

# OFFICE OF THE POLICE & CRIME COMMISSIONER FOR NORFOLK

**ORIGINATOR: PCC CFO**

**DECISION NO. 2013/17**

**REASON FOR SUBMISSION: FOR DECISION**

**SUBMITTED TO: POLICE AND CRIME COMMISSIONER**

**SUBJECT: GOVERNANCE SCHEME – CONTRACT STANDING ORDERS**

**SUMMARY:**

On 29<sup>th</sup> November 2012, the Police and Crime Commissioner agreed a set of Contract Standing Orders as part of his Governance Scheme (see Decision No 2012/3). It was noted at that time that the Contract Standing Orders had been developed by the Joint Head of Procurement with the intention of agreeing a common set of Standing Orders for both the Norfolk and Suffolk policing areas. Following consultation and discussion between the Chief Executives and Chief Finance Officers of the Offices of the Police and Crime Commissioners for Norfolk and Suffolk, the Assistant Chief Officers for Norfolk and Suffolk and the Joint Head of Finance, the Joint Head of Procurement has now developed a common set of Contract Standing orders for Norfolk and Suffolk (attached at Appendix 1).

**RECOMMENDATION:**

It is recommended that:

1. The common set of Contract Standing Orders for Norfolk and Suffolk (as attached at Appendix 1) be adopted by the Police and Crime Commissioner.

**APPROVAL BY: POLICE AND CRIME COMMISSIONER**

*Recommendation Agreed.*

**Signature**

*Deputy PCC*

**Date**

*7/6/13*

## DETAIL OF THE SUBMISSION

### 1. KEY ISSUES FOR CONSIDERATION:

- 1.1 On 29<sup>th</sup> November 2012, the Police and Crime Commissioner agreed a set of Contract Standing Orders as part of his Governance Scheme (see Decision No 2012/3). It was noted at that time that the Contract Standing Orders had been developed by the Joint Head of Procurement with the intention of agreeing a common set of Standing Orders for both the Norfolk and Suffolk policing areas. Following consultation and discussion between the Chief Executives and Chief Finance Officers of the Offices of the Police and Crime Commissioners for Norfolk and Suffolk, the Assistant Chief Officers for Norfolk and Suffolk and the Joint Head of Finance, the Joint Head of Procurement has now developed a common set of Contract Standing orders for Norfolk and Suffolk (attached at Appendix 1).
- 1.2 The common set of Contract Standing Orders are very similar, subject to a few minor changes, to those adopted by the Police and Crime Commissioner in November 2012.

### 2. FINANCIAL IMPLICATIONS:

- 2.1 There are no direct financial implications arising from this paper.


### 3. OTHER IMPLICATIONS AND RISKS:

- 3.1 There is nothing to add to those matters raised when the Police and Crime Commissioner made decision 2012/3 in November 2012. Therefore there are no further issues of significance and no risks on the Risk Register that require adjustment nor that need adding to the Register.

**PUBLIC ACCESS TO INFORMATION:** *Information contained within this submission is subject to the Freedom of Information Act 2000 and wherever possible will be made available on the OPCC website. Submissions should be labelled as 'Not Protectively Marked' unless any of the material is 'restricted' or 'confidential'. Where information contained within the submission is 'restricted' or 'confidential' it should be highlighted, along with the reason why.*

ORIGINATOR CHECKLIST (MUST BE COMPLETED)	PLEASE STATE 'YES' OR 'NO'
Has legal advice been sought on this submission?	Yes – the originator is a solicitor and monitoring officer.
Has the PCC's Chief Finance Officer been consulted?	Yes – see paragraph 1.1
Have equality, diversity and human rights implications been considered including equality analysis, as appropriate?	Yes – see paragraph 3.1
Have human resource implications been considered?	Yes – none arising
Is the recommendation consistent with the objectives in the Police and Crime Plan?	Not applicable
Has consultation been undertaken with people or agencies likely to be affected by the recommendation?	Yes – see paragraph 1.1
Has communications advice been sought on areas of likely media interest and how they might be managed?	Not expected to be necessary
In relation to the above, have all relevant issues been highlighted in the 'other implications and risks' section of the submission?	Yes

**APPROVAL TO SUBMIT TO THE DECISION**

<b>Chief Executive</b>	
I am satisfied that relevant advice has been taken into account in the preparation of the report and that this is an appropriate request to be submitted to the (add decision-makers title i.e. PCC).	
Signature: 	Date 06/06/2013.



## **Joint Norfolk and Suffolk CONTRACT STANDING ORDERS**

### **1. INTRODUCTION**

- 1.1. All contracts and orders for goods, works or services made by or on behalf of the Police and Crime Commissioners (PCC), with the exception of contracts/leases, for the lending or borrowing of money, land and contracts of service for employment purposes, shall be made in accordance with these Contract Standing Orders (Standing Orders).
- 1.2. All contracts shall comply with statutory requirements including, but not limited to, Directives of the European Union, UK legislation and relevant Government Guidance.
- 1.3. The PCC and Chief Constables (CC) require all procurement activity to be undertaken in a transparent, fair and consistent manner, ensuring the highest standards of probity and accountability. All procurement undertaken on behalf of the PCC and CC will operate under robust principles and procedures to ensure best value.
- 1.4. No exceptions shall be made to these Standing Orders other than for those reasons stated in Section 5.
- 1.5. Professional and legal advice on procurement matters must be directed through the Commercial Team of the Suffolk and Norfolk Joint Procurement and Supplies Department who will decide the appropriate route for response or escalation.
- 1.6. Every officer and employee of Suffolk and Norfolk Constabularies and the PCC shall comply with these Standing Orders; any failure to do so may result in disciplinary action.
- 1.7. Any specific delegation of these Standing Orders to an officer may be exercised by their deputy or by another officer specifically designated in writing by the officer in accordance with any general directions issued by them
- 1.8. Any dispute regarding the interpretation of these Standing Orders will be referred to the PCC and their decision will be final.

## 2. GLOSSARY OF TERMS

These terms will have the following meanings in the Standing Orders;

<b>Police and Crime Commissioner (PCC)</b>	The Police and Crime Commissioner of Norfolk and the Police and Crime Commissioner of Suffolk
<b>Chief Constable (CC)</b>	The Chief Constable of Norfolk and the Chief Constable of Suffolk
<b>Chief Executive (Exec)</b>	The Chief Executive of Suffolk PCC and the Chief Executive of Norfolk PCC
<b>CC Chief Finance Officer (CC CFO)</b>	The Chief Finance Officer of Norfolk CC and the Chief Finance Officer of Suffolk CC
<b>PCC Chief Finance Officer (PCC CFO)</b>	The Chief Finance Officer of Norfolk PCC and the Chief Finance Officer of Suffolk PCC
<b>Chief Officers</b>	Officers who are members of the Chief Officer's Team of Norfolk and the Chief Officer's Team of Suffolk
<b>Constabulary</b>	Police officers, including the special constabulary, and police staff under the direction and control of the CC
<b>Office of the Police and Crime Commissioner (OPCC)</b>	When used as a generic term shall refer to the PCC, Chief Executive, the PCC CFO of Norfolk and the PCC, Chief Executive, the PCC CFO of Suffolk and staff under their direction
<b>Departmental Head</b>	The most senior officer in any Division, Department or Branch
<b>Officers</b>	All police officers and police staff of Suffolk and Norfolk Constabularies and staff of the PCC
<b>Joint Head of Procurement</b>	The officer responsible for the Joint Procurement and Supplies Department
<b>Procurement</b>	The commercial/procurement element of the Joint Procurement and Supplies Department operating on behalf of the joint Constabularies and PCC.
<b>Procurement Policy and Procedures</b>	All Procurement Policies and Procedures published by the Procurement and Supplies Department
<b>Single Tender Action (STA)</b>	The selection of a supplier to provide works, goods or services without competition
<b>Emergency</b>	An unforeseeable operational or business requirement requiring immediate resolution
<b>Framework Agreement</b>	An enabling agreement, which establishes the terms (in particular the terms as to price and where appropriate, quantity) under which individual contracts (call-offs) can be made throughout the period of the agreement (normally a maximum of four years)
<b>Collaborative Contract</b>	A contract for the provision of goods, works or services to more than one Constabulary or public entity

### **3. COMPETITIVE PROCUREMENT**

- 3.1. For goods, works or services the acceptance of quotations and bids will be based on the principle of best overall value for money, i.e. the most economically advantageous offer.
- 3.2. Estimated value is deemed to be the aggregate whole life cost (inclusive of consumables, maintenance and disposal) that is reasonably anticipated over the time of provision. If the lifetime is unknown, then the aggregate cost should be based on 48 months. Requirements must not be disaggregated in order to avoid competitive procurement under any circumstances.
- 3.3. Where the estimated aggregated value of a proposed contract is in excess of EU thresholds, tender procedures will be in accordance with EU Procurement Directives. For those with aggregated values of less than EU thresholds, the principles of the EU directives will be followed unless it is not practical to do so. The Joint Head of Procurement has responsibility to publish details of the processes to be followed.
- 3.4. Criteria for the award of contracts shall be recorded in advance of the invitation to tender and strictly observed by officers evaluating the bids. The criteria cannot be altered once the tender is advertised. The criteria may include cost and qualitative elements and shall take into account whole life costs.
- 3.5. Evaluation models used to select the successful tender shall generally be weighted such that the overall percentage score allocated to cost is not less than 50%. In exceptional circumstances Procurement may agree an alternative cost/quality ratio.
- 3.6. The evaluation of bids must be objective, systematic, thorough and fair. Decision makers should be aware that the records of the decision-making process may be subject to scrutiny at a later date.
- 3.7. The table below describes the procedure and authority levels dependent on the estimated value of the procurement.
- 3.8. If there is already a corporate contract in place for the goods, works or services required, it is mandatory to use it. The Procurement department will advise.

### 3.9. PROCUREMENT COMPETITION PROCEDURES AND AUTHORITY LEVELS

Estimated Value £	Quotation / Tender Requirements	Levels of Delegated Authority	Procurement Engagement
> 500 - 3,000	Evidence of more than one price comparison shall be obtained, preferably in writing (including email) or obtained from catalogues or price lists. Evidence shall be retained locally	Requisitions to be approved locally by officers with relevant authority in accordance with financial instructions  Contracts must be signed by a minimum of a Procurement Category Manager	Procurement engagement is not mandatory.  Advice and support is available on request
3,000 - 20,000	At least three quotations shall be obtained in writing. Evidence of competition shall be retained locally	Requisitions to be approved locally by officers with relevant authority in accordance with financial instructions  Contracts must be signed by a minimum of a Procurement Category Manager	Procurement engagement is not mandatory. Advice and support is available on request
20,000 - 35,000	At least three quotations received through the e-tendering system shall be obtained	Requisitions to be approved locally by officers with relevant authority in accordance with financial instructions /procedures  Contracts must be signed by a minimum of a Procurement Strategic Category Manager	Procurement engagement is not mandatory. Advice and support is available on request  Units without access to the e-tendering system are required to contact Procurement
> 35,000	At least three tenders shall be obtained; where the aggregated value of the contract is in excess of EU thresholds, tender procedures will be in accordance with EU Procurement Directives	Contracts will be signed by the minimum post of;  < £35,000 - £100,000 Joint Head of Procurement  £100,000 - £1,000,000 CC CFO  >£1,000,000 under seal of the PCC	All procurement activity to be facilitated by Procurement

3.10 An officer with delegated authority to authorise requisitions or contracts committing the expenditure does so on behalf of the PCC.

3.11. The authority levels shall apply to variations to contract, i.e. any additional costs resulting from the variation must be aggregated with the original contract value for the purposes of authorisation.

Version 1-00 dated 21/05/2013



#### **4. FINANCIAL AND CONTRACTUAL DELEGATIONS**

- 4.1. The PCC CFO and CC CFO will be responsible for determining authorised signatories within the PCC and Constabulary. Those authorised signatories and sub delegation rules will be described and documented in the PCC Financial Regulations and Procurement Procedures. They will ensure that suitable segregation of responsibilities are observed, that purchases are compliant with Regulations and Procedures, and that sufficient funding and resources are available within the revenue budget or capital programme.

#### **5. EXCEPTIONS TO NORMAL PROCEDURES/SINGLE TENDER ACTION**

##### 5.1. Exceptions

##### 5.1.1. Tenders are not required in the following circumstances:

- Purchases through government agency or other consortium or similar body where legally entitled to do so and in accordance with the approved purchasing methods of such a consortium or body, or
- Purchases at public auctions, or
- Internal PCC or Constabulary business where one part of the PCC or Constabulary provides a service to the other.
- For works up to £3,000 where no corporate contract exists and are commissioned by the Estates Department.

##### 5.1.2 All exceptions to normal procedures must be approved in accordance with the arrangements set out in the Procurement Policy and Procedures for local and collaborative contracts and full justification recorded.

##### 5.2. Single Tender Action (STA)

##### 5.2.1. STA should only be used in very exceptional circumstances. The PCC CFO or CC CFO or their delegated authorities will consider requests for exceptions to normal procedures under the following circumstances;

- Where it can be evidenced that only one supplier is able to carry out the work or service or to supply goods for technical reasons or because of exclusive rights;
- Extensions to an existing contract where there is a genuinely justifiable case to use an existing contractor/supplier to maintain continuity of supply or site experience and it is legal to do so;
- The contract has been classified as secret by the CC CFO making the use of a particular contractor essential or a limited competition to a select list of contractors and the avoidance of advertising requirements in the public domain;
- The contract is required so urgently that competition is impracticable, e.g. when an operational need arises which requires immediate action. However failure to take action within appropriate timescales does not constitute grounds for an urgency exception;

5.2.2 Where, for any other sound reason, it is not possible to follow Standing Orders then the CC CFO shall recommend and the PCC CFO may approve any exception in advance of, or in exceptional circumstances as soon as possible afterwards

5.2.3 Any STA over £3,000 shall be requested by the Departmental Head via the Joint Head of Procurement and then the appropriate Chief Officer. The formal procedure shall be described in the Procurement Procedures.

## **6. COMPETITIVE PROCUREMENT USING TENDERS**

6.1. The Joint Head of Procurement will have responsibility to ensure appropriate Procurement Policy and Procedures are published covering matters such as;

- The procedures to be applied in respect of the whole tendering process i.e. initial tender, specifications and standards, and evaluation and appointment of contractors and consultants.
- Processes regarding the use of sub-contractors;
- Processes regarding variations to contract;
- The process to be undertaken in relation to declarations of interest in a contract;
- The procedures to be followed in relation to collaborative contracts;
- The adoption of Framework Agreements;
- The procedures to be followed in applying for an exception to Standing Orders, including;
  - (i) The formal procedure to be adopted to evidence alternative provision is not available.
  - (ii) The formal justification of emergency provision.
- The achievement of Value for Money, and the minimisation of risk to the PCC and Constabulary;
- The Procurement Policy and Procedures will set out arrangements for the recording and retention of information in relation to procurement activity;
- The Procurement Policy will also detail the arrangements for reporting procurement activity to meet the requirements of the PCC and Constabulary together with addressing the need to publish information in accordance with Government requirements.

6.2. Contents of the Policies and Procedures will be agreed by the PCC CFO and CC CFO.

## **7. TENDER CUSTODY AND OPENING**

### Electronic Tendering

7.1. Tenders will be received through a proprietary e-tendering solution, which ensures managed opening and version controls with all processes and actions being fully auditable except in extraordinary circumstances i.e. system failure.

### Tender custody and opening if non-electronic means are utilised

- 7.2. In the event of operating by non-electronic means, tenders shall be stored in a secure and confidential manner as required by the sealed bid procedure set out in the Procurement Policy and Procedures.
- 7.3. The opening of these tenders and recording of details shall be subject to the following regulations;
- They shall not be opened before the appointed time;
  - They shall be opened at one time by not less than two persons one of which will be the CC CFO;
  - The appropriate tender details shall be recorded on the Tender Opening Certificate, which shall be ruled off (to prevent the addition of further entries) and then signed by each member of the tender opening panel.
- 7.4. Once the tenders have been opened they must be circulated only to those directly involved in tender evaluation and contract letting activities prior to awarding the contract.

### **8. FORM OF CONTRACT**

- 8.1. All contracts shall be in the name of a PCC and for joint contracts both PCC's. They shall be evidenced in writing. If appropriate, legal advice should be sought in relation to contracts through Procurement in the first instance.
- 8.2. Every contract shall specify the:-
- goods, services or works to be provided;
  - consideration;
  - time within which the contract is to be performed; and
  - terms and conditions for payment.
- 8.3. Every contract shall ensure that the contractor indemnifies the Commissioner against all losses in connection with injury to or death of any person, or damage to property, happening as a result of or in connection with the carrying out of the contract. The contractor shall also be required to effect and maintain insurance which provides both the contractor and the employer with full cover in respect of any liability against which the contractor is required to indemnify the employer. The CC shall stipulate the minimum amount of insurance after consultation with the PCC CFO.
- 8.4. Liquidated Damages: Each contract should be reviewed for the appropriate inclusion of liquidated damages.
- 8.5. Default Clauses: Contracts which are estimated to exceed £35,000 shall provide that should the contractor default in the terms of the contract, the PCC, without prejudice to any remedy for breach of contract, shall be at liberty to purchase other goods, services or works as appropriate of the same or similar description to make good any default. Every contract shall provide that the amount by which the cost of purchasing other goods, services or works (including the expenses of acquiring the new supplier) exceeds the amount which would have been payable to the contractor shall be recoverable from the contractor.

- 8.6. Transfer or Assignment of Contracts: Every contract which is estimated to exceed £35,000 shall prohibit the contractor from assigning the contract or sub-letting any portion of the contract work without the written consent of the CC.
- 8.7. Prevention of Corruption: In every contract a clause shall be inserted to secure that the Commissioner shall be entitled to cancel any contract and to recover from the contractor the amount of any loss resulting from such cancellations if the contractor or any person employed by them or acting on their behalf (whether with or without the knowledge of the contractor) shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing something in relation to the obtaining or execution of any contract with the Commissioner, or shall have committed any offence under the Bribery Act 2010, or shall have given any fee or reward the receipt of which is an offence under subsection 2 of Section 117 of the Local Government Act 1972.
- 8.8. Exclusion of third party rights: Unless precluded by statute every contract shall exclude the ability of third parties to claim the same rights and remedies as those enjoyed by the main parties to the contract. The rights of permitted successors to or assignees of the rights of a party shall not be excluded

## **9. COLLABORATIVE CONTRACTS AND FRAMEWORK AGREEMENTS**

- 9.1. Where tenders are invited that include other police forces or public sector organisations, they will be invited on a lead PCC basis and comply with these Standing Orders.

## **10. REVIEW**

- 10.1 These Standing Orders will be reviewed at least on an annual basis by the PCC CFO and CC CFO.