

Audit and Risk Committee

25 July 2023

Agenda item number 9

Finance Strategy and Policy updates

Report by Director of Finance

Summary

This report sets out the revised Standing Orders Relating to Contracts and the Procurement Strategy which were last updated in 2022 and 2020.

Recommendation

- i. To approve the updated Standing Orders Relating to Contracts, and
 - ii. To approve the updated Procurement Strategy.
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1. Introduction

- 1.1. As indicated at the November committee meeting several strategies and policies are scheduled for review. Following the adoption of the Financial Regulations in November, Counter Fraud, Bribery and Corruption Strategy and Advertising and Sponsorship Policy in March this report considers the final two due for review.

2. Standing Orders Related to Contracts

- 2.1. The Standing Orders Relating to Contracts (SORC) was last considered by the Broads Authority in May 2018. The document has been reviewed annually and updated internally where amendments have been minimal and required by legislation, the last being February 2022. A version highlighting the amendments can be found in track changes at Appendix 1.
- 2.2. The Monitoring Officer and Management Team have been consulted on the revised version and their comments and feedback have been incorporated into the revised SORC. The main changes have been:
 - Update the general exemptions (5b) to match those agreed in the covering report back in 2018 (paragraph 2.3).
 - Update the specific exemptions (6e) for contract extension to include both a monetary value and percentage. This is due to several low value extensions requiring committee approval over the last year.

- Add a new specific exemption (6g) for time-limited grant funding from an external body. This is where time limitations will not allow a competitive procurement process to be completed and where the grant conditions allow this. This is consistent with other local authorities' contract procedure rules.
- The estimation method and contract values have been updated to reflect the legislation now expects values to be calculated including VAT.
- The addition of Directors to the Chief Executive in determining evaluation criteria, invitation to quote/tender and acceptance.
- Update to job titles.

3. Procurement Strategy

- 3.1. The Procurement Strategy was last considered by this committee in July 2020. A version highlighting the amendments can be found in track changes at Appendix 2.
- 3.2. The Management Team and the Carbon Reduction Project Manager have been consulted on the revised version and again their comments and feedback have been incorporated into the revised strategy. The main changes have been to update job titles, legislation following the UK leaving the EU and the updated themes from the National Procurement Strategy for Local Government in England 2022 (14.1).

4. Summary

- 4.1. The current Terms of Reference of Committees sets out in section 4 (Audit and Risk Committee) paragraph 15 the powers to approve such documents. This will continue to be the case if the committee agrees to new ones set out on this agenda.
- 4.2. New legislation is scheduled to be introduced in Spring 2024 to replace the Public Contracts Regulations 2015 by the Procurement Bill. This will require both documents to be reviewed again to make sure they remain up to date. Any significant changes will be brought back to committee next year.

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Date of report: 23 June 2023

[Broads Plan](#) strategic objectives: All

Appendix 1 – Standing Orders Relating to Contracts (July 2023)

Appendix 2 – Procurement Strategy (draft July 2023)

Broads Authority

Standing Orders Relating to Contracts

Note: These Standing Orders should be read in conjunction with the “Standard Terms for Contracts” which provide standard wording for use in tender documentation. All tenders must be reviewed by the Director of Finance, Senior Accountant or Financial Accountant and the appropriate Director prior to being issued. After consultation with Management Team legal advice may be obtained from the Authority’s Legal provider.

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Application and exceptions

1. Purpose of Standing Orders

The overall purpose of these Standing Orders is as follows:

- (a) to ensure transparency and fairness in the procurement of works, supplies and services;
- (b) to ensure that the Authority gets best value from its procurements; and
- (c) to protect those involved in the procurement process.

2. Duty to achieve best value

Every contract or official order made for works, supply and disposal of goods, materials and services must be for the purpose of achieving the Authority's statutory and approved objectives and must ensure best value, to secure continuous improvement in the exercise of all its functions, having regard to a combination of economy, efficiency and effectiveness.

3. Application

- (a) These Standing Orders apply to every contract made by or on behalf of the Authority except contracts for:
 - (i) the acquisition or disposal of any interest in land; or
 - (ii) insurance or the lending or borrowing of money; or
 - (iii) the employment of any employee.

The engagement of consultants and other professional advisers must be in accordance with these Standing Orders unless the Authority or appropriate committee, or the Chief Executive in consultation with the Chairman (or in the Chairman's absence Vice-Chairman) of the appropriate committee, directs otherwise.

4. Compliance with UK Public Sector Regulations

Every contract must comply with The Public Contracts Regulations and with any relevant directives being in force in the United Kingdom. These Standing Orders have effect subject thereto.

5. General exemptions

- (a) The Authority or the appropriate committee may authorise exemption from any of the following provisions of these Standing Orders where they are satisfied that the exemption is justified in special circumstances.

(b) The Chief Executive may approve contracts under £150,000 (unless stated otherwise under general or specific exemptions) and where budgetary provision already exists. Contracts above this value require Broads Authority approval.

~~(b)~~(c) _____ The Chief Executive may authorise exemption from any of the following Standing Orders by certifying that there is an extreme emergency.

~~(c)~~(d) _____ Every exemption authorised under these Standing Orders must be reported to the Authority and the report must specify the emergency or other special reason justifying it.

6. Specific exemptions

Quotations or tenders need not be invited in the case of a contract:

- (a) for the supply of goods or services where there is only one or two suppliers and no acceptable alternative;
- (b) for goods or materials to be purchased at an auction or second hand;
- (c) for goods or services to be purchased through any consortium, association or similar body (including the other UK National Parks) of which the Authority is a member, or under any other framework arrangement not negotiated by the Crown Commercial Services (CCS) for the benefit of public bodies;
- (d) for works of art, museum specimens or historical documents;
- (e) which constitutes an extension of an existing contract (such an extension to be approved by the Chief Executive in cases where the variation is up to 10% of the original price or £25,000 (whichever is higher, but less than 50% of the original price); above that figure extensions (but less than 50% of the original contract) can only be approved by the Broads Authority~~appropriate committee~~);
- (f) for the execution of work or for the supply of goods or materials certified by the Chief Executive as being required so urgently as to preclude the invitation of quotations or tenders;

(except where it is readily practicable to invite quotations or tenders) for repairs to, or the supply of, parts of existing proprietary or patented articles, including machinery or plant;
- (g) in relation to time-limited grant funding from an external body, where the time limitations will not allow a competitive procurement process to be completed and where the grant conditions allow this;
- (h) for which it is not considered reasonably practicable in the Authority's interest so to do, subject to a report to the Broads Authority~~or appropriate committee~~;
- (i) on behalf of another body for which the Authority is acting as agent, provided any rules or standing orders of that body are complied with; or
- (j) where the Authority is undertaking work in partnership with another public sector organisation, and the work is being funded either entirely or more than 50% by that organisation, the Authority need not necessarily seek competitive quotations or tenders if that other organisation or another public body has already undertaken such a process, subject to the Authority being satisfied that the process was fair and robust and that the expenditure represents good value in the use of public money.

Pre-estimate

7. Pre-estimate

Before any procurement is begun the budget holder (within their authorised limits) must estimate the value of the contract in order to determine which procurement route should be followed. The contract value estimation should be inclusive of VAT.

8. Hire of goods or services for an indeterminate period

(a) In the case of contracts for:

- (i) the hire of goods for an indeterminate period; or
- (ii) the provision of services for a period in excess of four years or for an indeterminate period;

the estimated value for both these types of contracts must be the estimated monthly costs multiplied by 48 or, the estimated annual cost multiplied by four.

(b) In the case of contracts for the supply of goods where the Authority enters into a series of contracts or a renewable contract, the estimated value of the contract is either:

- (i) the aggregate value of similar contracts over the previous 12 months (adjusted for any known changes in demand);
- (ii) the estimated value of similar contracts over the next 12 months; or
- (iii) if the contract is for a definite term of more than 12 months, the estimated value for the period of the contract.

(c) Where (a) or (b) do not apply the estimated value for all supplies, services and works the total estimated value will be the period covered by the contract

(d) In the event that the contract estimate is incorrect and quotations are received which would have resulted in a different procurement process being applied, the procurement process should either be re-run following the appropriate process, or a Waiver of Standing Orders be completed, depending upon circumstances.

Contracts below £5,000 (inclusive of VAT)

9. Contracts below £5,000

Where the estimated value of a contract is below £5,000 (inclusive of VAT), it is good practice but not mandatory to obtain more than one quotation.

Contracts of £5,000 and above (inclusive of VAT)

10. Award and evaluation criterion

(a) Before any quotations or tenders are sought where the estimated value of the contract is £5,000 or above (inclusive of VAT), the budget holder (within their

authorised limits) must decide and record the award criterion to be used when the quotations or tenders are received. This must be either:

- (i) the lowest price (where the Authority is to pay the supplier); or
- (ii) the highest price (where the supplier is to pay the Authority); or
- (iii) the most economically advantageous quotation or tender.

(b) If the chosen award criterion is the 'most economically advantageous,' the Chief Executive or a Director must then decide and record in a list the evaluation criteria (in descending order of significance) upon which the quotations or tenders will be so evaluated. Normally it is recommended that at least 50% of the award criterion should be based on the price for the product or service. The award criteria should be weighted by percentage, and displayed in a grid, as set out in the following example.

Award Criteria	Weighting
Price	50%
Technical specification/expertise	20%
Trade references	10%
Timescale for completion of work	10%
Maintenance costs	10%
Total	100%

Note: The above is an example only for a service contract. Tenders must be drawn up carefully having regard to the needs of the particular project. Further guidance on how each of the award criteria will be evaluated must be provided, to minimise as far as possible the element of subjectivity in the process.

The Chief Executive or a Director must notify all those invited to submit quotations or tenders which award criterion is being used in the case of the contract in question and, where applicable, the evaluation criteria.

- (c) For contacts below £25,000 the quotation which best meets the award criterion must be accepted, except where otherwise agreed in writing by the Chief Executive or a Director, stating why the quotation which best meets the award criterion has not been accepted.
- (d) Where the quotation has been otherwise agreed above, these cases will be reported to the Broads Authority or appropriate committee as an exception to Standing Orders.

Contracts between £5,000 and £25,000 (inclusive of VAT)

11. Quotations

Where the estimated value of the contract is between £5,000 and £25,000 inclusive of VAT the Chief Executive or a Director must, unless impracticable, invite at least three written quotations.

Contracts Above £25,000 (inclusive of VAT)

12. Tenders

- (a) Where the estimated value of a contract exceeds £25,000 (inclusive of VAT) but is below the Find a Tender Service (FTS) limit, and in any other cases where the Authority or the appropriate committee determines, tenders must be invited in accordance with either one of Standing Order 13, 14, 15 or 16.
- (b) If the estimated value of any contract is above the FTS limit then legal advice must be sought regarding the procedures which will need to be followed in letting the contract as public notice limits increase in these circumstances. The current threshold at January 2022 (~~net~~inclusive of VAT) for works contracts is ~~was~~ £5,336,937 and for supply, services and design contracts (estimated over 48 months) £213,477.

13. Open tendering

- (a) This Standing Order applies where the tenders for a contract are to be obtained by open competition.
- (b) At least 14 days public notice must be given in:
 - (i) On contract finder and the Authority's website. Further notices can also be placed in other purchasing platforms such as the Crown Commercial Services and one or more relevant professional or trade list/source, or the local newspapers; and
 - (ii) wherever the estimated value of the contract exceeds £100,000, in one or more newspapers or journals circulating among persons or bodies who undertake such contracts.
- (c) The notice must state what the contract is for and where further details may be obtained, invite tenders for its execution and state the last date and time when tenders will be received.

14. Restricted tendering - Ad hoc list

- (a) This Standing Order applies where the Authority or appropriate committee has decided that invitations to tender for a contract are to be made to some or all of those persons or bodies who have replied to a public notice.
- (b) Public notice must be given:

- (i) On contract finder and the Authority's website. Further notices can also be placed in other purchasing platforms such as the Crown Commercial Services and one or more relevant professional or trade list/source, or the local newspaper; and
 - (ii) where the estimated amount or value of the contract exceeds £100,000, in at least one newspaper or journal circulating among such persons or bodies who undertake such contracts; and
 - (iii) at the discretion of the Authority or appropriate committee to all or a selected number of persons or bodies named in the list maintained under Standing Order 15.
- (c) The public notice must:
- (i) specify what the contract is for;
 - (ii) invite interested persons or bodies to submit a request to participate including information to be provided for selection; and
 - (iii) specify a time limit, of at least 14 days, within which such applications must be submitted to the Authority.
- (d) After the expiry of the period specified in the public notice invitations to tender for the contract must be sent to:
- (i) at least three of the persons or bodies who applied for permission to tender, selected by the Chief Executive or a Director;
 - (ii) where fewer than three persons or bodies have applied or are considered suitable, those persons or bodies which the Chief Executive or a Director considers suitable.
 - (iii) Specify a time limit, of at least 14 days, within which full tenders must be submitted to the Authority.

15. Restricted Tendering - Standing List

- (a) This Standing Order applies where the Authority or appropriate committee has decided that invitations to tender for a contract are to be limited to those persons or bodies whose names are included in a list compiled and maintained for that purpose.
- (b) This list must:
 - (i) be compiled and maintained by the Chief Executive or Director;
 - (ii) contain the names of all persons or bodies who wish to be included and who are approved by the Authority or appropriate committee; and
 - (iii) indicate in respect of a person or body whose name is so included, the categories of contract and the maximum values or amounts in respect of those categories for which approval has been given.

- (c) At least four weeks before a list is first compiled, notices inviting applications for inclusion in it must be published:
 - (i) On contract finder and the Authority's website. Further notices can also be placed in at least one relevant professional or trade list/source, or the local newspaper; and must state the purpose of the list.
 - (ii) include information that the persons or bodies must provide to be considered for selection; and
 - (iii) specify a time limit, of at least 14 days, within which such applications must be submitted to the Authority
- (d) The list must be amended as required from time to time and must be reviewed at intervals not exceeding three years. At least four weeks before each review, everyone on the list must be asked whether they wish to remain there and notices inviting new applications for inclusion in the list must be published in the manner provided by paragraph 15.(c) of this Standing Order.
- (e) At each review the list must be reported to the appropriate committee with particulars showing those invited to tender, those responding and those successful, since the last review.
- (f) Where a standing list relates to Fen Management Contractors these will be allocated to contractors based on a specific area for the duration of the list.
- (g) Invitations to tender for a contract, that does not relate to Fen Management, must be sent to:
 - (i) at least three of those persons or bodies selected by the Chief Executive or a Director from among those approved for a contract of the relevant category and amount or value; or
 - (ii) where fewer than three persons or bodies are approved for a contract of the relevant category and amount or value, all those persons or bodies.

Specify a time limit, of at least 14 days, within which full tenders must be submitted to the Authority.

16. Framework arrangements

- (a) A Framework Arrangement is a formal tendered arrangement which sets out terms and conditions under which specific purchases can be made throughout the term of the agreement, and supplies, services or works are procured from the successful tenderer in predicted quantities at various times during the period that the agreement is in force.
- (b) Finance hold and publish on the intranet a list of frameworks that the Authority

can access, this currently includes the Crown Commercial Services (CCS). These frameworks cover a wide variety of areas from postage, to vehicles and Insurance. Public sector

organisations have already tendered for these frameworks and completed the appropriate background checks. The individual frameworks provide details of the procedure to be followed.

- (c) If at any time the Authority proposes to enter into a Framework Arrangement for the provision of goods or services that is not on the list in b), then the Director of Finance will agree and update the list and advise on the procedures which need to be followed in using the framework.

17. Post-tender negotiations

- (a) The Chief Executive may (following the closing date for receipt of tenders but before acceptance of any tender) carry out post-tender negotiations to attempt to secure an improvement in the contract price or other conditions only in one or more of the following circumstances:
 - (i) where the lowest submitted tender or the most economically advantageous tender (where this is the award criterion) exceeds the estimated value of the contract;
 - (ii) where the Chief Executive considers that the price of the lowest tender submitted abnormally low;
 - (iii) where tenders have been invited only on the basis of unit prices or a schedule of rates and the lowest in aggregate is not the lowest on all items; or
 - (iv) where the lowest submitted tender or the most economically advantageous tender (where this is the award criterion) contains conditions, trading terms, specification, performance, guarantees, or service delivery less favourable than in other tenders, or than stipulated for, and this defect appears capable of being remedied by post-tender negotiations.
- (b) In carrying out Post Tender Negotiations, the Authority shall follow the procedures set out in the Appendix to these Standing Orders.

Tenders

18. Invitations to tenders

- (a) Every invitation to tender must specify the latest day and hour and the place appointed by the Chief Executive for the receipt of tenders and must state the effect of Standing Order 17.
- (b) On receipt, envelopes containing tenders must be date and time stamped and kept by the Chief Executive until they are opened.
- (c) The invitation to tender should make clear that:
 - (i) tenders may be submitted electronically, on a CD or other appropriate media posted to the Authority in the supplied tender envelopes; and

- (ii) tenders submitted by email will only be accepted when sent exclusively to tenders@broads-authority.gov.uk with the subject clearly indicating the name of the tender. Any tenders not conforming to these requirements, or sent to an alternative email address, will be invalidated.

19. Invalid tenders

- (a) An invalid tender must not be accepted, unless otherwise agreed by the Authority or appropriate committee, or by the Chief Executive in conjunction with the Chairman (or in the Chairman's absence Vice-Chairman) of the Authority or appropriate committee.
- (b) A tender will only be valid if it has been delivered to the place appointed by the Chief Executive not later than the appointed day and hour either sealed in the pre- printed envelope provided by the Authority for this purpose or the tender mailbox.
- (c) A tender will not be valid if the envelope bears any name or mark indicating the sender.

20. Opening of tenders

- (a) Tenders received under one of Standing Order 13, 14, 15 or 16 must be opened at the same time and only in the presence of at least two officers of the Authority designated for the purpose by the Chief Executive, one of whom must be the budget holder, Director of Finance, Senior Accountant or Financial Accountant. The officers present at the opening must sign and date a summary of tenders received.
- (b) Any tender received at the appointed place later than the day and hour specified under Standing Order 18 may be opened and recorded on the summary of tenders stating the circumstances. The tender must be rejected unless it is subsequently approved by the appropriate committee, or the Chief Executive in consultation with the Chairman (or in the Chairman's absence Vice-Chairman) of the Authority or appropriate committee.
- (c) The Director of Finance must retain all tenders received, including any invalid tenders, and their envelopes for a period of two years from the return date. The accepted tender must be retained for six years after the final contract payment.
- (d) Any tender opened in error before the date and time set for opening tenders shall be immediately resealed and a record made of the event signed by the Director of Finance in the Register of Tenders held by the Director of Finance.
- (e) If it is necessary to extend the date for receiving tenders, this shall be recorded by the Director of Finance in the Register of Tenders, setting out the reason for extending the deadline.
- (f) Any tender documents which are received electronically to the tender mailbox shall only be accessible by the Director of Finance, Senior Accountant and the Financial Accountant. They will make arrangements for a copy of the tender to be printed for the designated officer to open the tenders at the same time as those received by post

under Standing Order 20.(a) (either a Director, Director of Finance, Senior Accountant or Financial Accountant).

21. Acceptance of tenders

- (a) The Chief Executive or a Director may only accept the tender which best meets the award criteria except where otherwise agreed by the Authority or appropriate committee, or the Chief Executive in consultation with the Chairman (or in the Chairman's absence Vice-Chairman) of the Authority or appropriate committee.
- (b) Acceptance of tenders must be in writing and signed by the Chief Executive or an officer designated by the Chief Executive for that purpose.
- (c) A contract award notice will be made on Contract Finder no later than 30 days after the award of the successful tenderer including the amount. Unsuccessful tenderers must also be notified via email at the same time as the successful tenderer including the reasons for the decision.
- (d) It is good practice to include a standstill period of at least 14 days prior to official contracts being signed for contracts below the FTS thresholds. Contracts above must have the standstill period incorporated.

22. Errors or Discrepancies in Tenders

- (a) Where examination of tenders reveals errors or discrepancies which would affect the tender figure in an otherwise successful tender, the tenderer must be provided with written details of each error and discrepancy. The tenderer will be afforded the opportunity either:
 - to confirm in writing and accept the error if it is in the Authority's favour; or
 - to correct the error(s) and to revise the tender downwards. Any revisions must be confirmed in writing; or
 - to withdraw the tender. This must be confirmed in writing.
- (b) Tenders must not be revised upwards.
- (c) Errors and discrepancies in unsuccessful tenders must not be revised even if, after correction, they would make the tender successful.
- (d) If the tenderer withdraws, the next tender in competitive order is to be examined and then dealt with in the same way.
- (e) Any exception to this procedure may be authorised only by the Authority or appropriate committee, or the Chief Executive in consultation with the Chairman (or in the Chairman's absence Vice-Chairman) of the Authority or appropriate committee.

23. Contract variations

- (a) All requests to suppliers to amend any contract or requirement must be made in writing and must include authorisation at the same level as the original instruction or at a higher level if the level of expenditure exceeds the original authorisation level.

- (b) When the Purchase Order has been issued, any changes in the requirement must be notified to the supplier in writing by an amendment to the Purchase Order and if relevant a Contract Variation.

Miscellaneous matters

24. Register of contracts

A register of all contracts placed by the Authority must be kept and maintained by the Director of Finance. For each contract the register must specify the name of the contractor, the works to be executed or the goods to be supplied and the contract value. It must be open to inspection by any member of the Authority.

25. Financial interests of officers

The ~~Chief Executive~~ Head of HR must record in the Register of Officers' Interests details of any notice given to the Authority by an officer under Section 117 of the Local Government Act 1972 of a financial interest in a contract. The Register must be open during office hours for inspection by any member of the Authority.

26. Supervision of contracts by third parties

- (a) It must be a condition of any contract between the Authority and any person (not being an officer of the Authority) who is required to supervise a contract on behalf of the Authority that in relation to that contract the requirements of these Standing Orders must be complied with as if that person were the Chief Executive.
- (b) Such person must:
 - (i) at any time during the carrying out of the contract produce to the Chief Executive on request all records maintained in relation to that contract;
 - (ii) on completion of the contract transmit all records to the Chief Executive.

27. Nominated sub-contractors and suppliers

Where a sub-contractor or supplier is to be nominated to a main contractor, the following rules apply:

- (a) Where the estimated amount of the sub-contract or the estimated value of the goods to be supplied by the nominated supplier does not exceed £25,000, quotations must be invited for the nomination in accordance with Standing Order 9 or 11 unless the Chief Executive considers in respect of any particular nomination that it is not reasonably practical to obtain competitive quotations.
- (b) Where the estimated amount of the sub-contract or the estimated value of the goods to be supplied by the nominated supplier exceeds £25,000, tenders must be invited in accordance with one of Standing Order 13, 14, 15 or 16 unless the Authority or appropriate committee decides in respect of any particular nomination that it is not reasonably practicable to obtain competitive tenders.
- (c) Standing Orders 18 to 22 apply to tenders received under this Standing Order.

- (d) Sub-contractors or suppliers must send with their tender an undertaking that if they are selected they will
 - (i) be willing to enter into a contract with the main contractor; and
 - (ii) indemnify the main contractor in respect of the sub-contracted works or materials.
- (e) The Chief Executive must nominate to the main contractor the person whose quotation or tender best meets the award criterion. Where it is proposed to award the quotation or tender to a person whose quotation or tender does not best meet the award criterion, the circumstances must:
 - (i) in the case of quotations under paragraph 26.(a) above, be reported to the Authority or appropriate committee; or
 - (ii) in the case of tenders under paragraph 26.(b) above, be agreed, before any nomination is made, by the Authority or appropriate committee or, in cases of emergency, by the Chief Executive in consultation with the Chairman (or in the Chairman's absence Vice-Chairman) of the Authority or appropriate committee.

28. Contract conditions

- (a) Every contract which exceeds £5,000 in value or amount must:
 - (i) be in writing and signed by the Chief Executive or an officer designated by the Chief Executive for the purpose;
 - (ii) specify the goods, materials or services to be supplied and the work to be executed, the price to be paid together with a statement as to the amount of any discounts or other deductions, the periods within which the contract is to be performed and such other conditions and terms as may be agreed between the parties; and
 - (iii) in appropriate cases, where a contract exceeds £100,000 in amount or value, provide for the payment of liquidated damages by the contractor for failure to complete the contract within the time specified;
 - (iv) include a clause prohibiting the contractor from transferring or assigning or sub-letting to any person any portion of the contract without the written permission of the Authority signed by the Chief Executive;
 - (v) where applicable, require the contractor to indemnify the Authority against claims in respect of employers' liability and/or public liability. The amount normally required for public liability insurance cover is £5,000,000;
 - (vi) where applicable, for example where professional advice is being given, require the contractor to indemnify the Authority against claims in respect of matters relating to the advice or service provided. The amount normally required for professional indemnity insurance is £5,000,000;

- (vii) where appropriate include a clause giving tenderers the opportunity to state how much the required insurance would cost (for the duration of the contract) if they do not have it already in place. This must then be added to the cost of the tender;
 - (viii) state that all goods, materials and work must comply with any relevant British Standards Specification or Code of Practice in force at the date of the quotation or tender;
 - (ix) state that the Authority can cancel the contract and recover any resulting losses if the contractor or the contractor's employees or agents, with or without the contractor's knowledge:
 - does anything improper to influence the Authority to give the contractor the contract; or
 - commits an offence under the Prevention of Corruptions Acts 1889 to 1916 or Section 117(2) of the Local Government Act 1972.
 - (x) where the contract relates to the processing of personal data, state they must comply with GDPR legislation.
- (b) Where it is considered that the total amounts of insurance, as set out in paragraphs 27.(v) and 27.(vi), are not considered to be appropriate or necessary, the Chief Executive may approve deviations to this figure.
- (c) It is good practice to ask tenderers for a certified copy of the public liability and / or professional indemnity insurance, especially from new or unknown contractors.
- (d) Every contract over £100,000 must be under seal.
- (e) The Authority may also require a contractor to give sufficient security for completing the contract.

29. VAT

All the financial limits contained within these Standing Orders ~~ex~~include VAT where it is payable.

30. Review

The Authority will review these Standing Orders at intervals not exceeding three years.

31. Interpretation

In these Standing Orders, unless the context otherwise requires:

- (a) "appropriate committee" means the committee or sub-committee to which the power to make the contract has been delegated;
- (b) "most economically advantageous" normally means the lowest if payment is to be made by the Authority and the highest if payment is to be made to the Authority, but should also take into account quality and other measures, which will be set out in

the evaluation criteria and which should be specified in advance of the contract evaluation. In such cases the method of scoring such measures and the weighting of evaluation will be clearly set out in the contract specification.

(c) "Person" includes a partnership, body corporate or unincorporated association.

Note: All references to the Chief Executive in this document apply to that person and his / her nominated representative, who are, a Director, and any other officers who are authorised to act in particular circumstances in accordance with the Scheme of Powers Delegated to the Chief Executive ~~—Arrangements for the Exercise of Powers by Other authorised Officers~~.

~~February 2022~~

Appendix – Post tender negotiations

Procedural Rules

1. In Post Tender Negotiations carried out under Standing Order 17:
 - a. Where price is the award criterion the tenderers submitting the lowest tender and all those the value of which is within 5% of the lowest tender or, if there is no such tender, the tenderer submitting the second lowest, may be invited to participate in Post Tender Negotiations.
 - b. Where the most economically advantageous tender is the award criterion the tenderers submitting the most economically advantageous tender and the second most economically advantageous tender may be invited to participate in Post Tender Negotiations.
2. Post Tender Negotiations may only be authorised by the Chief Executive. In the case of contracts with an estimated value exceeding £25,000 the Chief Executive must also consult the Legal provider who must thereafter be notified of the time and venue of all negotiations carried out and who will be entitled to be represented at any such negotiations.
3. In the case of all Post Tender Negotiations the senior officer carrying out the negotiations must record in writing the objective to be secured by such negotiations and forward a copy of this record to the Director of Finance and, for contracts with an estimated value exceeding £25,000, the Legal provider.
4. Unless other arrangements are specifically agreed by the Chief Executive, all negotiations must take place at the Authority's premises with both the tenderer and the relevant officers of the Authority present.
5. During negotiations with the tenderer there must always be present at least two officers of the Authority.
6. A note of the negotiations will be made by one of the officers present recording those present, the time and location of the negotiations, details of the discussion and any agreement reached. The note shall be signed by all officers present and will be kept on file with a copy sent to the Director of Finance and, for all contracts with an estimated value exceeding £25,000, the Legal provider.
7. At no time must a tenderer be informed of the detail of any other tender submitted or as to whether or not the tender submitted was the lowest or the most economically advantageous tender (where this is the award criterion).
8. Acceptance of tenders following Post Tender Negotiations must be in accordance with Standing Orders except that the Chief Executive must also inform the Legal provider and Monitoring Officer of the name of the successful tenderer and of the tender price regardless of the estimated value of the contract.

9. The Director of Finance will maintain a record of all post tender negotiations relating to contracts with an estimated value in excess of £25,000. This record must show the date of the tender, the date of any Post Tender Negotiations, the names of tenderers involved in negotiations, the original price, the revised price, the revised specification, the names of the officers involved and details of the contract awarded.
10. Legal advice should be sought where the officer dealing with this matter is under any uncertainty regarding the procedure to be followed.

Procurement strategy

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1. Introduction

- 1.1. "Procurement" can be defined as the process of acquiring goods, materials, works or services. Procurement encompasses acquisitions from both third parties and "in-house" providers. The process of procurement includes the whole cycle of purchasing, from the initial identification of needs and options appraisal (including the "make or buy" decision), through to the ultimate end of a services contract or the end of the useful life of an asset.
- 1.2. The Broads Authority is committed to procuring cost effective and quality goods and services, which will in turn support the achievement of the Authority's overall strategic and operational aims and objectives. The Authority subscribes to the key principles of the Local Government Procurement Pledge as set out within this Strategy.
- 1.3. The Authority's procurement activities take place in the context of a complex framework of European Union directives and UK procurement regulations, alongside a range of other statutory and regulatory guidance. The Public Contracts Regulations 2015 implement into UK law the European Union Consolidated Directive on public procurement (2014/24/EU). These regulations are due to be replaced with The Procurement Bill in 2024.

2. Purpose

- 2.1. The purpose of this Procurement Strategy is:
 - to set out how the Authority's procurement activities comply with legislative and regulatory requirements.;
 - to promote the acquisition and delivery of supplies and services by the most appropriate procurement route, thereby ensuring that value for money¹ and quality are obtained at all timesalways obtained.;
 - to define a clear corporate framework for procurement, which complements and aligns with the Authority's Financial Regulations and Standing Orders Relating to Contracts.;
 - to ensure that all procurement by the Authority is carried out in a sustainable and responsible manner in order toto maximise the economic, social, and environmental benefits.

¹ Value for money is defined as "the best mix of quality and effectiveness for the least outlay over the period of use of the goods or services bought."

3. Responsibilities

- 3.1. Overall responsibility for the implementation of this Strategy lies with the Management Team, who will ensure that all procurement decisions are taken in accordance with the principles and best practice guidelines set out in this Strategy. All Broads Authority officers must have regard to this Strategy when undertaking any procurement activity.
- 3.2. The Authority does not have a Procurement Officer; advice about procurement procedural issues should in the first instance be sought from the Finance Team. Legal advice may be required in the case of a more complex procurement. The ~~Chief Financial Officer~~Director of Finance must be consulted about the procedure to be applied in the event of any procurement which is over the ~~European OJEU~~Find a Tender Service (FTS) threshold (details of current thresholds are set out in the Standing Orders Relating to Contracts).
- 3.3. The Authority's ~~Sustainability Exchange group~~Carbon Reduction Project Manager can provide advice on environmental impact issues when determining criteria for tendering procedures.

4. Procurement objectives

- 4.1. The Authority's overriding procurement objectives are:
 - to purchase goods and services from suppliers who will provide value for money.
 - to secure the purchase of goods and services as quickly and efficiently as possible.
 - to procure goods and services which will enable the ultimate provision of quality services to the public.
 - to encourage the purchase of goods and services from suppliers whose policies, practices and products are economically, socially, and environmentally sound.
 - to purchase goods and services from suppliers who comply with the Authority's health and safety standards and requirements.
 - to use local, small, and medium size enterprises and / or voluntary, community and social enterprises where possible, and to encourage such enterprises to bid for the Authority's contracts.

- to continue working towards e-procurement².

5. Local Government Pledge

5.1. In line with these objectives, the Broads Authority subscribes to the Local Government Association's Procurement Pledge for Local Authorities, which recognises the opportunities provided by procurement to deliver value for money and to support local economies. The Authority will therefore seek to use procurement to help:

- deliver value for public money. ~~and~~
- drive local social and economic growth and regeneration. ~~and~~
- provide inclusive services through a diverse supplier base.

5.2. ~~In order to~~ To deliver these outcomes, to the fullest extent possible within the Authority's available resources, and where it is proportionate and appropriate, the Broads Authority will make efforts to:

- promote and implement procurement processes that are less bureaucratic and burdensome. ~~and~~
- build skills, capacity, and expertise in procurement. ~~and~~
- engage effectively with stakeholders to ensure that the goods and / or services being procured meet their needs and (where appropriate) involve them in the procurement process. ~~and~~
- engage effectively with suppliers through market days, pre-procurement dialogue, and provide transparent feedback, making them aware of trading opportunities and securing their input and expertise. ~~and~~
- use procurement in a socially and environmentally responsible way, promoting fair employment practices (including the Modern Slavery Act 2015), ethical sourcing practices, and environmental sustainability wherever possible. ~~and~~
- seek feedback from suppliers and use this learning to further improve procurement processes. ~~and~~

² E-procurement refers to the use of electronic procurement approaches including online procurement systems, and the electronic receipt of tenders. Where an e-procurement approach is used, the requirement remains to comply with Standing Orders, including obtaining competitive quotations where necessary. Guidance from the Finance Team should be sought before undertaking an e-procurement process.

- promote collaborative working where appropriate to make best use of existing expertise, resources, and to share best practice.

6. Procurement principles

6.1. The Authority's guiding principles for procurement are that:

- all procurement should contribute to the strategic and / or operational aims and objectives of the Authority, as set out in the Broads Plan²²
- the Authority will apply a consistent, corporate, and collaborative approach to procurement across Directorates²³
- the Authority will comply with all (UK and EU) legal requirements and relevant government guidelines in the procurement of goods and services, including regulations set down by Her Majesty's Revenue and Customs (HMRC)²⁴
- the Authority will comply with the Public Sector Bodies (Websites and Mobile Applications) Accessibility Regulations (2018). Where the procurement involves the production of a report to be shared online it must meet minimum standards. Further information can be found on the intranet under Accessibility and the Communications team.
- procurement is a long-term process and should include arrangements for effective contract management and review²⁵
- the Authority will encourage collaboration and joint procurement initiatives with other bodies including (where appropriate) local authorities and national park authorities, to deliver best value services and secure value for money and economies of scale²⁶
- the Authority will seek to further adaptation and mitigation to climate change through its purchases and will encourage the procurement of environmentally sound services and products. The Authority will seek to:
 - use recycled paper (with a target that over 80% of paper is made from recycled materials)²⁷
 - achieve the lowest practicable power usage of all IT and electrical equipment²⁸ ~~and~~
 - use only FSC/PEFC (Pan European Forest Certification) accredited timber where possible²⁹
 - Reduce its scope 1, 2 and 3 carbon emissions to meet its climate pledge to be carbon neutral by 2030 and carbon zero by 2040.

- the Authority will seek to use procurement to deliver community benefits, for example by promoting equalities and fair employment practices (including the Modern Slavery Act 2015), by including social value criteria within tender evaluations where appropriate ~~;~~ ~~and~~
- the Authority will seek to establish evaluation criteria for tenders which give an appropriate weighting to quality, cost, and social and environmental impacts. It is good practice to apply similar criteria to quotations sought for procurements below the tender threshold, where this is practical and appropriate to the goods or services being procured.

6.2. Within the framework of these overarching procurement principles, the Authority will have regard to the principles of Best Value and its own Core Values³. The Authority will apply a sound competition policy, which will be designed to provide value for money and to deliver goods and services of the required quality.

7. Best value

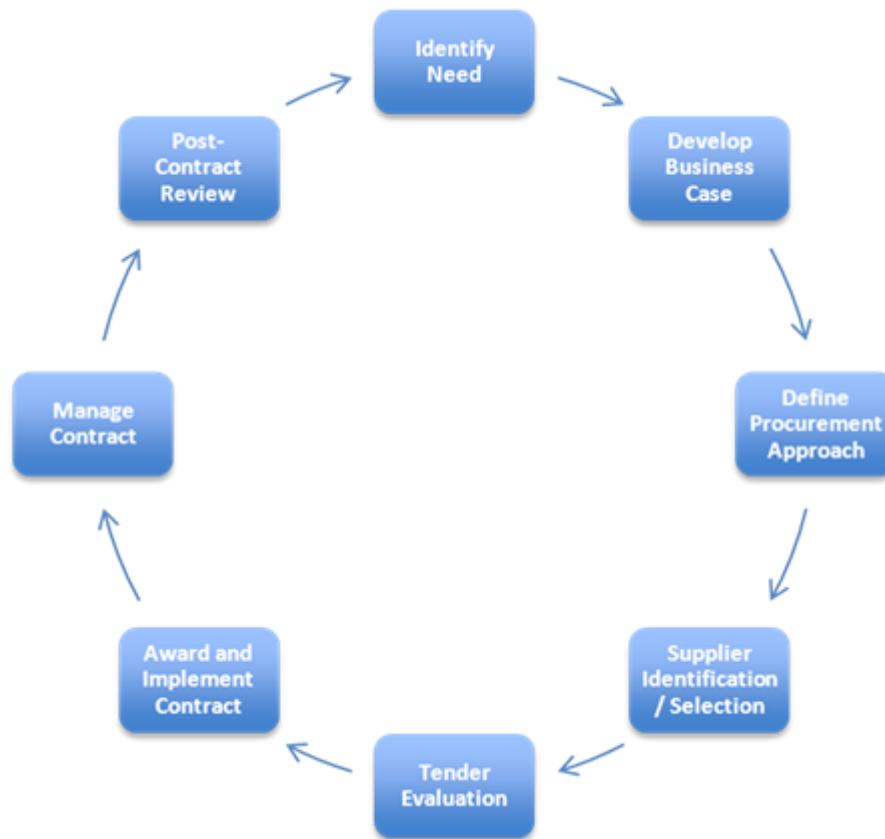
7.1. The principles of Best Value are based on the achievement of value for money through a combination of economy, efficiency, ~~and~~ effectiveness and equity, which are defined in the following terms:

- **Economy:** acquiring human and material resources of the appropriate quality and quantity at the lowest cost.
- **Efficiency:** producing the maximum output for any given set of resource inputs or using the minimum outputs for the required quantity and quality of service provided.
- **Effectiveness:** having the organisation meet the citizens' requirements and having a programme or activity achieve its established goals or intended aims.
- **Equity:** the extent to which the outcomes generated by the authority have been made accessible to all those who could benefit from them.

³ Core Values are important and enduring beliefs or ideals shared by the staff and members of the Broads Authority about what is good or desirable and what is not. They exert a major influence on our behaviour and serve as broad guidelines in all situations. They include commitment, caring, open and honest, sustainable, and exemplary.

8. The procurement process

- 8.1. The diagram below sets out the generic steps in the process for a larger procurement.



- 8.2. The procurement process should be seen as a cycle and the importance of the latter stages, including the ongoing management of contracts and post-contract review activities, should not be underestimated.

9. Good practice

- 9.1. The Authority seeks to conduct its affairs openly and transparently. All decisions about procurement should therefore be open and justifiable, and based on clear and relevant criteria (whilst having regard to the need to protect the confidentiality of information provided by bodies and individuals completing tenders). All procurement decisions must comply with the Authority's Financial Regulations and Standing Orders Relating to Contracts. The latter provide guidelines in respect of the procedures for preparing evaluation criteria, opening ~~tender~~tenders, and letting contracts.
- 9.2. The procurement process is subject to scrutiny by a range of stakeholders, including the Authority's Internal and External Audit functions. It is essential that all stages of

the tendering process are properly recorded, in accordance with Standing Orders Relating to Contracts.

9.3. The Authority has established the following principles of good procurement:

- procurement processes should be designed to give the Authority sufficient information to form a view of the competence of potential service providers and suppliers, but without placing an undue burden on them.
- potential suppliers and service providers should understand clearly from the outset of any procurement what service standards are expected. They should be provided with adequate, accurate and timely information at all the relevant stages of the procurement process.
- all potential suppliers and service providers will be subject to the same requirements to ensure fair competition and will be treated equally throughout the procurement process.
- to promote innovation in service delivery, care should be exercised to avoid taking too narrow a view of how the service might be delivered as this may limit the options and deter potential providers.
- in order to be able to demonstrate that procurement has been undertaken in an open and transparent manner, the Authority will ensure that tenderers for larger contracts (with a value of over £25,000) are fully aware of the basis for bid evaluation and that all stages of the procurement process can be audited satisfactorily with reference to the Authority's Procurement Strategy and Financial Regulations, which will be made available to all tenderers.

9.4. The evaluation of tenders should be systematic, objective and well documented to provide a clear and logical audit trail. Unsuccessful tenderers should be told the outcome of the tender, and on what grounds their tender was unsuccessful. In the case of a tender conducted under the OJEU-FTS process, a standstill period must be incorporated into the timetable following the notification of the contract award.

9.5. The Authority will seek innovation in the delivery of services, while having due regard to the needs of economy, efficiency, and effectiveness and equity. The Authority therefore will not discount without careful consideration arrangements which might enable it to be more innovative in its approach to procurement, which might include working in partnership with other bodies or making greater use of electronic processes.

9.6. Contracts that involve construction / development of sites or exceed £250,000 are considered high risk / high value. ~~These type of contracts~~ These types of contracts

will require a risk assessment prior to the procurement process to ensure that appropriate consideration is given to the contract length, type of procurement, contract management required, whole of life cost and impact on the Authority. The Risk Management Policy provides guidance on risk identification. These contracts will also be subject to a post implementation review (PIR) to ensure that lessons learned are incorporated into future procurements.

- 9.7. For high risk / high value contracts, serious consideration should be given to a partnership arrangement.
- 9.8. All tenders should be prepared with due regard to identifying an appropriate approach to risk sharing, which ~~takes into account~~considers both cost implications and the party which is best placed to bear the individual risks.

10. Competition

- 10.1. The Authority encourages fair competition in accordance with the principles and objectives set out in this Strategy.
- 10.2. The Authority makes no assumptions on the best method for supply / service provision. Its policy is to procure contracts through open competition based on the Authority's procurement objectives and to determine contracts based on best value, ~~quality~~quality, and the most effective delivery of the service.
- 10.3. Existing (long-term and other) partnerships and / or contracts are not exempt from the competition requirement and will be reviewed regularly to assess whether they are continuing to deliver value for money, or whether changes should be made. Where it is considered that a contract is not delivering value for money, and / or is failing to meet the standards set out in the contract, further action may be considered.
- 10.4. Where it is established that there are no realistic competitors for the provision of a specialist service, this must be agreed and formally documented by the Chief Executive as a Waiver of Standing Orders.

11. Social value and "green" procurement

- 11.1. The Public Services (Social Value) Act 2012 places a duty on the Authority to consider, when undertaking certain types of procurement, how what is proposed to be procured might improve the economic, ~~social~~social, and environmental well-being of the local area, and how, in conducting the process of procurement, it might act with a view to securing that improvement. These issues should be considered at the pre-procurement stage and may include "social" specifications and contract performance conditions. It is essential that where social value is to be considered as

part of a tender response, the Authority's requirements are clearly set out within contract specifications, and appropriate criteria are established for tender evaluation.

11.2. Social considerations may include exploring how procurement activity can be used to:

- encourage apprenticeships;
- promote equalities;
- encourage development of the "living wage" ~~and~~
- promote opportunities for small, local firms.

11.3. The Authority expects main contractors to act fairly with those in their supply chains and, where feasible, will mandate timely payment to subcontractors through contract clauses.

11.4. The Authority will strive to ensure that all decisions in relation to the procurement of goods, materials and services are taken in line with its sustainability commitments, and that where opportunities arise, commercial relationships are formed and nurtured with partnering and contracting organisations who share the Authority's values on sustainability.

11.5. ~~In particular the~~The Authority will aim to minimise the environmental impact of its purchases/procurement through rigorous use of the "four R's". These are:

- **Reduce:** by only purchasing new goods that are ~~absolutely necessary~~necessary (~~i.e.~~, when it is not possible or viable to re-use or repair goods already purchased);
- **Re-use:** by purchasing products, where possible, that can be used many times rather than disposable items;
- **Repair:** by purchasing, where possible, products that have been designed and manufactured to allow for the repair and replacement of individual parts ~~and~~
- **Recycle:** by purchasing, where possible, products made from recycled materials, and / or that may be recycled themselves.

11.6. The Authority will seek to ensure that in all procurements the environmental aspect is ~~taken into account~~considered as an essential and integral part of the contract. This will entail specification writing, tender evaluation criteria and contract conditions which give adequate weight to the environmental dimension. When considering the sustainability criteria, these will take into account the full lifecycle of a procured

item, covering manufacture, use, and disposal at end of life. It is recognised that there can be some subjectivity in determining where to draw the line in balancing sustainability and cost. In a tendering exercise this should be reflected in the weighting criteria. In other procurements, the successful bidder will generally be determined ~~on the basis of~~based on the “most economically advantageous quotation” and the award criteria should therefore also be defined in advance to provide a suitable weighting for sustainability considerations. It is recognised that almost all procurements are ~~different~~different, and each case should be treated on its merits. If in doubt, staff should take advice from their appropriate Head of Service or Director. ~~In particular advice~~Advice should be sought from the ~~Chief Financial Officer~~Director of Finance if guidance is required on the drafting of tender evaluation criteria, ~~in order to~~to comply with Standing Orders Relating to Contracts.

~~11.6.~~

- 11.7. Care must be taken to ensure that where social or environmental criteria are used as part of tender evaluations, the requirements for transparency and fair competition are safeguarded. It is particularly important that the evaluation ~~takes into account~~considers the social or environmental elements of the goods or services to be ~~supplied, but~~supplied but should not seek to ~~make an assessment of~~assess the overall business activities of a prospective supplier.
- 11.8. The Authority will ensure that all vehicles acquired have low emissions of local air pollutants and climate change gases, having regard also to essential operational requirements, and will take account of the need to minimise emissions and exposure to air pollution when purchasing all goods and services.
- 11.9. The ~~Sustainability Exchange~~Carbon Reduction Project Manager is responsible for advising the Authority’s overall performance on environmental sustainability.

12. In-house and outsourced services

- 12.1. The Authority operates a predominantly “in-house” approach to service delivery. Where the Authority decides to investigate the outsourcing of any complete services, this would be undertaken ~~on the basis of~~based on a robust and comprehensive business case which would include a full options appraisal and cost comparison.

13. Contract management

- 13.1. Effective contract management is a key ongoing element of the procurement process, and relates to the proactive monitoring, review and management of contractual terms secured through a procurement activity. Contract management should be used to ensure that what is agreed in procurement is ultimately delivered

by the supplier and should therefore include monitoring of compliance with the agreed contractual terms and conditions. Following the completion of any significant contract, a review should be completed ~~in order for for~~ any lessons to be fed back into the procurement process to help to deliver continuous improvement.

14. National Procurement Strategy for Local Government in England

14.1. The National Procurement Strategy for Local Government in England 2022 sets out a vision for local government procurement and identifies ~~four~~ three key ~~areas~~ themes for development. The Authority will seek to ~~deliver in~~ promote these ~~areas~~ as follows:

- **Showing leadership:** Members and senior managers are engaged with the procurement process to ensure the quality of decision making improves, including oversight and accountability. The Authority will work with partners and strategic suppliers to provide a 'one team' approach to the design and implementation of solutions, to improve performance, reduce cost, mitigate risk, and harness innovation.
- **Behaving commercially:** The Authority will look to promote revenue generation and value generation through its plans for major third-party acquisitions. It will seek to support and encourage innovation and promote the development of new ideas and solutions to service delivery. Contracts will be effectively managed to control costs, secure quality and timeliness of agreed outcomes and performance levels and minimise the occurrence of risks, including strategic risk.
- **Achieving community benefits:** The Authority will look to create social value and engage locally with small medium enterprises (SMEs), voluntary, community and social enterprises (VCSEs) and micro-business through its tendering process. Social value is about improving economic, social, and environmental wellbeing from public sector contracts over and above the delivery of the services directly required and at no extra cost.

~~14.1.14.2.~~ The strategy recognises that the following enablers will need to be addressed to achieve the Authority's ambitions in the key areas as: adding value, developing talent, exploiting digital technology, enabling innovation, and embedding change.

- ~~**Making Savings:** Procurement is recognised as a key activity which can deliver savings and efficiencies. The Authority engages with partner organisations where~~

~~appropriate to undertake joint procurement and establish shared service arrangements. Knowledge, posts and services are shared with appropriate partners. Processes for reviewing existing procurement arrangements are in place and this Strategy is aligned to best practice.~~

- ~~● **Supporting Local Economies:** The Authority will seek to maximise the economic, social and environmental benefits to communities of its procurement by including assessment criteria relating to these areas within tenders, where appropriate.~~
- ~~● **Leadership:** The Authority recognises the strategic importance of procurement, and this Strategy therefore emphasises the importance of contract management and confirms the role of procurement as a long term, cyclical process.~~
- ~~● **Modernising Procurement:** The Authority will employ e-procurement approaches where appropriate to streamline and simplify the tender process, and recognises the potential benefits offered by the new EU directives.~~

15. Review

- 15.1. This Strategy will be reviewed every three years, or more frequently where there are significant changes in the environment within which the Authority operates. Responsibility for ensuring that regular reviews are carried out lies with the ~~Chief Financial Officer~~Director of Finance.