

STRATHCLYDE JOINT POLICE BOARD

Standing Orders Relating to Contracts

Revised to 3 June 2010

Made in terms of Section 81 of the Local Government (Scotland) Act 1973

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STANDING ORDERS RELATING TO CONTRACTS

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Part I : Standing Orders relating to Contracts : General Matters

1. PRELIMINARY

1.1. Extent and Application

1.1.1. Strathclyde Joint Police Board (“the Board”) is the Contracting Authority in all contracts for the provision of goods, services or works to or for the benefit of Strathclyde Police and in all contracts relating to heritable property. For the avoidance of doubt any contracts awarded by and in the name of the Board (i) in furtherance of collaborative or partnership working (including contracts where the Board acts as lead authority) and/or (ii) utilising funding from grants received from third parties must be awarded in accordance with these Standing Orders.

All contracts are awarded and/or entered into in the name of the Board and not Strathclyde Police, the Force, the Chief Constable or any other member of Strathclyde Police.

1.1.2. The Board makes these Standing Orders in terms of section 81 of the Local Government (Scotland) Act 1973 and these shall apply to all contracts made by or on behalf of the Board on or after 1 September 2009.

1.1.3. The Standing Orders must be interpreted in accordance with the key principles of openness, fairness and non-discrimination.

1.1.4. Subject to the provisions of Standing Order 1.1.8, the Standing Orders apply to all contracts made by or on behalf of the Board for the execution of works, for the supply of goods and materials, for the provision of services or for or in relation to heritable property.

1.1.5. The Standing Orders are subject to the over-riding provisions of European Union, United Kingdom, or Scottish legislation, including the duty to secure Best Value and the Local Government in Scotland Act 2003. They are also subject to any EU Commission, UK government or Scottish Executive guidance on public procurement that may be issued from time to time.

1.1.6. The Standing Orders shall not apply to any contracts made on behalf of the Board by Scotland Excel or any other central purchasing body with whom the Board has made arrangements for the award of works, supplies or services contracts on its behalf or any contracts awarded pursuant to a Framework Agreement, participation in which the Board has approved or any contracts awarded on behalf of the Board by the Scottish Police Services Authority (SPSA) in terms of the Agency Agreement among SPSA and the Board and Others dated 28 May 2009 and subsequent dates.

1.1.7. All personnel involved in the contracting process (including Board Officers and Strathclyde Police Staff and Officers, any agents and consultants acting on the Board’s behalf save SPSA when acting in terms of the Agency Agreement referred to in 1.1.6 above) shall

comply with the terms of the Standing Orders when committing the Board to any contractual arrangement. Failure by Board/Force personnel to comply with the Standing Orders may result in disciplinary action.

1.1.8. The Standing Orders do not apply to any of the following:

1.1.8.1. contracts of employment;

1.1.8.2 contracts for the execution of works, the supply of goods and materials, or the provision of services which are, in the reasonable opinion of the Chief Constable, Strathclyde Police:-

- urgently required for the prevention of risk to life or damage to property; or
- required to ensure business continuity on a 24x7 basis; or
- are required as a result of special and unforeseen circumstances where contracts require to be entered into by the Board as an agent of necessity.

Where any such contracts are entered into by virtue of this Standing Order 1.1.8.2, full details of the same will be reported by the Chief Constable to the next meeting of the Board following contract award.

1.1.9. The Standing Orders shall be reviewed by the Board no later than October 2012 and every 4 years thereafter. The Standing Orders may be varied or reviewed by the Board from time to time as required.

1.1.10. The Standing Orders may be suspended either in whole or in part by the Convener's Sub-Committee of the Board in respect of the proposed award of any contract upon the joint recommendation of the Chief Constable, Strathclyde Police, and the Clerk and Treasurer to the Board. This is subject to the provisos that:-

1.1.10.1. there are special circumstances justifying the suspension; and

1.1.10.2. the suspension is within the statutory powers of the Board.

1.1.11. The Standing Orders must be read in conjunction with the Corporate Procurement Manual. All personnel undertaking any procurement activity must comply with the Corporate Procurement Manual. Where there is any conflict between these Standing Orders and the Corporate Procurement Manual, these Standing Orders shall take precedence.

1.1.12. Any query regarding the application or interpretation of these Standing Orders should be made in the first instance to the Director of Legal Services, Strathclyde Police and through him to the Clerk to the Board, if appropriate.

1.1.13. The Standing Orders approved by the Board on 12 June 2003 are hereby revoked.

1.2. Definitions

1.2.1. **"Award Criteria"** means the criteria specified in the Contract Documents. Contracts will be awarded on the basis of either the lowest priced tender to specification or the Most Economically Advantageous Tender. It will be for the Head of Corporate Procurement, Strathclyde Police or the Property Services Manager, Strathclyde Police, as appropriate, in consultation with the relevant client department and the Director of Legal Services, Strathclyde Police, to determine the appropriate award criteria upon which contract award will be based.

1.2.2. **"Contract Documents"** means the invitation to tender for or to negotiate a contract, the descriptive document (if any), the proposed conditions of contract, the specification of the supplies, services or works required by the Board and all supplementary documents.

1.2.3. **"Corporate Procurement Department"** means the unit established within Strathclyde Police to promote and co-ordinate strategic procurement and develop procurement staff, processes and systems.

1.2.4. **"Corporate Procurement Manual"** means the mandatory procedure manual issued by the Head of Corporate Procurement/Property Services Manager, setting out the detailed requirements for the conduct of procurement activity within Strathclyde Police (as amended from time to time) with which all Police Officers and Police Staff are required to comply.

1.2.5. **"Lowest Priced Tender"** means the lowest priced tender compliant with the specification detailed in the Contract Documents.

1.2.6. **"Most Economically Advantageous Tender"** means the tender offer that is most economically advantageous having regard to the subject matter of the contract and including matters such as quality, price, technical merit, aesthetic and functional characteristics, environmental characteristics, running costs, cost effectiveness, after-sales service, technical assistance, delivery date and delivery period or period of completion (all as may be considered appropriate in relation to any particular contract).

1.2.7. **"Procurement Officer"** means any officer designated by the Head of Corporate Procurement/Property Services Manager, Strathclyde Police, as appropriate having regard to the subject matter of the proposed procurement, to have particular responsibility for undertaking any procurement exercise (or any part of a procurement

exercise) on behalf of the Board. Each Procurement Officer must be authorised to carry out procurement activities under the Register of Procurement Officers maintained by Strathclyde Police. Each Procurement Officer must also have received training based on the Corporate Procurement Manual.

- 1.2.8. **"Procurement Service"** means the operation or support department within Strathclyde Police with responsibility for the procurement of any particular requirement for supplies, services or works on behalf of the Board, for the disposal of surplus materials, for the acquisition or disposal of heritable property or for the acquisition of second hand goods.
- 1.2.9. **"Proper Officer"** means any member of Strathclyde Police personnel who is duly authorised by the Board for the purpose of signing contracts under the Board's Scheme of Functions Delegated to Officers.
- 1.2.10. **"Property Services Department"** means the unit established within Strathclyde Police to manage the Board's Property Estate and procure, project manage and administer all property related construction and maintenance works.
- 1.2.11. **"Public Contracts Scotland Portal"** means the website maintained by the Scottish Executive on which Contract Documents may be made available to interested parties via the internet. It may be found at www.publiccontractsscotland.gov.uk.
- 1.2.12. **"Scotland Excel"** means a joint committee of local authorities established under Section 57 of the Local Government (Scotland) Act 1973, Scotland Excel is the Centre of Procurement Expertise for the local government sector launched on 1 April 2008 to help improve the efficiency and effectiveness of public sector procurement in Scotland.
- 1.2.13. **"the Regulations"** means the Public Contracts (Scotland) Regulations 2006 (as amended from time to time).

2. TENDERING PROCEDURES FOR DIFFERENT CONTRACT VALUES

2.1 The procedure for the award of any contract for the provision of goods, services or works to or for the benefit of Strathclyde Police Force depends upon the estimated value of that contract. The relevant values and the associated tendering procedure that must be applied are detailed in Table 1 below. These values are exclusive of VAT and relate to the full life of the contract.

TABLE 1:

Contract Type	Contract Value	Applicable Procedure
Works	£3,927,260 and above	Standing Orders 3 and 6
Supplies / Services	£156,442 and above	Standing Orders 3 and 6
Works	Above £40,000 but equal to or below £3,927,260	Standing Orders 4 and 6
Supplies/Services	Above £40,000 but equal to or below £156,442	Standing Orders 4 and 6
Works/Supplies/Services	Equal to or below £40,000 where contract award shall be exempt from Standing Orders, but not necessarily from the requirement to seek competition	Standing Order 5

2.2 These values will be reviewed in accordance with any revision of the threshold values for supply, services or works contracts intimated from time to time by the EU Commission. For the avoidance of doubt where the threshold values are reviewed as aforesaid, the revised threshold values so intimated will be incorporated into and form part of these Standing Orders with effect from the date intimated by the Commission. Following any such review of the threshold values the Corporate Procurement Manual will be updated to reflect applicable threshold values. All other financial limits specified in the Standing Orders shall be subject to review from time to time in accordance with Standing Order 1.1.9.

2.3 Contracts relating to the disposal of surplus materials or the disposal or acquisition of heritable property or for the acquisition of second hand goods are dealt with in Part II.

3. EU PROCUREMENT : SUPPLIES/SERVICES CONTRACTS OF £156,442 AND ABOVE and WORKS CONTRACTS OF £3,927,260 AND ABOVE

This Standing Order applies together with procedures in Standing Order 6 and 7 where it is proposed to award any contract for goods, services or works with an estimated value equal to or exceeding the prescribed threshold.

3.1. Prescribed Thresholds

With effect from 1 January 2010, the prescribed thresholds are as follows:-

Contracts for the execution of works : £3,927,260

Contracts for the supply of goods/materials : £156,442

Contracts for the provision of services : £156,442

Values are exclusive of VAT and relate to the full life of the contract.

3.2. Aggregation

3.2.1 The Procurement Officer must take into account the aggregate value of any single requirement for works, services or supplies across the whole Force to determine if it exceeds the EU threshold. If so, even if the procurement of any such requirement is split among a number of contracts which, taken individually, are below the threshold values, each of these contracts is subject to the Regulations in the same way as if the requirement were procured through a single large contract.

3.2.2 The following rules for aggregation must be applied by the Procurement Officer:

3.2.2.1 Unless the exemption referred to in 3.2.2.2 applies, if there is a number of contracts for a single requirement for the same type of works, supplies or services then the total value of the individual contracts (or "lots") must be aggregated. If the aggregate value over the contract term equals or exceeds the relevant threshold then, subject to Standing Order 3.2.2.2, the Regulations apply to the award of each contract.

3.2.2.2 there is an exemption for "small lots" of an estimated value over the contract term below £64,846 (for supplies or services) and £810,580 (for works) as long as this value does not exceed 20% of the total value of all "lots". Any exempt "small lot" should be advertised in accordance with Standing Order 4.

3.3. Mixed Procurement

The Regulations include rules for determining how to treat mixed procurement comprising goods and services, as follows:-

3.3.1 *Part A / Part B Services*

Where services specified in both Parts A and B of the "Categories of Services" as described in Schedule 3 to the Regulations are to be provided under a single contract, then the entire contract shall be treated as:

3.3.1.1 a Part A Services contract if the value attributable to the services specified in Part A exceeds that attributable to those specified in Part B; and

3.3.1.2 a Part B Services contract if the value attributable to the services specified in Part B is equal to or exceeds that attributable to those specified in Part A. If the value of the Part A Services exceeds the relevant EU threshold, however, then the entire contract must be advertised as a Part A Services contract.

3.3.2 *Services/Supplies*

Where services and supplies are to be provided under a single contract, then the entire contract shall be treated as:

3.3.2.1 a services contract if the value attributable to the services exceeds that attributable to the supplies; and

3.3.2.2 a supplies contract if the value attributable to the supplies is equal to or exceeds that attributable to the services.

3.3.3 *Services/Works*

Where a contract for services includes "Activities Constituting Works" as described in Schedule 2 to the Regulations that are only incidental to the principal object of the contract then the entire contract shall be treated as a services contract.

3.4 **EU Procurement Procedures**

All procurement under the Regulations shall be carried out in accordance with one of the following procedures:-

- the open procedure;
- the restricted procedure;
- the negotiated procedure :
 - (i) with prior publication of a Contract Notice; or
 - (ii) without prior publication of a Contract Notice.
- the competitive dialogue procedure.

3.4.1 *Open Procedure*

This is a straightforward "one stage " procedure .The assessment of suppliers and their qualifications to undertake the contract takes place as part of the tender evaluation process and a supplier's tender may be excluded from the evaluation of offers where the supplier may be treated as ineligible under the Regulations or the supplier fails to satisfy the minimum standards of economic and financial standing or

technical or professional ability required by the Board and specified in a Contract Notice

3.4.2 *Restricted Procedure*

This is a two stage procedure, suitable where the Board wants to limit the number of suppliers who are invited to tender. The assessment of suppliers and their qualifications to undertake the contract is carried out as an initial "pre-qualification" stage through the issue of a Pre-qualification Questionnaire (PQQ). The Board is then entitled to select those suppliers who meet the PQQ requirements for invitation to tender. A minimum of 5 tenderers must, wherever possible, be invited to tender.

3.4.3 *Negotiated Procedure*

This procedure may only be used where expressly permitted under the Regulations. The Head of Corporate Procurement/Property Services Manager, Strathclyde Police, as appropriate, must obtain the prior written permission of the Director of Legal Services, Strathclyde Police, and the Director of Finance and Resources, Strathclyde Police, in order to use the negotiated procedure. There are two forms of the negotiated procedure:-

- negotiated procedure where publication of a Contract Notice is mandatory; and
- negotiated procedure where publication of a Contract Notice is non-mandatory.

3.4.4 *Competitive Dialogue*

This procedure is only available in limited circumstances when a particularly complex contract is being procured. The Head of Corporate Procurement/Property Services Manager, Strathclyde Police as appropriate, must obtain the prior written permission of the Director of Legal Services, Strathclyde Police and the Director of Finance and Resources, Strathclyde Police in order to use the competitive dialogue procedure. The nature of the procedure allows the Board, through dialogue with suppliers, to develop a specification best suited to meeting its needs. A minimum of 3 tenderers must, wherever possible, be invited to participate in the dialogue.

Procurement Officers shall ensure that the selected procedure is carried out in accordance with the relevant provisions of the Regulations. The Director of Legal Services must be consulted for legal advice in order to ensure compliance with the relevant provisions.

3.5 Advertising

- 3.5.1 Contracts affected by the Regulations must be advertised in the Official Journal of the European Union (OJEU). There are three kinds of notices which may require to be published (depending on the procedure selected) in the OJEU at different stages in the procurement process as follows:-
- 3.5.1.1 a Prior Indicative Notice (PIN) which gives advance warning to contractors of the essential characteristics of a forthcoming contract, including a forecast of when the Contract Notice will appear in the OJEU. Each PIN must be published at least 52 days and no more than 12 months before despatch of the Contract Notice;
 - 3.5.1.2 a Contract Notice giving more details about the particular contract including either the award criteria or an intimation that the award entered will be detailed in the Invitation to Tender/Tender document by which the contract is to be awarded;
 - 3.5.1.3 a Contract Award Notice giving details of any contract awarded under the Regulations which must be published regardless of whether any of the other Notices have been published.
- 3.5.2 Where there is preference or a requirement to retain an option to the Board to extend the period of any contract in accordance with the provisions of these Standing Orders, the Procurement Officer shall ensure that the Contract Notice expressly states that the contract may be extended for a specified period using the negotiated procedure.
- 3.5.3 The Corporate Procurement/Property Services Department, Strathclyde Police, as appropriate, must be consulted regarding the preparation and publication of any notice to be published in the OJEU.

3.6 Timescales

- 3.6.1 The Regulations set out timescales that must be applied for expressions of interest and/or submission of tenders. These depend upon the procedure that has been selected. The Head of Corporate Procurement/Property Services Manager, Strathclyde Police, as appropriate, must ensure that, as a minimum, the relevant timescale detailed in Table 2 below is applied during the EU tendering procedure. These are minimum timescales and may be extended (but not reduced) at the discretion of the Head of Corporate Procurement/Property Services Manager, Strathclyde Police, as appropriate :-

TABLE 2 : EU PROCUREMENT PROCEDURES : MINIMUM TIMESCALES

Procedure	Expressions of Interest	Tender Response	Tender Response where PIN published (general requirement)	Tender Response where PIN published (minimum requirement)
Open (incl. DPS)	N/A	52 days	36 days	22 days
Restricted	37 days	40 days	36 days	22 days
Negotiated (with prior publication of a Contract Notice)	37 days	N/A	N/A	22 days
Negotiated (without prior publication of a Contract Notice)	N/A	N/A	N/A	N/A
Competitive Dialogue	37 days	N/A	N/A	N/A
DPS Call-off	N/A	15 days	N/A	N/A
Accelerated Procedure	15 days	10 days	N/A	10 days

NB: Timescale period commences from the day following date of despatch of the relevant notice to the OJEU. Timescales must be extended if required due to the complexity of the particular procurement. Tender response periods, where stated to be "N/A" for the negotiated and competitive dialogue procedures, should allow sufficient time from the despatch of the invitation to tender to enable compliance with Standing Order 3.6.4. It is recommended that the tender response period under either of those procedures is the same as for the restricted procedure.

3.6.2 In cases of urgency rendering compliance with the normal timescales impractical, with the prior written approval of the Director of Legal Services, Strathclyde Police, and the Director of Finance and Resources, Strathclyde Police, the timescales in the restricted procedure or the negotiated procedure (with prior advertisement) for expressions of interest can be reduced to 15 days and for return of tenders to 10 days. An explanation why the accelerated timescales are used must be included in the Contract Notice. (Urgency, in this context must be narrowly defined and must normally arise for reasons external to the Board/Force. It does not cover situations of administrative inefficiency). The Head of Corporate Procurement/ Property Services Manager, Strathclyde Police, shall prepare and retain a written report regarding the reason(s) why the accelerated timescale was applied in relation to any particular tendering procedure.

3.6.3 Certain minimum timescales specified in Table 2 may be reduced for certain procedures where electronic means of communication and information exchange are used as follows:-

- by seven days where the Contract Notice is drawn up and transmitted by electronic means in accordance with the format

and procedure set out on the EU commission's SIMAP website(<http://simap.europe.eu>);

- by five days where the Board offers unrestricted and full direct access by electronic means to the Contract Documents from the date of publication of the Contract Notice and the Contract Notice specifies the Internet address at which the documents are available.

These reduced timescales are shown in Table 3 below:-

TABLE 3 : EU PROCUREMENT PROCEDURE : REDUCED TIMESCALES WHERE ELECTRONIC MEANS OF COMMUNICATION USED

Procedure	Expressions of Interest		Tender Response		Tender Response where PIN published (general requirement)		Tender Response where PIN published (minimum requirement)	
	SIMAP Format	Online Access Only	SIMAP Format	Online Access Only	SIMAP Format	Online Access Only	SIMAP Format	Online Access Only
*Open (incl. DPS)	N/A	N/A	45 days	47 days	29 days	31 days	22 days	22 days
Restricted	30 days	No reduction	No reduction	35 days	No reduction	31 days	22 days	22 days
Negotiated (with prior publication of a Contract Notice)	37 days (where no PIN published) 30 days (where PIN published)	No reduction	N/A	N/A	N/A	N/A	22 days	22 days
Negotiated (without prior publication of a Contract Notice)	N/A	N/A	N/A	N/A	N/A	N/A	22 days	22 days
Competitive Dialogue	30 days	No reduction	N/A	N/A	N/A	N/A	22 days	22 days
Accelerated Procedure	10 days	No reduction	No reduction	No reduction	N/A	N/A	10 days	10 days

*Where documents are communicated by a combination of both SIMAP Format and online access, the timescale in the Open Procedure can be reduced to 40 days for tender response (where no PIN published) and 24 days for tender response (where PIN published - general requirement).

3.6.4 In the event that any tenderer reasonably requests further information relating to the Contract Documents, such information must be sent out not later than six days before the last date for receipt of tenders (or four days if the restricted or accelerated procedure is being used). The same information must also be made available to all other tenderers within the same timescales.

3.7 Tenderer’s Right to Information Regarding Contract Awards

3.7.1 As soon as possible after a decision has been made by the Board, following the evaluation process set out in Standing Order 6.3, to award any contract to the successful tenderer(s):-

3.7.1.1 The Head of Corporate Procurement/Property Services Manager, Strathclyde Police, as appropriate, shall prepare and issue letters to all tenderers and all candidates concerned (if any) of the Board's decision to (a) award a contract or (b) conclude a framework agreement.

The letters shall include the following information:-

- (1) the criteria for the award of the contract;
- (2) where practicable, the score obtained by the recipient of the letter and where the recipient of the letter is not the party recommended for award, the score obtained by the successful tenderer to be awarded the contract or become a party to the framework agreement;
- (3) the name of the tenderer to be awarded the contract or to become a party to the framework agreement;
- (4) in the case of an unsuccessful party, a summary of the reasons why the party was unsuccessful;
- (5) in the case of an unsuccessful tenderer, the characteristics and relative advantages of the successful tender; and
- (6) a precise statement as to the effect the application of the relevant standstill period will have on the recipient.

3.7.1.2 further, in the case of a Works Contract to be awarded on the basis of the Lowest Priced Tender to Specification the Property Services Manager, Strathclyde Police shall include in the letters to unsuccessful candidates and unsuccessful tenderers the information stated in Practice Note 6 (Series 2) (or any subsequent amendment or revision thereof) issued by the Joint Contracts Tribunal Limited.

3.7.2 The Corporate Procurement Manual refers Procurement Officers to standard templates of the relevant letters to be issued to tenderers.

3.7.3 As soon as possible after any decision to abandon or re-commence an award procedure, the Head of Corporate Procurement/Property Services Manager, Strathclyde Police, as appropriate, must inform all tenderers, and candidates, and in so doing shall include the reason for the decision, and if so requested by any tenderers or candidates, shall provide the decision or reason in writing.

3.8 Relevant Standstill Period

In relation to any contract award to which the Regulations apply, with the exception of Part B Services as described in Schedule 3 to the Regulations:-

- 3.8.1 The Head of Corporate Procurement/Property Services Manager as appropriate shall ensure that a period of at least ten days (where the letter described in Standing Order 3.7.1.1 is sent to all tenderers and all candidates concerned (if any) by facsimile or by electronic means) or fifteen days (where the said letter is sent to any tenderer or any candidate by any other means) elapses between the date on which the letter is sent and the date on which a contract is entered into or a framework agreement is concluded on behalf of the Board. The period of ten days or fifteen days, as appropriate, is referred to as the 'relevant standstill period'. For the purposes of calculating the relevant standstill period, the day on which the letter is sent will not be counted in the calculation of the period and where the last day of the period is not a working day the period must be extended to include the next working day.
- 3.8.2 Where any contact/correspondence is received by the Head of Corporate Procurement/Property Services Manager as appropriate, from a tenderer or candidate during the relevant standstill period in response to any letter issued under Standing Order 3.7.1.1 above, the Director of Legal Services, Strathclyde Police, must be consulted as regards any response to the tenderer or candidate.
- 3.8.3 The relevant standstill period must be applied as failure to adhere to the relevant standstill period will increase the risk of any contract awarded or framework agreement concluded being set aside and damages awarded against the Board and/or a formal penalty imposed on the Board.
- 3.8.4 In any event, the Head of Corporate Procurement/Property Services Manager, Strathclyde Police, as appropriate, shall within 15 days of a written request from any unsuccessful candidate/tenderer inform that candidate/tenderer of the reasons why it was unsuccessful and in the case of an unsuccessful tenderer, other than one in receipt of a letter issued pursuant to Standing Order 3.7.1.1 above, inform it of the characteristics and relative advantages of the successful tender and the name of the party to be awarded the Contract or with whom a framework agreement is to be concluded.

3.9 Special Types of EU contract/procedures

3.9.1 *Framework Agreement*

A Framework Agreement is a general term for agreements with economic operators which set out terms and conditions under which specific purchases (call-offs) can be made throughout the term of the agreement. Regulation 19 of the Regulations must be applied to the award of any Framework Agreement.

3.9.1.1 In awarding any Framework Agreement under the Regulations:-

- (1) the term of the Framework Agreement must not exceed four years unless the Head of Corporate

Procurement/Property Services Manager, Strathclyde Police, as appropriate, obtains the prior written agreement of the Director of Legal Services, Strathclyde Police, and the Director of Finance and Resources, Strathclyde Police, that there are exceptional circumstances justifying a longer duration;

- (2) no substantial change may be made to the terms of the Framework Agreement when any contract is awarded under that Framework; and
- (3) no Framework Agreement may be used in any improper manner to distort competition or avoid application of the Regulations or these Standing Orders.

3.9.1.2 In awarding any contract under a Framework Agreement:-

- (1) the contract must comply with all the substantive terms set out in the Framework Agreement as originally awarded.
- (2) without prejudice to (1) above, where there is only one Framework supplier, in awarding any contract under that Framework the Head of Corporate Procurement/Property Services Manager, Strathclyde Police, as appropriate, may consult with the supplier in writing requesting it to supplement its tender if necessary.
- (3) where more than one Framework supplier is appointed:-
 - provided that there were sufficient qualified candidates and compliant tenders, the Framework Agreement must be entered into with at least three suppliers; and
 - any contract under the Framework Agreement must be awarded either: -
 - through the application of terms set out in the Framework Agreement without further competition, or
 - where not all the terms of the proposed contract are laid down in the Framework Agreement, through a mini-competition

- 3.9.1.3 Where award of the contract is made through mini competition:
- (1) award criteria for any mini-competition must be stated in the Framework Agreement;
 - (2) all Framework suppliers capable of performing the contract must be informed in writing about the contract and invited to tender by a specified reasonable deadline; and
 - (3) the contract must be awarded to the tenderer who submitted the best tender in accordance with the award criteria stated in the Framework Agreement.
 - (4) as soon as reasonably practicable after the decision has been made as to contract award, written notice must be sent informing all suppliers that submitted tenders of the Board's decision in relation to the award of the contract.

3.10 Special Rules: Works Concessions; Design Contracts

3.10.1 Special rules apply to the procurement of the following types of contract:-

3.10.1.1 public works concession contracts : where the contractor or "concessionaire" is not paid directly by the Board, but is instead given an opportunity to exploit the works to be constructed in order to generate profit

3.10.1.2 design contests for the acquisition of plans or designs by the Board following adjudication by a jury, as part of a procedure leading to the award of a public services contract of a value in excess of the relevant EU threshold.

3.10.2 Such contracts must be awarded in accordance with the relevant rules set down in the Regulations. The Property Services Manager, Strathclyde Police shall consult the Director of Legal Services, Strathclyde Police, and the Director of Finance and Resources, Strathclyde Police, prior to commencing any tendering procedure for the award of such contracts.

4. NON-EXEMPT SUPPLIES/SERVICES CONTRACTS UP TO £139,893 and WORKS CONTRACTS UP TO £3,497,313

With the exception of Contracts exempt by virtue of Standing Order 5, this Standing Order applies together with the procedures in Standing Order 6 where it is proposed to award any contract with an estimated value of up to £139,893 (exclusive of VAT) (for supplies or services) or £3,497,313 (exclusive of VAT) (for works) or is otherwise exempt from the provisions of Standing Order 3.

4.1. The Head of Corporate Procurement/Property Services Manager, Strathclyde Police, as appropriate, must:-

4.1.1. assess whether the contract might potentially be of interest to economic operators located in other Member States of the European Union; and

4.1.2. ensure a degree of advertising sufficient to enable competition in accordance with the principles of openness, fairness and non-discrimination.

4.2. For any contract that is deemed to be potentially of interest to economic operators located in other Member States of the European Union, advertisement on the Public Contracts Scotland Portal and in an appropriate newspaper/journal and/or in accordance with Standing Order 3 shall be required in order to comply with this Standing Order.

4.3. For any contract that is not deemed to be potentially of interest to economic operators located in other Member States of the European Union, advertisement on Public Contracts Scotland Portal and/or in an appropriate

newspaper/journal shall be deemed sufficient to comply with this Standing Order.

- 4.4. The tendering procedure set out in Standing Order 3 shall be applied where the contract is potentially of interest to economic operators located in other Member States of the European Union.

5. SUPPLIES/SERVICES/WORKS CONTRACTS EQUAL TO OR BELOW £40,000 IN CASES WHERE TENDERING IS CONSIDERED INAPPROPRIATE

The tendering procedure laid down in Standing Order 4 need not be applied to any contract for supplies, services or works with a total estimated value of £40,000 or less (exclusive of VAT) ("exempt contracts"). All such exempt contracts shall be dealt with as follows:-

- 5.1 The procedural aspects and the administration of exempt contracts shall be dealt with by Head of Corporate Procurement/Property Services Manager, Strathclyde Police, as appropriate. Although this allows for a greater procedural flexibility to be adopted in relation to exempt contracts, it is still necessary for certain basic formalities to be observed. In particular, no tender shall be invited or offer made or accepted unless appropriate financial provisions have been made and approved by the Director of Finance and Resources, Strathclyde Police.
- 5.2 It is recognised that in some cases, particularly contracts of very small value of £5,000 or less (exclusive of Value Added Tax), tender documents will not be appropriate and quotations will be received following contact by letter or even a telephone call. The following shall apply:-
- 5.2.1 The Head of Department/Divisional Commander, as appropriate, shall prepare and retain for audit purposes a written report recording the reason(s) why the tendering procedure was not applied.
- 5.2.2 Where possible, three bids should be obtained by telephone, fax or written quotation. Any oral quotation must be confirmed in writing. All quotations must be retained. The successful quotation shall be accepted by the Head of Department/Divisional Commander as appropriate following evaluation in accordance with the Corporate Procurement Manual.
- 5.3 Whilst it is anticipated that exempt contracts will generally be subject to the standard requirement to seek competition, it is accepted that there may be special circumstances which (a) justify the negotiation of a contract with one contractor or (b) (in the case of an existing exempt contract) justify the negotiation of an extension of that exempt contract. Before entering into such negotiation, in the case of an exempt contract with a value in excess of £5,000, (exclusive of VAT) the approval of the Director of Legal Services and Director of Finance and Resources is required, both in respect of the negotiation and of the contractor with whom the contract is to be negotiated, or both in

respect of the negotiation and of the existing contractor with whom the extension is to be negotiated and in the event of such approval being forthcoming, the procedures specified in Standing Order 5.4 to Standing Order 5.10 shall not apply to that contract or to that extension.

When requesting such approval, written confirmation shall be provided to the Director of Legal Services that (1) there is appropriate financial provision for the proposed contract/extension (2) the proposed contractor has the appropriate technical capacity and financial stability to perform the contract and (3) the contractor is in the opinion of the person requesting approval the most suitable party or the only party capable of carrying out the contract. A copy of the aforesaid written confirmation to the Director of Legal Services and the Director of Legal Services' approval thereof, shall be placed with any contract concluded under this Standing Order 5.3.

Recognising that it would not always be possible to seek prior approval from the Director of Legal Services and Director of Finance and Resources for negotiated/extended contracts, given that Strathclyde Police is a 365 day, 24 hour operational service, if goods or services are urgently needed for operational requirements, a Divisional Commander/a Head of Department shall be empowered to place a contract between £5,000 (exclusive of VAT) and £10,000, (exclusive of VAT) provided they report forthwith to the Director of Legal Services and Director of Finance and Resources of their exercise of this power, explaining the reasons justifying their action. Such retrospective reporting should be exceptional, and must not become the norm.

Where a proposed extension of an exempt contract if proceeded with, would, by virtue of the value involved, mean that the contract would no longer be an exempt contract, the Director of Legal Services will refer the matter to the Clerk and Treasurer to the Board, the Convener's Sub-committee of the Board or the Board, as appropriate, for approval in terms of Standing Order 7.2, 7.3 and 7.4. Similarly, where an extension of an exempt contract would by virtue of the value involved mean that the total contract value would exceed £5,000 (exclusive of VAT) but not exceed £40,000 (exclusive of VAT) the matter will be referred to the Director of Legal Services and Director of Finance and Resources for approval as aforesaid. No acceptance shall be issued until the appropriate approval is received.

5.4 Where the circumstances set out in Standing Order 5.2 and Standing Order 5.3 above do not exist, tendering is appropriate and the tender envelope should clearly show the following:-

- (a) Name and address of tenderer.
- (b) Returning date and time
- (c) Subject matter of tender
- (d) Clear address for tender to be returned to, by tenderer.

- 5.5 Even at this value of expenditure, a contract is required. Either an appropriate works contract utilising one of the Standard Forms of Building Contracts must be used or in the case of supplies/services, where considered appropriate, the Board's Standard Terms and Conditions for the Supply of Goods and Services should form the basis of the contract. In the case of a works contract, the Property Services Manager must determine whether the Standard Forms of Building Contract are sufficient to govern the contract in question. In the case of a supplies/services contract, the Head of Corporate Procurement must determine whether the Board's Standard Terms and Conditions are sufficient to govern the contract in question. In cases of doubt, the Property Services Manager/Head of Corporate Procurement, Strathclyde Police must contact the Director of Legal Services for advice.
- NB - Experience suggests that contracts for leasing of equipment (e.g. photocopiers, vending machines etc including vehicles,) can be onerous. Approval of the Director of Finance and Resources, Strathclyde Police, must be obtained prior to entering to enter into such leasing agreements.
- 5.6 Clear records of the tendering process adopted in relation to exempt contracts detailing:-
- (a) Date of issue of tenders
 - (b) Date and time of receipt including details of tenders received late
 - (c) Tender amount (if ascertainable)
 - (d) Date of acceptance and amount accepted (if ascertainable).
- 5.7 Tenders should be clearly date and time stamped immediately upon receipt and appropriate arrangements should be made for the expeditious transfer, unopened, of tenders from the Mail Room to Corporate Procurement/Property Services, as appropriate. Particular attention should be paid to this procedure during the period immediately prior to and immediately after the closing time for receipt of tenders.
- 5.8 All tenders should be kept unopened in safe keeping until the time for opening. Late tenders should be returned unopened to the tenderers.
- 5.9 Tenders should be opened in the presence of a suitably qualified member of staff from the Corporate Procurement Department/Property Services Department as appropriate nominated by the Head of Corporate Procurement/Property Services Manager as appropriate and one other member of staff from the relevant department, and should be initialled by both. Checks should be made to see that tenders are appropriately signed and valid in all material respects.

Tender record sheets will be completed and signed by staff opening tenders in accordance with the Corporate Procurement Manual.

- 5.10 Contact with tenderers prior to acceptance must only be on points of clarification or to effect necessary validation of the tender received. A tenderer must not be allowed to better its position via clarification/verification. A written record should be kept of all contact and should be retained with the original tender. The acceptance should be signed by the Head of Corporate Procurement/Property Services Manager, Strathclyde Police, as appropriate, or a Procurement Officer authorised in that regard by the Head of Corporate Procurement/Property Services Manager. No tender should be accepted unless appropriate financial provision has been made and authorised by the Director of Finance and Resources, Strathclyde Police.
- 5.11 All tendering procedures should be carried out on a confidential basis and every attempt must be made to ensure that tenders are invited on a genuinely competitive basis from a representative selection of contractors with ability to carry out the particular contract. Those officers involved in the award of contracts should be able to demonstrate that they have acted properly and fairly in the award of contracts. Tendering procedures are subject to periodic examinations by the Director of Finance and Resources and the Chief Internal Auditor, or his authorised representative, who are entitled to access to all documents, records and other information for audit purposes concerning any matter relating to a contract for the execution of works, for the supply of goods or materials or for the provision of services.

6. TENDERING PROCEDURES FOR ALL CONTRACTS FOR SUPPLIES, SERVICES OR WORKS (SUBMISSION, OPENING, EVALUATION, ACCEPTANCE AND REPORTING)

This Standing Order applies in respect of all contracts, irrespective of value, to be procured in accordance with either Standing Orders 3 or 4.

6.1 Submission

6.1.1 Invitation to Tender

6.1.1.1 The invitation to tender included within the Contract Documents shall:-

- state the nature and purpose for which tenders are invited
- state the location, date and time (in all cases 12 noon) for the delivery of tenders

- state that tenders received after the closing date and time specified in the Contract Documents, or at a place other than the location specified, shall not be considered
- specify the period during which tenders must remain open for acceptance
- state that the Board reserves the right to accept other than the lowest tender or to accept no tender at all
- set out the criteria which shall be used in evaluating tenders, either Lowest Priced Tender to specification or Most Economically Advantageous Tender
- where the evaluation criteria are other than the lowest price to specification, these shall be set out in order of importance in the Contract Documents
- include a Tender Offer page with provision for the total tender price to be inserted (where appropriate) or where the Contract Documents detail the manner in which a Notional Tender Value is to be calculated by reference to percentage additions to a pre-published Schedule of Rates, or on the basis of a series of hourly rates, the Tender Offer page will make provision for all necessary insertions required to calculate such Notional Tender Value in accordance with the criteria stipulated in the Instructions to Tenderers and in all cases the offer page or pages will provide for an authorised signatory on behalf of the tenderer and where the tenderer is a company, a requirement that the company registration number be included, and also the company's registered name and trading name (if any), together with a copy of the Company's certificate of incorporation.

- state that no tender shall be received except in a sealed envelope package bearing the words "Tender for" followed by the name and number of the contract to which it relates and the name or other description of the tenderer.

6.1.1.2 Tenders of a value up to £200,000 (exclusive of VAT) (supplies/services/works) must be delivered to a prescribed location within the Corporate Procurement Department or the Property Services Department, as appropriate. Tenders of a value over £200,000 (exclusive of VAT) must be delivered to a prescribed location within the Legal Services Department.

6.1.1.3 All tenders shall remain in the custody of the receiving department to which they have been delivered until they have been opened.

6.1.2 *Late Tenders*

6.1.2.1 No tender shall be considered for acceptance unless it is received at the specified location by the date and time prescribed according to the Contract Documents.

6.1.2.2 Late tenders must remain unopened. The tenderer must be advised as soon as possible that if the late tender is not uplifted within 14 days, it will be destroyed. Where there is any question as to whether or not a tender has been received late, the express approval of the Director of Legal Services, Strathclyde Police, shall be required to admit the tender for consideration.

6.2 **Opening**

6.2.1 *Authorised Officers*

Tenders shall be opened as follows:-

6.2.1.1 In the case of contracts for the provision of supplies, or services or works with an estimated value between £40,000 and £200,000 (exclusive of VAT)

tenders shall be opened by two suitably qualified officers of the Corporate Procurement/Property Services

Departments of Strathclyde Police nominated by the Director of Finance and Resources, Strathclyde Police;

6.2.1.2 In the case of all other contracts, tenders shall be opened by two suitably qualified officers of the Legal Services Department, Strathclyde Police, nominated by the Director of Legal Services, Strathclyde Police.

6.2.2 *Disqualification*

6.2.2.1 *Mandatory Disqualification*

The following tenders must not be considered for acceptance:-

- (1) tenders submitted in whole or in part in
pencil
tenders submitted by fax
tenders submitted by email
tenders submitted to the wrong location (see Standing Order 6.1.2.1 above)
- (2) late tenders (see Standing Order 6.1.2.2 above).

6.2.2.2 *Qualified Tenders*

Any tender that attempts to qualify any terms or conditions in the Contract Documents may be disqualified.

Where a Procurement Officer considers that it would be appropriate to disqualify such a tender he or she shall consult the Director of Legal Services, Strathclyde Police who will decide, in consultation with the Director of Finance and Resources, Strathclyde Police where necessary, whether the tender shall be disqualified.

6.3 **Evaluation**

6.3.1 The Contract Documents shall state whether tenders are to be evaluated on the criteria of either lowest price or Most Economically Advantageous Tender. Tenders shall be evaluated strictly in accordance with the evaluation criteria set

out in the Contract Documents. In relation to works contracts, the Property Services Manager, Strathclyde Police, will, in evaluating tenders, have regard, as appropriate, to the Standard Form Building Contract 1998 Editions, Series 2, Practice Note 6, published by the Joint Contracts Tribunal Limited.

- 6.3.2 If, during the evaluation process, any post-tender communication with tenderers is necessary prior to contract award in order to clarify or supplement any aspect of their tender, such communication shall be conducted in accordance with Standing Order 13.
- 6.3.3 In addition to the above requirements, Post tender evaluation procedures for construction works procured under one of the Standard Forms of Building contract will be carried out in accordance with Practice Notice 6 (Series 2) (or any subsequent amendment or revision) published by the Joint Contracts Tribunal Ltd.
- 6.3.4 In considering if materials, goods or services proposed by a tenderer satisfy the requirements of any technical specification detailed in the Contract Documents in an equivalent manner regard shall be had to the relevant provisions of the Regulations and in the case of a Works contract the procedures stipulated in or referred to in the Contract Documents.

6.4 Acceptance

- 6.4.1 If none of the tenders submitted is to be accepted, the Head of Corporate Procurement, Strathclyde Police/Property Services Manager, Strathclyde Police, as appropriate, shall notify all tenderers accordingly. No tender shall be accepted unless the Head of Corporate Procurement, Strathclyde Police/Property Services Manager, Strathclyde Police, as appropriate, and the Director of Finance and Resources, Strathclyde Police, are satisfied as to the technical capability, professional fitness and financial standing of the successful tenderer.
- 6.4.2 After a tender has been accepted, the Head of Corporate Procurement, Strathclyde Police/Property Services Manager, Strathclyde Police, as appropriate, shall notify unsuccessful tenderers, indicating who was awarded the contract and (where practicable) the estimated cost of that contract.
- 6.4.3 All letters issued under this Standing Order 6.4 shall be issued at the same time and shall comply with the requirements of the Corporate Procurement Manual. The Director of Legal Services, Strathclyde Police, must be consulted in cases where further advice or assistance is required. Where the Regulations apply to the award of any contract, letters shall be issued in accordance with Standing Orders 3.7 and 3.8.

6.4.4 *Letters to Successful Tenderers*

Letters of acceptance for all contracts with a value in excess of £40,000 (exclusive of VAT) shall be issued to the successful tenderer(s) in accordance with the following procedure:-

6.4.4.1 Contracts equal to or in excess of £750,000 (exclusive of VAT):-

The Director of Legal Services, Strathclyde Police, shall issue any letter of acceptance upon instruction from the Board.

6.4.4.2 Contracts with a value of between £200,000 and £750,000 (exclusive of VAT):-

The Director of Legal Services, Strathclyde Police, shall issue any letter of acceptance upon instruction from the Convener's Sub-Committee of the Board.

6.4.4.3 Contracts up to £200,000 (exclusive of VAT):

The Director of Legal Services, Strathclyde Police, shall issue any letter upon instruction from the Head of Corporate Procurement/Property Services Manager, Strathclyde Police, as appropriate.

6.4.5 *Letters to Unsuccessful Tenderers*

For all contracts, the Head of Corporate Procurement, Strathclyde Police/Property Services Manager, Strathclyde Police, as appropriate, shall issue any letter informing unsuccessful tenderers of the Board's decision regarding the award of contract.

6.4.6 *Execution of Contracts*

Every contract shall be signed by a person duly authorised in that regard by the Board under its Scheme of Functions Delegated to Officers.

6.5 **Reporting**

6.5.1 All contracts accepted with an estimated value in excess of £40,000 but less than £750,000 (exclusive of VAT) shall be reported to the Board for noting by the Chief Constable, Strathclyde Police, at every scheduled meeting. The report shall contain the following information:-

- (a) the value of any contract awarded;
- (b) the identity of the tenderer to whom it was awarded;

- (c) the number of tenderers invited to submit a tender;
- (d) the number of tenders submitted;
- (e) the criteria adopted for awarding the contract; and
- (f) such other information (if any) as may be necessary to present a fair and proper summary of the contract awarded, in particular where the contract is to be awarded to any person other than the lowest tenderer, the amount of the lowest tender and the amount of the successful tender and the reason(s) for the selection of the successful tenderer.

6.5.2 *Contract Management System*

- 6.5.2.1 The Head of Corporate Procurement and the Property Services Manager, Strathclyde Police, shall maintain a Contract Management System for the registration and monitoring of all contracts and framework agreements across Strathclyde Police with a value above £40,000.
- 6.5.2.2 The Procurement Officer within Corporate Procurement/Property Services shall ensure that the prescribed information is entered onto the Contract Management System and updated regularly in accordance with the requirements of the Head of Corporate Procurement/Property Services Manager.
- 6.5.2.3 The Procurement Officer shall:-
 - (1) enter the prescribed information regarding the proposed contract at the time when the procurement process for the award of that contract is initiated;
 - (2) use the unique Contract Management System contract reference number in relation to that contract throughout the procurement process for the award of that contract on all notices, publications, documentation and correspondence; and
 - (3) ensure that, as successive stages in the procurement process take place, the prescribed information in the Contract Management System is updated accordingly up to and including contract termination.

7 NEGOTIATED AND EXTENDED CONTRACTS FOR SUPPLIES, SERVICES OR WORKS

7.1 This Standing Order does not apply to any contract subject to UK legislation or to EU rules relating to public procurement.

7.2 If, in the case of any contract for supplies, services or works with an estimated value above £40,000 but no more than £200,000 (other than a contract excluded from this Standing Order by Standing Order 7.1) (exclusive of VAT), the Director of Legal Services considers there to be special circumstances:

- (a) which justify the negotiation of that contract with one contractor; or
- (b) which (in the case of an existing contract) justify the negotiation of an extension to that contract

the Director of Legal Services shall, before entering into negotiations, obtain the approval of the Clerk and Treasurer to the Board both in respect of the negotiation and of the contractor with whom the contract is to be negotiated, or both in respect of the extension and of the existing contractor with whom the extension is to be negotiated, as the case may be, and then Standing Order 6 shall not apply to that contract.

7.3 If, in the case of any contract for supplies, services or works with an estimated value in excess of £200,000 but no greater than £750,000 (exclusive of VAT) (other than a contract excluded from this Standing Order by Standing Order 7.1), the Director of Legal Services considers there to be special circumstances:

- (a) which justify the negotiation of that contract with one contractor; or
- (b) which (in the case of an existing contract) justify the negotiation of an extension to that contract

the Director of Legal Services shall, before entering into negotiations, obtain the approval of the Convener's Sub-Committee of the Board both in respect of the negotiation and of the contractor with whom the tender is to be negotiated, or both in respect of the extension and of the existing contractor with whom the extension is to be negotiated, as the case may be, and then Standing Order 6 shall not apply to that contract.

7.4 If, in the case of any contract for supplies, services or works with an estimated value in excess of £750,000 (exclusive of VAT) (other than a contract excluded from this Standing Order by Standing Order 7.1) the Director of Legal Services considers there to be special circumstances:

- (a) which justify the negotiation of that contract with one contractor; or

- (b) which (in the case of an existing contract) justify the negotiation of an extension to that contract

the Director of Legal Services shall, before entering into negotiations, obtain the approval of the Board both in respect of the negotiation and of the contractor with whom the tender is to be negotiated, or both in respect of the extension and of the existing contractor with whom the extension is to be negotiated, as the case may be, and then Standing Order 6 shall not apply to that contract.

PART II : STANDING ORDERS RELATING TO CONTRACTS : SPECIAL MATTERS

8. CONTRACTS RELATIVE TO THE DISPOSAL OR ACQUISITION OF HERITABLE PROPERTY

The acquisition of heritable property has been taken to include not only the purchase and/or acquisition of heritable property outright by the Board but the obtaining by the Board of any right in heritable property including but not limited to a licence to occupy heritable property or any part thereof, a lease of heritable property, a servitude or wayleave right over, across or through heritable property, a Standard Security over heritable property and a right of common or joint property in heritable property; similarly the disposal of heritable property has been taken to include not only the sale or disposal of heritable property outright but shall also mean the granting by the Board to third parties of rights in heritable property including but not limited to the grant by the Board of a licence to occupy heritable property or any part thereof, the lease of heritable property and any matters supplementary thereto, the grant of a servitude or wayleave right over, across or through heritable property, entering into Ranking Agreements or Deeds of Postponement relative to Standard Securities granted in favour of the Board or its predecessors as police authority and the granting of any deed waiving, altering or amending title conditions, or the registration of any notices, discharges in the appropriate Land Register in respect of the preservation or discharge thereof

When disposing or acquiring heritable property, the Property Services Manager will have regard to the following: -

1. Disposal of non-essential dwellinghouses to serving police officers where Board approval received.

On receipt of Board approval for the sale of dwellinghouses to serving police officers, the Property Services Manager shall have the power to agree terms and conditions for the disposal of such dwellinghouses and thereafter authorise the Director of Legal Services to conclude relevant missives, carry out all conveyancing formalities relative to such a disposal including the preparation of all deeds relative to such a disposal, including, where appropriate, a discount Standard Security by the purchaser in favour of the Board. The Director of Legal Services shall settle any such disposal, execute and deliver all appropriate deeds and documents to the purchaser or his solicitor including any Letter of Obligation and register/record or cause to be registered or recorded any Standard Security granted in favour of the Board.

2. Disposal on the open market of dwellinghouses declared surplus to requirements by the Board

(a) The Property Services Manager where authorised by the Board shall advertise for sale dwellinghouses declared surplus to requirements. The Property Services Manager shall obtain the relevant Home Information Pack (HIP) prior to marketing if required.

- (b) The Property Services Manager shall be entitled to accept offers or reject offers which are unacceptable in financial terms or having regard to the interests of the Board, subject to unfavourable or unduly onerous terms and conditions, for the disposal of any such dwellinghouse.
- (c) Where the Property Services Manager has decided to accept an offer in exercise of the powers granted to him in terms of (b) above he shall authorise the Director of Legal Services to conclude missives and the relevant legal documentation relating to such disposal.

3. Disposal of heritable property (excluding dwellinghouses) up to a value of £50,000 declared surplus to requirements by the Board

When there exists heritable property (whether ground with buildings or unbuilt upon ground) which has been declared surplus to the requirements of the Board and the value of which does not exceed £50,000, the Property Services Manager shall intimate the availability of such heritable property for disposal to the Director/Head of Property Services of the unitary authority in which the property is situated for that authority's information. The Property Services Manager may (1) advertise such heritable property for sale on the open market or (2) having obtained the approval of the Board, consider any offer received from a third party without advertisement, provided he considers that the price included within such an offer reflects or exceeds the open market value of the property and the other terms and conditions of the offer are not unduly onerous and in this connection he should consult with the Director of Legal Services and (3) provisionally agree terms and conditions for the disposal of such heritable property and instruct the Director of Legal Services to conclude the relevant legal documentation relative to such disposal.

4. Disposal of heritable property with a value in excess of £50,000

The approval of the Board must be sought and obtained for the disposal of any heritable property valued in excess of £50,000.

5. Acquisition of heritable property with a value up to and including £50,000

The Property Services Manager, subject to obtaining confirmation from the Director of Finance and Resources of available funding may provisionally agree the terms and conditions for the acquisition by the Board of heritable property (whether land or buildings or both) up to and including a value of £50,000 and instruct the Director of Legal Services to conclude the relevant legal documentation relative to such an acquisition and register or record or cause to be registered or recorded the Board's heritable interest in such a property.

6. Acquisition of heritable property with a value in excess of £50,000

Where there is a requirement for the Board to acquire heritable property the value of which is in excess of £50,000 the approval of the Board must be sought and obtained to any such acquisition.

7. Miscellaneous

Where in the opinion of the Property Services Manager, in consultation with the Director of Legal Services, the disposal of heritable property would benefit financially or otherwise if (1) planning permission (whether outline or full) were obtained or (2) title conditions were waived, discharged or varied to make the title more marketable he may (a) apply for and obtain such planning permission or (b) negotiate in conjunction with the Director of Legal Services the appropriate title document, waiving, discharging or varying title conditions prior to any disposal.

8. Licence Agreements, Ground Leases etc relative to radio/communications transmission equipment etc

(a) Subject to (1) consulting with the Director of Legal Services re title matters and appropriate terms and conditions and (2) obtaining from the Director of Finance and Resources confirmation of (i) available funding if the Board is to be the licensee or tenant in the deeds aftermentioned or (ii) financial approval from the Director of Finance and Resources for the proposed licensee or tenant if the Board is to be the licensor or landlord, the Property Services Manager may enter into Licence Agreements, Ground Leases, related rights of access, site sharing agreements and/or any other agreements of a standard nature for radio/telecommunications equipment etc where the annual consideration does not exceed £30,000 and subject to such terms and conditions as are considered appropriate, including payment of reasonable professional fees and expenses.

(b) Subject to approval from the Director of Legal Services acting in consultation with the Director of Finance and Resources, the Property Services Manager may enter into Licence Agreements, Ground Leases, related rights of access/site sharing agreements and any other agreements of a standard nature for radio/communications transmission equipment etc, whether as licensee/tenant or licensor/landlord where the annual consideration is between £30,000 and £150,000 and subject to such terms and conditions as are considered appropriate, including payment of reasonable professional fees and expenses.

(c) The approval of the Board must be sought and obtained where it is proposed to enter into any Licence Agreement, Ground Lease, related rights of access/site sharing agreements and any other agreements of a standard nature for radio/telecommunication transmission equipment where the annual consideration exceeds £150,000.

9. Leases to or by the Board and Ancillary matters

(a) Subject to consultation with the Director of Legal Services relative to the terms and conditions of Leases and the Director of

Finance and Resources relative to the availability of financial funding in circumstances where the Board will be the tenant under a Lease (whether by direct grant by the Landlord to the Board or by virtue of an Assignment of the tenant's interest in favour of the Board) and the financial acceptability of a proposed tenant or proposed assignee where the Board will be the Landlord under a Lease, the Property Services Manager may conclude missives, on such terms and conditions as are considered appropriate including payment of reasonable professional fees and expenses, for Leases, or for the Assignment of Leases including the granting of Landlord's consent to such Assignment, both to or by the Board for periods not exceeding five years with an annual rental not exceeding £15,000. Alternatively the Property Services Manager may instruct the Director of Legal Services to conclude such missives. Any Lease or Assignment following upon such missives may be subscribed on behalf of the Board by the Director of Legal Services or the Property Services Manager.

- (b) Where a Lease by or to the Board, an Assignment of Lease to the Board or the granting of Landlord's consent to an Assignment of Lease, by the Board, with a lease period in excess of five years and/or with an annual rental in excess of £15,000 is proposed, the approval of the Board must be sought and obtained before any Lease or Assignment may be entered into or any such consent granted.
- (c) Subject to (i) consultation with the Director of Legal Services relative to terms and conditions including where appropriate the payment of reasonable professional fees and expenses and (ii) where the Board is the tenant or is to become the sub-tenant, confirmation from the Director of Finance and Resources of the availability of funding, the Property Services Manager may approve the terms and conditions of rent reviews, renewals of lease and sub-leases where the revised rent, the new rent or the sub-rent does not exceed £15,000 per annum. The Property Services Manager may instruct the Director of Legal Services to conclude legal documentation relative to any such rent reviews, renewals of leases or sub-leases.
- (d) Where a rent review, lease renewal or sub-lease with a revised rent, new rent or sub-rent in excess of £15,000 per annum is proposed the approval of the Board must be sought and obtained before any rent review, lease renewal or sub-lease is entered into.
- (e) Acting in consultation with the Director of Legal Services and the Director of Finance and Resources and subject to such reasonable terms and conditions, including payment of an administration fee, as considered appropriate, the Property Services Manager may agree terms for the termination of Leases. Where the interest of the Board in any such Lease is that of a landlord, the Property Services Manager, acting in consultation as aforesaid, may determine any premium to be paid by a tenant in consideration of the Board accepting a

Renunciation. Where the interest of the Board in the Lease is that of a tenant, acting in consultation as aforesaid, the Property Services Manager may negotiate payment of a premium, up to a maximum sum of £15,000 by the Board in consideration of the Board being allowed to renounce the Lease. Where the premium sought by the landlord from the Board for accepting a Renunciation exceeds £15,000 the approval of the Board must be sought and obtained. Once agreement has been reached on the terms for termination of a Lease and if necessary Board approval obtained, the Property Services Manager shall instruct the Director of Legal Services to conclude the relevant legal documentation.

- (f) Without prejudice to the provisions of the foregoing subparagraphs and, subject as hereinaftermentioned, the Property Services Manager, in consultation with the Director of Legal Services and, if appropriate, the Director of Finance and Resources may enter into negotiations and, subject to the requirement in certain circumstances as hereinaftermentioned to obtain Board approval, conclude an agreement to amend or vary the terms and conditions of Leases. Where the proposed amendments or variations would (i) in circumstances where the Board is the Landlord under a Lease, result in (a) an increase in annual rent to a sum exceeding £15,000 or (b) a decrease in the annual rent or (ii) in circumstances where the Board is a tenant under a Lease, result in an increase in annual rent to a sum exceeding £15,000, no final agreement on the terms of such amendment or variation shall be made without the Board's approval.

10. Wayleaves, servitudes and Leases to statutory bodies.

The Property Services Manager may grant any wayleave agreement, servitude and lease to any statutory body which requires rights for particular statutory purposes over land held by or vested in the Board, subject to such terms and conditions, including payment of an administration fee as considered appropriate. Alternatively the Property Services Manager may instruct the Director of Legal Services to conclude such wayleaves, servitudes and leases on behalf of SJPB.

11. Miscellaneous

- (a) Approvals for remortgage etc

The Board is heritable creditor in Standard Securities granted in its favour or in favour of its predecessors. In some instances the Standard Security will rank postponed to a Standard Security granted by the debtor in favour of a bank or other lending institution. From time to time a debtor may request the consent of the Board to (i) a remortgage and a postponement of the Board's security to the new mortgage or (b) a postponement of the Board's Standard Security to a further advance. The Property Services Manager, acting in consultation with the Director of Legal Services and the Director of Finance and Resources, and, subject to such reasonable terms and conditions, including payment of an administration fee, as they think fit

may approve applications for consent to a remortgage or postponement of the Board's Standard Security to a further advance, and instruct the Director of Legal Services to conclude any relevant legal documentation.

- (b) Insofar as the Board has interests in property as proprietor of a dominant tenement, and is from time to time requested to grant a Minute of Waiver or a proprietor's discharge of a notice in the appropriate Land Register, in respect of title conditions, the Property Services Manager, acting in consultation with the Director of Legal Services and the Director of Finance and Resources, and subject to the such reasonable terms and conditions, including payment of a consideration or an administration fee, as they think fit, may grant the appropriate proprietor's consent and/or agree the terms of any Minute of Waiver or discharge and, if appropriate, instruct the Director of Legal Services to conclude the relevant legal documentation.
- (c) The Property Services Manager, acting in consultation with the Director of Legal Services and Director of Finance and Resources, and subject to such reasonable terms and conditions including payment of an administration fee, as they think fit may resolve, by agreement, disputes in relation to the Local Authorities (Property Transfer) (Scotland) Order 1995, as amended and instruct the Director of Legal Services to conclude any relevant legal documentation.

9. MISCELLANEOUS

9.1 Standards

9.1.1 Where there is a recognised European or International standard applicable to any contract current at the date of tender, the Contract Documents shall require that the works, goods, or services to be supplied shall at least meet the requirements of that standard.

9.1.2 In the absence of any such European or International standard, the contract documents shall require that an appropriate equivalent standard be used. In presenting evidence of equivalence tenderers shall be required to provide a certified translation into English of the standard being used.

9.2 Prevention of Collusion, Corruption or Illegal Practices

9.2.1 Every contract shall include a clause entitling the Board to:-

- 9.2.1.1 terminate the contract if the supplier or its representative (whether with or without the supplier's knowledge) shall have:-
 - (1) practised collusion in tendering for the contract or any other contract with the Board; or
 - (2) employed any corrupt or illegal practices in obtaining or performing the contract or any other contract with the Board; and

- 9.2.1.2 recover from the supplier the amount of any loss resulting from such termination

9.3 Equal Opportunity and Race Equality

9.3.1 Before entering into any contract, the Procurement Officer shall obtain from the supplier an assurance in writing that, to the best of its knowledge and belief, the supplier:-

- 9.3.1.1. has complied with all statutory requirements relating to equal opportunity in employment; and

- 9.3.1.2 is not unlawfully discriminating within the meaning and scope of the Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000 (or any statutory modification or re-enactment) relating to discrimination in employment.

9.4 Disability Discrimination

9.4.1 Before entering into any contract, the Procurement Officer shall obtain from the supplier an assurance in writing that to the best of its knowledge and belief, the supplier:-

- 9.4.1.1 has complied with all statutory requirements under the Disability Discrimination Act 2005 (amending the Disability Discrimination Act 1995) or any statutory modification or re-enactment thereof; and

- 9.4.1.2 is not unlawfully discriminating within the meaning and scope of the Disability Discrimination Act 2005 or any statutory modification or re-enactment thereof.

9.5 Health and Safety

9.5.1 Before entering into any contract, the Procurement Officer shall obtain from the supplier an assurance in writing that to the best of its knowledge and belief, the supplier:-

- 9.5.1.1 has complied with all statutory requirements under the Health and Safety at Work etc Act 1974 or any statutory modification or re-enactment thereof and all other relevant statutory provisions and recognised codes of practice.

- 9.5.1.2 will ensure compliance with appropriate Health and Safety legislation and other statutory requirements and relevant codes applicable where work is undertaken/services provided.

9.6 Equality and Human Rights

9.6.1 Before entering into any contract, the Procurement Officer shall obtain from the supplier an assurance in writing that to the best of its knowledge and belief it has complied with all requirements under the Equality and Human Rights legislation.

9.7 Freedom of Information

9.7.1 The contract documents shall give notice to tenderers of the Freedom of Information (Scotland) Act 2002 (or, if applicable, the Environmental Information (Scotland) Regulations 2004). The Act and Regulations give a statutory right of access to all information held by the Board except where an exemption or exception can be applied.

9.7.2 Tenderers who seek to incorporate provisions within any contract that all or some information is provided by them in confidence will not necessarily be entitled to rely on such provisions.

9.7.3 The Procurement Officer shall ensure that the standard Freedom of Information clause drafted by the Director of Legal Services, Strathclyde Police, is incorporated in the contract documents.

9.8 Assignment, Novation and Sub-letting

9.8.1 Except where otherwise agreed between the Director of Legal Services and the Clerk to the Board, every contract entered into by the Board shall include a clause prohibiting the supplier from assigning, novating or sub-letting the contract without the prior written consent of the Board.

9.9 Scots Law

9.9.1 Except where otherwise agreed between the Clerk to the Board and the Director of Legal Services, every contract entered into by the Board shall be in writing and shall be subject to Scots Law and the exclusive jurisdiction of the Scottish Courts.

10. DISPOSAL OF SURPLUS MATERIALS

10.1 The care, custody and level of stores and equipment in any service Division/Department is the responsibility of the Divisional Commander/Head of Department. He or she shall ensure that all obsolete or excess stock or scrap materials are identified and disposed of by competitive tender or public auction or through the auspices of the Disposal Services Agency following consultation with the Head of Corporate Procurement unless beforehand the Director of

Legal Services and the Director of Finance and Resources approve otherwise in a particular case.

10.1.1 *Disposal*

Where, in the opinion of the Divisional Commander/Head of Department, stock is surplus or scrap and has been valued, he or she through the Head of Corporate Procurement, shall offer the surplus material to other divisions or departments within Strathclyde Police. Only where no other department wishes the surplus material shall it be offered to third parties on the following basis:-

10.1.1.1 For value:-

where it is proposed to dispose of surplus or scrap material for value to a third party, such disposal shall take place by way of competitive tender in accordance with Standing Order 10.1.2 below or through the auspices of the Disposal Services Agency.

10.1.1.2 Donations:-

where it is proposed that surplus scrap material be donated or provided at less than the market value to a charity or voluntary organisation, the following shall apply:-

- (a) where the value for the goods or items to be donated is £40,000 or less (exclusive of VAT), the Director of Legal Services will be instructed by the Head of Corporate Procurement to draw up any appropriate legal documentation, including disclaimers or indemnity provisions for the donation of the goods or items;
- (b) when the value of the goods or items to be donated is in excess of £40,000 (exclusive of VAT), the Director of Legal Services shall draw up the appropriate legal documentation as before to allow the donation to proceed, provided always the Director of Legal Services has obtained approval from the Clerk and Treasurer to the Board to the preferred donation. No documentation shall be made without their approval.

10.1.2 *Tenders*

The Head of Corporate Procurement, Strathclyde Police shall, where he or she considers that tenders are appropriate, ensure that:-

- 10.1.2.1 details of what has to be disposed are specified and advertised as required;
- 10.1.2.2 arrangements are made for viewing if appropriate;
- 10.1.2.3 arrangements for receipt, custody and opening of tenders comply with these Standing Orders; and
- 10.1.2.4 the tenderer offering the best price shall be accepted. Where, in exceptional cases, the successful tenderer is not the one offering the best price, the Head of Corporate Procurement, Strathclyde Police shall prepare and retain a written record of the reason(s) why it was selected.

10.1.3 *Quotations*

Where the Head of Corporate Procurement, Strathclyde Police considers the surplus to be a small quantity of materials of low value, he or she may dispose of it on a casual basis. At least three interested parties shall be invited to submit written quotations, where possible. The Head of Corporate Procurement, Strathclyde Police, shall retain a written record of the type and amount of materials disposed of and the successful tender offer.

10.1.4 *Disposal Services Agency*

Where the Head of Corporate Procurement, Strathclyde Police, considers it appropriate, he shall have the option to utilise the managed disposal service provided by the Disposal Services Agency for any disposal of scrap, surplus or obsolete materials.

11. PURCHASE/ACQUISITION OF SECOND HAND GOODS OR MATERIALS

11.1 Purchase

Where it is considered that the interests of Strathclyde Police, in terms of value for money and quality, can best be served by the purchase of second hand goods or materials, a written report detailing reasons for such a purchase and if appropriate and available any comparative prices for similar new goods shall be prepared and submitted to the Director of Legal Services, Strathclyde Police. Such report must also

confirm the availability of funding from the Director of Finance and Resources for the proposed purchase. The Director of Legal Services, after consultation with the Head of Corporate Procurement and the Director of Finance and Resources may: - (i) in the case of a proposed purchase where the value is equal to or less than £40,000 (exclusive of VAT) instruct that the purchase may proceed subject to any terms and conditions of contract which the Director of Legal Services considers appropriate including any of Board's standard terms and conditions of contract; (ii) where the estimated value of the proposed purchase exceeds £40,000 (exclusive of VAT) the Director of Legal Services must report the proposed purchase to the Clerk and Treasurer to the Board for approval and no contract shall be entered into without their approval.

11.2 Donation

Where a donation of goods or materials is to be made to the Board/Force regard shall be had to Strathclyde Police's Sponsorship Policy and Strathclyde Police's Sponsorship Standard Operating Procedures, and the ACPOS Code of Ethical Standards.

Where the donor is seeking to impose conditions upon the Board relative to such a donation, the advice of the Director of Legal Services, Strathclyde Police, must be sought as regards such conditions. Further, the advice of the Director of Finance and Resources, Strathclyde Police should be sought relative to any insurance implications in respect of the proposed donation.

A conditional donation should not be accepted, except with the approval of the Director of Legal Services and the Director of Finance and Resources, Strathclyde Police.

- 11.3 In the case of both the purchase/acquisition of second hand goods or materials, and the donation of goods or materials, regard must be had to whether the goods or materials will be/require to be suitable/compatible with any other systems/equipment used by Strathclyde Police. In relation to any IT Systems or equipment the Force's ICT Business Relationship Manager must be consulted and approve the donation prior to acceptance.

12. PAYMENT BY INSTALMENTS

In any contract for the supply of goods and materials where the purchase price is to be paid by the Board to any contractor in instalments prior to completion of the contract, the following shall apply:-

12.1 *Contracts with a value of £40,000 (exclusive of VAT) or below*

12.1.1 The Head of Corporate Procurement/Property Services Manager, Strathclyde Police, as appropriate, must be satisfied that payment by instalment is the only available option if the contract is to proceed.

- 12.1.2 The proposed instalments shall reflect the progress of the contract and the approximate value of goods or materials supplied.
 - 12.1.3 If a proposal requires payment for goods or materials which are to be retained in the possession of the contractor (e.g. until further work has been completed) then a document vesting ownership in the Board must be obtained prior to the payment of the first instalment.
 - 12.1.4 The Head of Corporate Procurement/Property Services Manager, Strathclyde Police, shall ensure that any such goods or materials are insured while retained on the contractor's premises.
 - 12.1.5 If any instalment is released following a site or factory visit to inspect work in progress or equipment, a written report of the visit shall be prepared and retained within the contract records.
 - 12.1.6 In cases where there is doubt about the propriety of making instalment payments, advice must be sought from the Director of Legal Services, Strathclyde Police and the Director of Finance and Resources, Strathclyde Police.
- 12.2 *Contracts with a value in excess of £40,000 (exclusive of VAT) but equal to or below £200,000 (exclusive of VAT).*
- 12.2.1 The requirements contained in Standing Orders 12.1.1 to 12.1.6 above also apply in the case of these contracts.
 - 12.2.2 The Head of Corporate Procurement/Property Services Manager, Strathclyde Police shall obtain the prior written approval of the Director of Legal Services, Strathclyde Police and the Director of Finance and Resources, Strathclyde Police when entering into any agreement to make payment by instalments.
- 12.3 *Contracts with a value in excess of £200,000 (exclusive of VAT)*
- 12.3.1 The requirements contained in Standing Orders 12.1.1 to 12.1.6 also apply in relation to these contracts.
 - 12.3.2 The approval of the Convener's Sub-Committee in relation to contracts with a value in excess of £200,000 but equal to or below £750,000 (exclusive of VAT) or the Board in relation to contracts with a value in excess of £750,000 (exclusive of VAT) is required prior to entering into any agreement to make payment by instalments.
- 12.4 In any contract for Works entered into under one of the Standard Forms of Building Contracts, any interim payments made to the Contractor prior to completion of the Works will be made in accordance with the relevant Contract conditions relating to interim payments.

13. POST TENDER COMMUNICATIONS

- 13.1 The Head of Corporate Procurement/Property Services Manager may instruct Procurement Officers to contact any tenderer in respect of any matter necessary to clarify or supplement their tender in accordance with these Standing Orders and, where applicable, the Regulations and any related EU Commission, UK government, or Scottish Executive guidance.
- 13.2 In order to ensure that there is no distortion of competition, post tender communications undertaken prior to contract award shall be carried out in a restricted and carefully handled manner. Any amendment to tenders or contract documents made as a result of such communications must not go beyond clarifying or supplementing a tenderer's offer. It is essential to consider, prior to commencing communications whether the amendments that may be achieved are such that a tenderer excluded from the process (whether on the list of tenderers or not) could allege that they had been unfairly treated and/or could have submitted a better offer.
- 13.3 In particular, all Procurement Officers shall ensure that all discussions on fundamental aspects of contracts, variations on which are likely to distort competition, and in particular on prices, shall be ruled out.
- 13.4 In conducting post tender communications prior to contract award, Procurement Officers shall comply with the following additional rules:-
- 13.4.1 all tenderers must be treated equally and in an open and fair manner;
- 13.4.2 tenderers must not be permitted to amend their bids in a manner that allows them to improve their offer;
- 13.4.3 post tender communications must not be carried out in such a manner as to leave the Board open to charges of acting anti-competitively;
- 13.4.4 where any factor giving rise to post tender communications is not specific to one tenderer, all tenderers must be invited to participate in such communications;
- 13.4.5 there must be no material change to the specification(s) and/or criteria on which tenders are to be assessed; For the avoidance of doubt nothing in this Standing Order 13.4.5 prohibits consideration being given, as required, to any alternative product or materials proposed by a tenderer which are equivalent to the product or materials specified in the Contract Documents.
- 13.4.6 if it becomes apparent that a material change is required and such change if effected would alter the nature of the goods, services or works to be procured or result in a claim that the Board's requirement had not been properly exposed to a competitive tendering process then the tendering process must

be recommenced with a revised specification or evaluation criteria;

13.4.7 the Procurement Officer must keep written records of all meetings with contractors and these must include the following details:-

- who was present from the Board (always more than one officer) and from the tenderer;
- the date, time and location of any meeting; and
- the nature of the discussion and the outcome (it would be advantageous if both parties can confirm agreement of the accuracy of this record);

13.4.8 if in doubt at any stage in the process, the Procurement Officer must seek advice from the Head of Corporate Procurement/Property Services Manager, Strathclyde Police, and the Director of Legal Services, Strathclyde Police, as appropriate.

14. FINANCIAL AND TECHNICAL CLEARANCES PRE-CONTRACT AWARD

Financial Checks

Unless the Director of Finance and Resources otherwise directs in a specific case, generally it shall not be necessary to review the financial standing of contractors where the estimated value of the contract is less than or equal to £40,000 (exclusive of VAT). Above £40,000 (exclusive of VAT), the Director of Finance and Resources (subject to the Regulations or any other relevant applicable law) will decide what financial checks must be made in relation to a potential contractor, its parent company or any other entity upon whose resources a potential contractor may rely for the purposes of contract performance when determining the financial standing of the potential contractor, and where necessary ensure such checks are carried out by suitably qualified personnel. Such checks may include inter alia examination of a potential contractor's trading accounts, statements of overall turnover and bank references. The Director of Finance and Resources may also use the offices of credit and financial status agencies in connection with any checks on the financial standing of potential contractors, and he may instruct Searches at public registers for this purpose too.

Technical Clearances

The Head of Corporate Procurement/Property Services Manager, Strathclyde Police, will ensure that all information provided by the proposed contractor regarding that contractor's ability and technical capacity has been examined and found to be satisfactory. If appropriate, the Head of Corporate Procurement/Property Services Manager, Strathclyde Police, will proceed to take up any reference which (a) he considers to be appropriate or (b) the Director of Legal Services or Director of Finance and Resources have requested him to take up prior to the award of a contract.

