- 3.2 Where a contract is entered into on behalf of the Authority or transactions processed in the circumstances of a declared emergency as in (c) above, whether orally or in writing, this shall then be reported to a member of the Executive Board at the earliest opportunity and recorded in the Disclosure Register. The following details must be recorded in the Register:
- a. the name and location of the Officer who authorised the Contract
 - b. the value and description of the Contract
 - c. the rationale under which the Contract has been entered

4. PROCUREMENT ACT 2023

- 4.1 Public procurement in the UK is governed by legislation known as the Procurement Act 2023.
- 4.2 The award of Public Contracts irrespective of the contract value entered into on behalf of the Authority must comply with the principles of the Procurement Act 2023;
- (a) delivering value for money;
 - (b) maximising public benefit;
 - (c) sharing information for the purpose of allowing suppliers and others to understand the authority's procurement policies and decisions;
 - (d) acting, and being seen to act, with integrity.

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- 4.3 The Authority must act in a transparent and proportionate manner when undertaking procurements and shall treat Contractors equally and without discrimination. The design of the procurement shall not be made with the intention of excluding it from the scope of the Procurement Act 2023 or these Contract Standing Orders or of artificially narrowing competition. Competition shall be considered to be artificially narrowed where the design of the procurement was made with the intention of unduly favouring or disadvantaging certain Contractors.
- 4.4 For public Contracts above the prescribed thresholds defined in the Procurement Act 2023 (see Appendix A) procedural rules are drawn up to give the principles practical effect and ensure public procurement is opened up to competition. The requirements of the Procurement Act 2023 must be complied with in all respects before the contract is entered into.
- 4.5 These Contract Standing Orders detail internal financial thresholds and procurement practices together with the roles and responsibilities of all Service Officers in relation to those thresholds. The thresholds uphold the Authority's responsibilities regarding the procedural rules and principles of the Procurement Act 2023 and other related legislation, regulations and duties.

5. CORPORATE CONTRACT AGREEMENTS

- 5.1 Corporate Contract Agreements for supplies, services and works where the Authority has made a contractual arrangement with a Contractor(s) on behalf of the Service must be used where they exist.
- 5.2 Details of Corporate Contract Agreements will be made available from the Procurement Department on the agreed service systems and Contracts database [Sell2 \(in-tend.co.uk\)](https://sell2.in-tend.co.uk). Any specific processes and practices for using the Corporate Contract Agreements must be followed.
- 5.3 Alternative arrangements to Corporate Contract Agreements must not be used or established without prior agreement from the Procurement Department.

6. COLLABORATIVE PROCUREMENT

- 6.1 Any collaborative procurement arrangements where the Service is not acting as Lead Authority shall still comply with the necessary legal requirements and ensure that the procedures adopted by the Contracting Authority or Lead Organisation or relevant partnership body comply with the necessary legal requirements.
- 6.2 The Procurement Department shall be responsible for agreeing to the use of collaborative procurement arrangements prior to ordering goods, services or works to provide assurance and ensure the interests of the Authority are appropriately protected.
- 6.3 No other public or private body, organisation or authority is entitled to issue invitations to tender or receive tenders in the name of the Authority without the prior written consent of the Procurement Department.

7. ROLES AND RESPONSIBILITIES

- 7.1 The Procurement Department is responsible for:
- a. the review all service third party expenditure;
 - b. implementation and awareness of related procurement legislation;
 - c. ensuring that appropriate guidance and training is provided to Service Officers;
 - d. ensuring that documentation is appropriate to the needs of the Authority and Service; and
 - e. compliance with these Contract Standing Orders
- 7.2 Executive Directors and the Heads of Service shall ensure, where there is inclusion of items in approved revenue budgets or capital programmes which constitutes authority for the delegated budget holders to incur expenditure and procure goods, works and services, that this is conducted:
- a. in accordance with these Contract Standing Orders and any other related procurement guidance, documentation, processes and systems
 - b. by Service Officers with the appropriate authorisation and responsibilities
 - c. to align with organisational goals and objectives

8. FINANCIAL THRESHOLDS

- 8.1 The Authority has agreed two thresholds ‘Low Value’ and ‘High Value’ ([Appendix A](#)) that have procedural responsibilities associated with them.
- 8.2 The thresholds will be reviewed by the Monitoring Officer and Corporate Procurement Manager on behalf of the Service on an annual basis with any subsequent proposal to increase a threshold to be agreed by the Authority at the earliest available opportunity.

9. LOW VALUE PROCUREMENT (LESS THAN £20,000)

- 9.1 Budget holders and Service Officers have delegated responsibility for the management of the procurement process and the award and agreement of Contracts under the ‘Low Value’ threshold in the following manner:
- a. use of the Authority documentation and guidance provided which is available on the Intranet and from the Service Procurement Team
 - b. use the Authority Standard Terms and Conditions for the award of Contracts included on Purchase orders or available from the intranet and Service Procurement Team
 - c. use the Authority approved financial systems (Government Procurement Cards and E-Series requisitioning) for the purchase of the goods, service or works

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- d. be satisfied about the corporate, environmental and technical, capability of any proposed Contractor
 - e. estimate the value of the procurement by the total aggregated value over a three-to-four-year period, where there is an on-going requirement (considering the whole life costs of the procurement (purchase, maintenance and disposal as applicable))
 - f. use their professional judgement to determine the most appropriate, auditable competition or value for money process based on value, risk, criteria for selection including environmental/social value criteria and market conditions
 - g. retain a written record of actions taken and the reasons
 - h. seek advice from the procurement department and other relevant departments and obtain company financial checks as required
 - i. taking into account environmental considerations (sustainable procurement guide)
- 9.2 All Service Officers need to be able to demonstrate value for money on behalf of the Authority. The most effective way to do this is to conduct a transparent and competitive process using agreed documentation, systems and processes (e.g. seeking a number of quotations) and selecting products, services, works and suppliers aligned to corporate goals Advice in all circumstances can be sought from the Procurement Department, Finance Department or Democratic Services.
- 9.3 Contracts of 'Low Value' including contract variations can be signed by an authorised budget holder and Service Officers on behalf of the Authority. Where a contract is required, it should be agreed and signed by both parties (The Authority and the Contractor) prior to the authorisation of any transactions (purchase orders or P Card payments) relating to the contract.
- 9.4 The budget holder is then responsible for ensuring appropriate levels of authorisation of the transactions including any staged payments (purchase orders) of the contract and contract variations on the Authority approved systems. All orders for works, goods or services must be placed using the Authority approved systems in advance of the invoice being received and coded to the appropriate account codes. Further guidance on raising and authorising Purchase Orders is available on the E-series requisitioning system.

10. HIGH VALUE PROCUREMENT (£20,000 AND ABOVE)

- 10.1 The Procurement Department must be consulted for all 'High Value' procurement. This does not necessarily mean the Procurement Department will manage the process, but records must be kept for all 'High Value' procurement decisions. A 'Contract Reference Number' will be allocated, and a 'Contract File' must be maintained by the Procurement Department. The Procurement Department will agree with the Budget Holder/Service Officer (based on a number of factors including but not limited to value, risk, technical considerations, complexity and capacity) the most appropriate approach to the competitive process and contractual documentation to be used. All expenditure in excess of the thresholds that apply to the Procurement Act 2023 (see Appendix A) will be managed by the Procurement Team.
- 10.2 The procurement approach will take into account a number of factors to determine the most cost effective and efficient process to achieve value for money including but not limited to;
- a. contract value and application of the Procurement Act 2023
 - b. other legislative requirements
 - c. market conditions and competition
 - d. collaborative opportunity
 - e. availability of Contracts and Framework Agreements
 - f. technical and supply risks
- 10.3 The procedural rules associated with the Procurement Act 2023 shall be followed in all instances where applicable.
- 10.4 All Contracts of 'High Value' (including contract variations where they represent a material change to the contract, e.g. in excess of 10% of the original contract value) must be signed by an Authorised Officer as designated by the Monitoring Officer and where these have been agreed by the Procurement Team. Contract variations permitted for within the scope of the original contract may be signed by Budget Holders or the Procurement Team (where Budget Holder approval has been granted). Contracts must be agreed and signed by both parties (The Authority and the Contractor) prior to the authorisation of any subsequent transactions (purchase orders or P Card payment) relating to the contract. Any deviation from this will be construed as a breach of the Contract Standing Orders unless agreed in advance in writing by the Procurement Department.
- 10.5 The Budget Holder is then responsible for ensuring appropriate authorisation of the transactions and any staged payments (purchase orders) of the Contract on the Authority approved systems. All orders for works, goods or services must be placed using the Authority approved systems and coded to the appropriate account codes in advance of the invoice being received. Further guidance on raising and authorising Purchase Orders is available on the e-series requisitioning system.

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- 10.6 Ongoing contract management activity must be considered in advance of awarding contracts. Budget Holders, in consultation with the Procurement Team will agree on the contract management approach and accountable officers. The Procurement Team will tier contracts as either Gold, Silver or Bronze. All 'Gold' contracts will be deemed as 'strategic' contracts, and the Procurement Team will:
- establish formal and structured contractual management meetings (operational/day-to-day management will reside with Budget Holders/Service Officers) with Contractors at appropriate intervals,
 - support Budget Holders/Service Officers with development of Key Performance Indicators (KPIs) for the contract and a monitoring schedule for the reporting of these KPIs by the Contractor,
 - support the Budget Holders/Service Officers with contract pricing reviews, variation(s) and extension(s) as required,
 - support the Budget Holders/Service Officers with conflict resolution.
- 10.7 It is the responsibility of Budget Holders/Service Officer to manage all 'Silver' and 'Bronze' contracts (supported where needed by the Procurement Team).

11. ADVERTISED TENDERING

- 11.1 All advertised tendering opportunities will be undertaken by the Procurement Department or agreed Service Officers on the Authority agreed e-tendering solution in compliance with [Appendix B](#).
- 11.2 Any alternative process to using the agreed e-tendering portal must be agreed in writing by the Procurement Department.

12. CONTACT DETAILS

Procurement: Procurement@dsfire.gov.uk

Democratic Services: Democraticservices@dsfire.gov.uk

Finance: Finance@dsfire.gov.uk

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APPENDIX A – PROCUREMENT ACT 2023 AND DSFRS FINANCIAL THRESHOLDS

Procurement Act 2023 Thresholds from 1 January 2024 (inclusive of VAT)

Supply, Services and Design Contracts	Works Contracts
£214,904	£5,372,609
Small Lots	Small Lots
£70,778	£884,720

The Authority Thresholds

The Total Value shall be a calculation of the estimated value of a procurement based on the total amount payable, net of VAT, including any form of option and any renewals of the contracts:

- (1). Where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period including potential renewals e.g.: Software license agreement and any annual maintenance agreements which may be required for the life of the software including consultancy or training days.
- (2). Where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those items over a 3 to 4 year period e.g.: stationery, computer consumables, PPE items should be based on the total value over to be paid over a 3 to 4 year period.

A procurement shall not be subdivided with the effect of preventing it from competition and falling within the scope of the Procurement Act 2023 or Service thresholds.

Service Supply, Services and Design Contracts Threshold

1. Low Value means less than £20,000 managed by Service Officers
2. High Value means £20,000 and above with procurement approach to be agreed with the Procurement Team and details published in line with requirements.

Works Contracts

1. Low Value means less than £150,000
2. High Value means £150,000 and above

Works contracts and procurements associated with the Estates Department are subject to the Service's Estates Procurement Guidelines and Procedures document.

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APPENDIX B – ADVERTISED TENDERING

Advertised tendering opportunities must only be undertaken through the Authorities agreed e-tendering portal

[In-Tend Organiser - User Login](#)

The agreed e-tendering portal will be the basis through which the Authority advertises the tendering opportunity and seeks expressions of interest and access to documentation.

If deemed appropriate or required through legislation, opportunities will also be advertised elsewhere such as Contracts Finder.

SUBMITTING AND OPENING TENDERS

Every Invitation to Tender will state that a tender will only be considered if it is received by the due date and time. The e-tendering solution will automatically reject tenders that are attempted to be submitted after the due date and time.

Tenders not sent and received through the e-tendering solution are subject to special controls, and advice from the Procurement Department to ensure an auditable and secure process for receipt of tenders must be in place and followed.

ACCEPTING TENDERS

All contract awards should be based on obtaining best value for money for the Authority. This award decision must be on the basis of the whole life costs and the award criteria which must be clearly documented in the invitation to tender or quote and in line with the related legislation. Details of awarded Contracts above £20,000 will be published on the Services' Contracts Database and on Contracts Finder.