

## Lane End Parish Council Procurement Policy

Lane End Parish Council, hereinafter referred to as “the Council”.

Adopted on Monday 20<sup>th</sup> January 2025, to be reviewed annually.

### **Contract value – Under £30,000 (inclusive of VAT)**

Low-value contracts (In England only, this means up to £30,000).

#### **Legal requirements**

The council’s standing orders required by s.135 of the 1972 Act (and financial regulations)

### **Contract value – Over £30,000 (inclusive of VAT)**

All contracts over £30,000, including VAT, but below the threshold (England only).

#### **Legal requirements**

The council’s standing orders required by s.135 of the 1972 Act (and financial regulations)

The Contracts Finder/ find a tender website and other light-touch rules in the 2015 Regulations

### **Contract value - (inclusive of VAT)**

Public service or supply contract over £214,904 or public works contract over £5,372,609

#### **Legal requirements**

The council’s standing orders required by s.135 of the 1972 Act (and financial regulations)

Complex requirements in the 2015 Regulations

1. Every Contract by the Council or person authorised to act on its behalf, shall comply with this Procurement Policy, the Council’s Financial Regulations and the Council’s Standing Orders.
2. No exceptions shall be made otherwise than in an emergency or that the policy does not apply to contracts which relate to items (a) to (f) below:
  - a) for the supply of gas, electricity, water, sewerage and telephone and data services;
  - b) for specialist services such as are provided by solicitors, accountants, surveyors and planning consultants;
  - c) for work to be executed or goods or materials to be supplied which consist of repairs to or parts for existing machinery or equipment or plant;
  - d) for work to be executed or goods or materials to be supplied which constitute an extension of an existing contract by the Council;
  - e) for additional audit work of the external Auditor up to an estimated value of £500 (in excess of this sum the Clerk/RFO shall act after consultation with the Chair of the Council);
  - f) for goods or materials proposed to be purchased which are proprietary articles and/or are only sold at a fixed price.
3. A Contract is an agreement between the Council and an individual or organisation; for the individual or organisation to provide works, goods or services (including the engagement of consultants) for which the Council will provide consideration. The following contracts are exempt from the requirements of these rules:
  - a) Contracts relating solely to disposal or acquisition of land;
  - b) Employment contracts

- c) Individual agency contracts for the provision of temporary staff.
4. The Council's overall objective is to secure best value for money and to be able to demonstrate the same. Therefore, persons involved in the awarding of a contract on behalf of the Council must ensure that the best value for money is obtained. Before commencing a procurement, it is essential that the authorised person leading the procurement has identified the need and fully assessed the options for meeting those needs. The best use of purchasing power shall be sought by aggregating purchases wherever possible.
5. Requirements shall not be broken down into individual packages in order to deliberately avoid a more onerous tendering procedure.
6. The Council will ensure that everything it does as part of a tender is fair and transparent and does not discriminate for/against any supplier. This applies to all procurement, whatever the value. The Council's actions are subject to scrutiny under the Freedom of Information Act as well as its own standing orders, financial regulations and other policies.
7. The Council will try, where possible and all other matters being equal, to support local suppliers and organisations that help the disadvantaged in the community. On the same terms, past performance may be taken into account in selecting a supplier.
8. The Council shall not be obliged to accept the lowest or any tender, quote or estimate.
9. It will be acceptable to join with other Parish Councils or bona fide organisations to place joint orders in order to secure economy of scale.
10. Should it occur that the Council or duly delegated committee, does not accept any tender, quote or estimate, the work is not allocated and the Council requires further pricing, provided that the specification does not change, no person shall be permitted to submit a later tender, estimate or quote who was present when the original decision making process was being undertaken.
11. Where the value of a contract is likely to exceed £214,904 (or other threshold specified by the Office of Government Commerce from time to time) the Council must consider whether the Public Contracts Regulations 2006 (SI No. 5, as amended) and the Utilities Contracts Regulations 2006 (SI No. 6, as amended) apply to the contract and, if either of those Regulations apply, the council must comply with the European Union Procurement Directive.
12. The Public Contracts Regulations 2015 shall apply.
- a) Where the Council intends to procure or award a public supply contract, public service contract or public works contract as defined by The Public Contracts Regulations 2015 ("the Regulations") which is valued at over £30,000, the Council shall comply with Articles 109 to 114 of the 2015 Regulations in addition to section 135 of the 1972 Act. The Regulations require councils to use the Contracts Finder website and the Find a Tender website to advertise contract opportunities, set out the procedures to be followed in awarding new contracts and to publicise the award of contracts. The Council is also obliged to advertise the contract elsewhere for public domain such as the Council website.
- b) The full requirements of The Regulations, as applicable, shall be followed in respect of the tendering and award of a public supply contract, public service contract or public works contract which exceed thresholds in The Regulations set by the Public Contracts Directive 2014/24/EU (which may change from time to time).
13. Exceptions from any of the following provisions of these Contract Procurement Rules may be made under the direction of the Council where it is satisfied that the exception is justified in special circumstances. Every exception and reason shall be recorded in the minutes.

### **Specifications**

14. Enquiries and Invitations to Tender shall be based on a written specification. The specification shall adequately describe the requirement procedure in sufficient detail to enable effective procurement in accordance with these rules.

## **Supplier Pre-Qualification**

15. The Council shall only enter into a contract with a supplier if it is satisfied as to the supplier's suitability, eligibility, financial standing and technical capacity to undertake the contract.

## **Requirement for Quotation/Tender and Public Advertising**

16. Consideration shall be given to other costs associated with the procurement (lifetime costings including for example maintenance costs and power consumption). Where these could be significant such as in the final disposal of a product appropriate arrangements shall be put in place to consider these costs against alternative options.

(Excluding VAT):

a) Contracts between £250.00 - £5,000.00

The Clerk/RFO shall strive to obtain 3 estimates'.

b) Contracts between £5,001.00 - £25,000.00

Written quotations (priced descriptions of the proposed supply) must be sought from not less than three individuals or organisations that could undertake the contract.

c) Contracts above £25,000.00

A Public Notice must be made setting out particulars of the contract and inviting persons interested to tender, within a period of not less than 10 days. This contract must be advertised on the Government Contracts Finder website and Find a Tender Website. The following information must be included in the tender:

- Time and date by which applicants must respond
- How and to whom the applicant is to respond
- Any other requirements for participating in the procurement.

If less than three tenders are received for contracts above £25,000.00 or if all the tenders are identical, the Council may make such arrangements as it thinks fit for procuring the goods or materials or executing the works. Tenders to be submitted and opened in accordance with No.20 below.

17. Contract Procedure Rules 16a, and 16b, shall not apply to the following but, wherever possible, alternative quotations shall be obtained:

a) Purchase by auction or at public fairs or markets

b) Contracts involving special technical, scientific or artistic knowledge

c) Contracts comprising spare or replacement parts of existing machinery or plant or repairs to such machinery or plant

d) Urgent situations as agreed with the Chair of the Council where the Council is put at significant risk or significant costs could be incurred by not taking urgent remedial action.

18. Every written contract shall specify

a) The work, materials, matters or things to be furnished, had or done;

b) The price to be paid, with a statement of discounts or other deductions (if any); and

c) The time or times within which the contract is to be performed.

19. Every contract which exceeds £25,000.00 and is either for the execution of work or the supply of goods or materials, shall provide for payment of liquidated damages by the contractor in case the terms of the contract are not performed.

### **Submissions of Tenders**

20. Submission Procedures for contracts above £25,000.00

- a) Where an invitation to tender is made, such invitation to tender shall state the general nature of the intended contract and the Clerk/Responsible Financial Officer shall obtain the necessary technical assistance to prepare a specification in appropriate cases. The invitations shall in addition state that tenders must be addressed to the Clerk/Responsible Financial Officer in the ordinary course of post. Each tendering firm shall return their tender in a specifically marked envelope in which the tender is to be sealed and remain sealed until the prescribed date for opening tenders for the contract. Tenders can be sent via email, however, a hard copy would still be required.
- b) Any invitation to tender shall refer to the terms of the Bribery Act 2010.
- c) The tenders shall be kept in the custody of the Clerk/Responsible Financial Officer until the time and date specified for their opening.
- d) Tenders shall be opened by the Clerk/Responsible Financial Officer in the presence of at least one councillor, preferably two. Tenders shall be date stamped and signed on all pages containing price information.
- e) Quotations and tenders may be received electronically provided they are kept in a separate secure folder under the control of the Clerk/Responsible Financial Officer which is not to be opened until the deadline has passed for receipt of tenders. These will be accompanied by at least one hard copy, which will be the definitive copy.

### **Acceptance of Quotations and Tenders**

- 21. The tender that offers Best Value to the Council shall be accepted. Each tender shall be evaluated for the price and quality to ascertain the most economically advantageous tender. Local companies should be encouraged to apply.
- 22. For procurements over £25,000.00 the questions and scoring systems used shall be written before tenders are received. The basis of this exercise shall be explained in any invitation to tender documentation.
- 23. Where the authorised person considers it in the best interest of the Council they may negotiate with the tenderers whose tenders are being considered for acceptance. No negotiation on contracts whose value is in excess of £25,000.00 can take place without reference to the Chair of the Council. Any negotiations which would distort competition is expressly forbidden. Details of the negotiations must be placed on the contract file.
- 24. Arithmetical errors found in any tender when checking shall be dealt with as follows:

The tenderer shall have the error pointed out to them and be offered the opportunity to stand by their original tender, or their corrected tender, or withdraw it.

### **Signing or Sealing of Contracts**

- 25. Every successful quotation/tender shall be accepted in writing, provided that contracts as the solicitors to the Council shall determine shall be set out in a formal contract document.

### **Nominated Sub – Contractors and Suppliers**

- 26. Where a sub-contractor or supplier is to be nominated to a main contractor, the procurement of the services of the sub-contractor or supplier shall be subject to these Contract Procedure Rules.

### **Contracts Record**

- 27. A record of all contracts in excess of £25,000.00 in value placed by the Council shall be kept by the Clerk. This record shall specify for each contract the name of the contractor, the works to be executed or the goods or services to be supplied, the contract value and the contract period.

## **Contract Management**

28. Project management shall be practised at all times in undertaking procurement.

## **Contract Variations to Scope**

29. Any necessary instructions to vary a contract shall be made in writing by the Chair or persons responsible for supervising the contract. Where a variation occurs during the currency of the contract that is material and cannot be met from within the original contract sum an immediate report shall be made to the Council who shall decide what further action is necessary.

## **Bonds, Guarantees and Insurances**

30. For procurement projects where the spend is greater than £25,000.00 consideration must be given as part of the pre-qualification assessment and evaluation process as to whether a performance bond and/or parent company guarantee (if applicable) shall be required from the successful tenderer.

31. Consideration must be given as to the appropriate type (employee liability, public liability, professional indemnity, etc.) and level of insurance requirements for each contract.

32. Consideration must also be given to compliance with any other relevant legislation.

Procedures for Contracts over the £214,904 threshold

33. Contracts awards exceeding the threshold of £214,904 above are detailed and complex. The Council will consider that such high value contracts will require technical and or legal advice from those who specialise in public procurement. Set out below is a very brief overview of the full requirements of the 2015 Regulations – where they apply.

- Procurement must take one of five forms; the open procedure, the restricted procedure, competitive dialogue, the innovations partnership procedure; and competitive procedure with negotiation;
- Accelerated forms of the open procedure and competitive procedure with negotiation and the restricted procedure in situations of urgency that a local council can duly substantiate;
- there is a pre-qualification stage;
  - Councils will need to comply with the requirements in respect of tenders;
  - Contracts should be awarded on the “most economically advantageous tender (Regulation 67);
  - Contracts can be varied without going through a new procurement exercise in specified situations. (Regulation 72); and
  - Contracts should be advertised on the Find a Tender/ Contracts Finder website (Regulation 106) – as well as the Official Journal of the European Union (OJEU).