



# Part 3D

## Contract Standing Orders

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# Contents

Introduction and Purpose .....	1
Primary Objectives .....	1
Definitions and Interpretation .....	2
General Principles .....	2
Scope of Contract Standing Orders .....	3
Exemptions and Exceptions .....	3
Officer Responsibilities .....	3
Delegated Authority .....	4
Review and Amendment of Contract Standing Orders .....	4
Procedure by Value of Requirement .....	4
General Principles .....	4
Low Value Transactions .....	5
Call Off from Existing Approved Contracts .....	5
Intermediate Value Transactions .....	5
Transactions with a value above Threshold 3 .....	5
Common Tendering Principles .....	<b>Error! Bookmark not defined.</b>
Joint Procurement .....	6
Framework Agreements .....	6
Advertising .....	6
Pre-Qualification .....	6
Pre-Tender Market Research and Consultation .....	6
The Invitation to Tender .....	6
Receipt of Tenders .....	6
Tender Opening .....	6
Errors in Tenders .....	6
Tender Evaluation .....	7
Post Tender Clarification .....	7
Award of Contracts .....	7
Notification to Unsuccessful Tenderers .....	7
Procurement by Consultants .....	7
Statistical Returns .....	7
Termination of Contract .....	7
Contract and Other Formalities .....	7

Contract Documents .....	7
Contract Formalities .....	8
Letters of Intent .....	8
Signature.....	8
Sealing .....	8
Bonds and Parent Company Guarantees .....	9
Prevention of Corruption .....	9
Declaration of Interests .....	9
Contract Management.....	10
Managing Contracts.....	10

Appendix A	Glossary of Terms
Appendix B	General Exceptions from Contract Standing Orders
Appendix C	Financial Thresholds
Appendix D	South West Procurement Regulations

## Part 3D Contract Standing Orders

- Part 3A – Schedule of Roles and Responsibilities
- Part 3B – Scheme of Delegation and Consent
- Part 3C – Financial Regulations
- **Part 3D – Contract Standing Orders**
- Part 3E – Meeting Governance

### Introduction and Purpose

- 3D.1 The procurement function for the Police and Crime Commissioner (Commissioner) for Devon and Cornwall and the Chief Constable for Devon and Cornwall Police is carried out by the South West Police Procurement Service (SWPPS) which was established to provide a procurement service to the police services of Devon and Cornwall, Avon and Somerset, Dorset, Gloucestershire and Wiltshire.
- 3D.2 The procurement regulations for the SWPPS are attached as Appendix D to these Contract Standing Orders and will form the basis of the procurement regulations for Devon and Cornwall.

### Primary Objectives

- 3D.3 These contract standing orders govern the procedures for tenders and contracts and the relative responsibilities of the Commissioner and Chief Constable. These contract standing orders shall apply to all contracts entered into by or on behalf of the Commissioner or Chief Constable with any other person or body.
- 3D.4 The orders have four primary objectives:
- a. To ensure the Commissioner and Chief Constable deliver value for money.
  - b. To ensure the Commissioner and Chief Constable comply with legislation.
  - c. To establish procurement procedures which, when followed, should protect the Commissioner and Chief Constable from any allegation of acting unfairly or unlawfully which may be made in connection with any procurement undertaken.
  - d. To ensure that any risks associated with entering into a contract are assessed as part of the procurement process.

3D.5 These contract standing orders form part of the overall Code of Corporate Governance.

## Definitions and Interpretation

3D.6 In this contract standing orders:

- a. **“Commissioner”** shall mean the Police and Crime Commissioner for Devon and Cornwall.
- b. **“Treasurer”** is the person duly appointed by the Commissioner with overall responsibility for the administration of financial affairs. The Treasurer shall include such persons as the Treasurer specifically authorises for the purposes of these contract standing orders.
- c. **“Chief Executive”** is the person duly appointed by the Commissioner with responsibility for the general administration of the Office of the Police and Crime Commissioner (OPCC). The Chief Executive shall include such persons as the Chief Executive specifically authorises for the purposes of these contract standing orders.
- d. **“Chief Constable”** is the person duly appointed by the Commissioner and shall include such officers of the Police Force as the Chief Constable specifically authorises for the purposes of these contract standing orders.
- e. **“Officers”** shall mean all persons appointed by the Police Force and Commissioner and covers both civilian and uniformed personnel.

3D.7 Additional definitions are available in the glossary of terms in Appendix A.

## General Principles

3D.8 These contract standing orders and all contracts entered into by the Commissioner and Chief Constable are subject to the principles outlined in legislation. The Commissioner and Chief Constable must comply with these principles throughout the procurement process. These principles are as follows:

- a. Contracting authorities shall treat economic operators equally and without discrimination and shall act in a transparent and proportionate manner.
- b. The design of the procurement shall not be made with the intention of excluding it from the scope of this part or of artificially narrowing competition.
- c. For that purpose, competition shall be considered to be artificially narrowed where the design of the procurement is made with the

intention of unduly favouring or disadvantaging certain economic operators.

3D.9 Before any contract is made, there must be:

- a. The proper authority of the Commissioner and Chief Constable in accordance with the processes set out in the Financial Regulations or scheme of delegation.
- b. Adequate budgetary provision for the purpose.

## Scope of Contract Standing Orders

3D.10 These orders apply to all procurement by the Commissioner and Chief Constable unless any such procurement is expressly excepted under these orders, or subject to an exemption (Appendix B).

3D.11 If there is any change to legislation, which affects these orders, then that change must be observed until these orders can be revised. If these orders conflict in any way with current legislation then that legislation takes precedence.

## Exemptions and Exceptions

3D.12 Unless a Contract falls within the list of general exceptions set out in Appendix B it can only be exempted from these orders by an application for an exemption so long as this will not lead to a breach of legislation.

3D.13 Exemption from these contract standing orders in respect of Chief Constable's contracts shall only be accepted on the written authority of the Chief Constable with consultation with the CFO in the interests of the Force.

3D.14 Exemption from these contract standing orders in respect of Commissioner's contracts shall only be accepted on the written authority of the Commissioner with consultation with the Chief Executive in the interests of the OPCC.

3D.15 The Chief Executive of the OPCC shall maintain a register of all authorisations, including those of the Chief Constable, for exemption from these standing orders.

## Officer Responsibilities

3D.16 All officers who have the authority to purchase must ensure compliance with these contract standing orders, the Financial Regulations and all relevant Legislation in force in England at that time.

- 3D.17 An officer responsible for managing any contract must comply with the Code of Conduct and Strategy for the Prevention and Detection of Fraud and Corruption and must not invite or accept any gift or reward in respect of the award or performance of any contract.<sup>1</sup>
- 3D.18 The officer must have regard for any current guidance provided by the SWPPS and the principles outlined in the National Police Procurement Strategy.
- 3D.19 The officer must establish if an Approved Contract or Framework Agreement exists before seeking to let another contract. This Approved Contract or Framework Agreement must be used unless there is an overriding reason not to. Where a non-approved contract is requested, this must be approved by SWPPS.
- 3D.20 The officer must ensure that any agent, including consultants, acting on their behalf also complies with these contract standing orders.
- 3D.21 The officer must ensure that if any employee or new contractor arrangement is affected by any transfer arrangement, such as Transfer of Undertaking Protection of Employment (TUPE) that advice is obtained from legal services and HR before proceeding.

### **Delegated Authority**

- 3D.22 Any procurement carried out on behalf of the Commissioner or Chief Constable may only be undertaken by officers with the appropriate delegated authority to carry out such tasks.

### **Review and Amendment of Contract Standing Orders**

- 3D.23 Subject to paragraph 3D.25 below any amendments to these contract standing orders are to be drawn up by the Treasurer and CFO and overseen by Resources Board.
- 3D.24 The financial thresholds (in the contract standing orders) may be amended from time to time by the Treasurer and CFO reflecting changes in national price indices, statutory provisions or guidance from other bodies (e.g. Audit Commission, HMI etc). Any such change will be approved by the Resources Board.

### **Procedure by Value of Requirement**

### **General Principles**

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<sup>1</sup> See paragraphs 3D.69 to 3D.71 of these contract standing orders for further details

- 3D.25 Obtaining value for money is one of the primary objectives of these Regulations. The complexity of the procurement procedures that must be followed will vary depending on the value and risk of the relevant procurement.
- 3D.26 The anticipated total value of a procurement must be estimated before the relevant procurement route is determined.
- 3D.27 The value of a procurement must be calculated in Pounds Sterling exclusive of Value Added Tax.
- 3D.28 Contracts must not be artificially under or overestimated or divided into two or more specific procurements to avoid the application of the legislation.

### **Very Low and Low Value Transactions**

- 3D.29 Defined as transactions valued at or below the 2<sup>nd</sup> threshold<sup>2</sup> for goods, services or works (shown in Appendix C) that cannot be obtained via an existing Approved Contract.
- 3D.30 Whilst obtaining value for money remains the primary objective multiple quotations need not be obtained for threshold one provided compliance with this objective can be demonstrated.
- 3D.31 In the case of Works Contracts and Consultancy Contracts the use of pre agreed hourly/day rates is acceptable.

### **Call Off from Existing Approved Contracts**

- 3D.32 Where the requirement can be satisfied from an existing Approved Contract then the order can be placed under that Approved Contract.

### **Intermediate Value Transactions**

- 3D.33 Defined as transactions for goods, services or works valued over the first threshold but below the second threshold as defined in Appendix C.
- 3D.34 A risk based procurement options analysis will be undertaken to determine the most appropriate procurement route.

### **Transactions with a value above Threshold 4**

- 3D.35 All purchases above threshold 4 will be procured in line with the SWPPS procurement regulations.

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<sup>2</sup> The threshold levels are outlined in Appendix C and subject to review from time to time by Treasurers in accordance with paragraph 3D.24



## **Common Tendering Principles**

### **Joint Procurement**

3D.36 The Commissioner and Chief Constable have a statutory responsibility to work collaboratively with other police areas.

3D.37 Wherever possible the Commissioner and Chief Constable will purchase goods, services and/or works through collaborative arrangements where such cooperation is appropriate to do so.

### **Framework Agreements**

3D.38 In line with the SWPPS procurement regulations.

### **Advertising**

3D.39 In line with the SWPPS procurement regulations.

### **Pre-Qualification**

3D.40 In line with the SWPPS procurement regulations.

### **Pre-Tender Market Research and Consultation**

3D.41 In line with the SWPPS procurement regulations.

### **The Invitation to Tender**

3D.42 In line with the SWPPS procurement regulations.

### **Receipt of Tenders**

3D.43 In line with the SWPPS procurement regulations.

### **Tender Opening**

3D.44 In line with the SWPPS procurement regulations.

### **Errors in Tenders**

3D.45 In line with the SWPPS procurement regulations.

## **Tender Evaluation**

3D.46 In line with the SWPPS procurement regulations.

## **Post Tender Clarification**

3D.47 In line with the SWPPS procurement regulations.

## **Award of Contracts**

3D.48 In line with the SWPPS procurement regulations.

## **Notification to Unsuccessful Tenderers**

3D.49 In line with the SWPPS procurement regulations.

## **Procurement by Consultants**

3D.50 No consultant shall make any decision on whether to award a contract or whom a contract should be awarded to unless specifically empowered to do so in writing by the Chief Executive or Chief Constable.

3D.51 The Authorised Officer shall ensure that the consultant's performance is monitored.

## **Statistical Returns**

3D.52 SWPPS is required, no later than 31 July in each year, there will be compliance to publish contracts for purchasing returns for the assumption of openness.

## **Termination of Contract**

3D.53 Termination of any contract may be carried out by the SWPPS in accordance with the terms of that contract and agreement of the Commissioner's contracts and Chief Constable's contracts. However, advice must be sought from the force legal department prior to termination.

## **Contract and Other Formalities**

### **Contract Documents**

3D.54 All contracts must be in writing in a form approved by the Treasurer and CFO.

3D.55 Where the contract is for a Low or Intermediate Value, the use of an electronic or manual Purchase Order is an acceptable form of contract, which must make reference to the quotation and terms agreed.

3D.56 Contract documents must be retained for a minimum period of six years from the contract end date and, if under seal (see 4.5), for a period of twelve years.

### **Contract Formalities**

3D.57 Contracts must be completed with the appropriate documentation and authorisation in accordance with the table in Appendix C.

3D.58 All contracts for the supply of goods and services must be completed and/or officially awarded before the supply begins, except in exceptional circumstances, and then only with the written consent of the Treasurer for the Commissioner's contracts and the Chief Constable for the Chief Constable's contracts.

### **Letters of Intent**

3D.59 In exceptional circumstances and with the prior approval of the Treasurer for the Commissioner's contracts and the Chief Constable for the Chief Constable's contracts a letter of intent can be issued to allow work to commence in advance of contract completion.

3D.60 In the case of Works Contracts a tender acceptance letter in a form approved by the Treasurer for the Commissioner's contracts and the Chief Constable for the Chief Constable's contracts is acceptable in order to allow work to commence, although the issue of a formal contract must follow without delay.

### **Signature**

3D.61 The authorised officer responsible for signing the contract must have been granted the appropriate authority, as per Appendix C, and ensure that the person signing for the other contracting party has authority to bind it.

### **Sealing**

3D.62 The Chief Executive or Treasurer shall determine whether a contract has to be executed under seal. Examples of where a contract may be sealed include:

- a. the Commissioner wishes to enforce the contract for more than six years after its end (e.g. for land or construction works); or
- b. the price paid or received under the contract is a nominal price and does not reflect the value of the goods or services; or

- c. a bond is established on behalf of the contractor(s) or their guarantors;  
or
- d. it is required by parties to the agreement; or
- e. the total value exceeds £1,000,000.

3D.63 Where contracts are completed by each side adding their common seal, the affixing must be attested by or on behalf of the Commissioner.

3D.64 The Chief Executive shall be responsible for ensuring that arrangements are made for the Common Seal of the Authority to be kept in safe custody.

### **Bonds and Parent Company Guarantees**

3D.65 A Parent Company Guarantee or Performance Bond may be required at the discretion of the Chief Executive in consultation with the Treasurer.

3D.66 The Commissioner and Chief Constable must never give a bond.

### **Prevention of Corruption**

3D.67 All officers must comply with the Police Force Code of Conduct and the Joint Anti-Fraud and Corruption Strategy and must not invite or accept any gift or reward in respect of the award or performance of any contract under the Local Government Act 1972.

3D.68 All contracts must contain an appropriate clause that provides protection and the right to terminate the contract in the event of a supplier offering any inducement, committing fraud or committing an offence under the Prevention of Corruption Acts or shall have given any fee or reward the receipt of which is an offence under sub-section (2) of section 117 of the Local Government Act 1972.

### **Declaration of Interests**

3D.69 If it comes to the knowledge of a member or an officer of the Commissioner or Chief Constable that a contract, in which he or she has a pecuniary interest, has been or is proposed to be entered into by the Commissioner, he or she shall immediately give written notice to the Chief Executive and record it on the register of interests which shall be available during office hours for inspection.

3D.70 Officers should refer to Sections 94 to 98 and Section 117 of the Local Government Act 1972 for further clarification of the rules.

## Contract Management

### Managing Contracts

3D.71 Contract management is the process that enables both parties to the contract to meet their obligations in order to deliver the outputs required from the contract. It involves building a good working relationship between the parties. It continues throughout the life of the contract and involves managing proactively to anticipate future needs as well as reacting to situations that arise.

3D.72 The key objective of contract management is to obtain goods and/or services in accordance with the terms and specification as agreed in the contract and to achieve value for money. This involves balancing costs against risks and actively managing the customer-provider relationship. It also involves developing the supplier's continuous improvement capability over the life of the contract.

3D.73 Where it is appropriate to do so the Commissioner will nominate a designated contract manager with responsibility for service delivery management, relationship management and contract administration.

**Appendix A****Glossary of Terms**

Approved Contract	A contract that has been created in accordance with these contract standing orders for call off or use by the Commissioner and Chief Constable. A list of contracts can be found on the Bluelight Database available via the SWPPS. If in doubt whether there is an approved contract available, contact the Procurement Team.
Approved Standard Terms	Standard terms and conditions approved by the Chief Executive. Includes industry standard terms and template terms and conditions (for example JCT) set up for use by the Commissioner.
Authorised Officer	An officer appointed by the Police Force covering both civilian and uniformed personnel who has delegated authority to procure and/or approve contracts on behalf of the Commissioner in accordance with Financial Regulations and scheme of delegation.
Central Purchasing Body	<p>A public sector contracting authority that:</p> <ul style="list-style-type: none"> <li>• Acquires supplies and or services intended for contracting authorities or</li> <li>• Awards contracts or concludes framework agreements for works, supplies or services intended for use by contracting authorities</li> <li>• Concludes framework agreements for goods, services or works intended for one or more contracting authority</li> </ul> <p>Example of CPB's include the Office of Government Commerce Buying Solutions (OGCBS) and Central Office of Information (COI).</p>
Code of Conduct	The code regulating conduct of officers contained within the Commissioner's regulations.
Contract Register	The Bluelight Procurement Database ( <a href="http://www.blpd.gov.uk">www.blpd.gov.uk</a> ).
Contactor	Same as 'Supplier' defined below.
Financial Regulations	The Financial Regulations approved by the Commissioner and Chief Constable.
Framework Agreement	An agreement between one or more contracting authorities and one or more supplier, the purpose of which is to establish the terms governing contracts to be awarded during a given

	period, in particular with regard to price, quality and where appropriate the quantity envisaged.
Parent Company Guarantee	A contract which binds the parent of a subsidiary company as follows: If the subsidiary company fails to do what it has promised under a contract with the Commissioner, the Commissioner can require the parent company to do so instead.
Performance Bond	An insurance policy: If the contractor does not do what it has promised under a contract with the Commissioner, the Commissioner can claim from the insurer the sum of money specified in the Bond (often 10% of the contract value). A Bond is intended to protect the Commissioner against a level of cost arising from the supplier's failure.
PFI	Private Finance Initiative.
PPP	Public Private Partnership.
South West Police Procurement Department	The procurement function for the Police and Crime Commissioner (Commissioner) for Devon and Cornwall and the Chief Constable for Devon and Cornwall is carried out by the South West Police Procurement Department (SWPPS).
Purchasing Cards	A Corporate Purchasing Card utilised for the purchase of low value goods and services.
Purchase Order	An electronic or manual order placed through the local approved procurement system.
Service Provider	Same as 'supplier' defined below.
Scheme of Delegation	A list of Authorised Officers who have authority to procure on behalf of the Commissioner in accordance with the Authority's Financial Regulations.
Supplier	Any person or public entity or groups of such persons and or bodies providing, or seeking to provide, supplies, services or works to the Commissioner or Chief Constable. Other terms such as contractor, service provider, and economic operator may also be used.
Tender	A written response to an Invitation to Tender.
Tenderers	Suppliers who have been invited to submit a tender to the Commissioner or Chief Constable.

Total Value	<p>The whole of the value or estimated value (in money or equivalent value) for a group of similar commodities or services:</p> <ul style="list-style-type: none"><li>• whether or not it comprises several lots or stages across the contracting authority as a whole</li><li>• whether or not it is to be paid or received by the contracting authority as a whole or separate departments within the OPCC and the Force.</li></ul>
Value for Money	<p>Used by the OGC, this is defined as:</p> <p>“...ensuring that the organisation’s procurement, projects and processes are systematically evaluated and assessed to provide confidence about suitability, effectiveness, prudence, quality, good value and avoidance of error and other waste, judged for the public sector as a whole, not just for the Accounting Officer’s organisation.</p>
Written Quotation	<p>Must be in letter, fax or email and must be addressed personally, containing pricing information and delivery details. Printouts of catalogues are not written quotations.</p>



**Appendix B****General Exceptions from Contract Standing Orders**

These Contract Standing Orders apply to all Goods, Services and/or Works purchased by the Commissioner and Chief Constable, with the following exceptions:

- a. Procurements of goods, services, or works where the procurement procedure to be followed by the Commissioner and Chief Constable is the subject of express legislation.
- b. Low value purchases made by an Authority authorised Purchasing Card that are subject to guidelines issued on the use of Purchasing Cards.
- c. Goods, Services or Works procured in an emergency because of a need to respond to events that were beyond the control of the Commissioner and Chief Constables (e.g. natural disasters such as flooding or fires) where the supply is urgently required and loss, damage, injury or serious operational problems could result from delay due to the advertising procedure.
- d. Any contract entered into by the Commissioner or Chief Constable under Exception (c) above should not be for a term of more than 6 months.
- e. Contracts for the acquisition and disposal of land or property that are covered by Financial Regulations and other procedures approved by the Commissioner and Chief Constable.
- f. Contracts for employment for staff, except where an agency is used to supply the staff.
- g. Works orders with utility infrastructure providers, e.g. Gas Mains.
- h. Where there is no effective competition for the supply as prices are fixed under statutory authority.
- i. Call off or orders placed against Approved Contracts or Framework Contracts where the procedures defined in the contract for call off are followed.
- j. Any contract which has had an exemption agreed in accordance with paragraphs 3D.12 to 3D.15.
- k. The disposal of Commissioner and Chief Constables Assets that are covered by the Financial Regulations and other procedures approved by the Commissioner and Chief Constable.

## Appendix C

## Financial Thresholds

Threshold and Type	Value	Relevant section	Quotation/Tender Process	Responsible for procurement	Authorised Officer
<b>1. Very Low Value Transactions</b> Goods, Services and Works	Up to £5,000	3D.29 to 3D.31	A written or electronic quotation.  Demonstration of value for money	Devolved	<b>Devolved budget holder or nominated Officer</b>
<b>2. Low Value Transactions</b> Goods, Services and Works	£5,001 to £20,000	3D.29 to 3D.31	A minimum of three written or electronic quotations. Dependent on available market.  Demonstration of value for money	Devolved	<b>Devolved budget holder or nominated Officer</b>
<b>3. Intermediate Value Transactions</b> Goods, Services and Works	£20,001 - £50,000	3D.33 to 3D.34	A risk based procurement options analysis to be undertaken to determine the most appropriate procurement route. In consultation with the Head of finance and if appropriate procurement	Devolved	Head of Finance
<b>4. Transactions above Threshold 2 are covered in the SWPPS Procurement Regulations.</b>	Above £50,000				

Evidence of the process must be retained and available for review/inspection when required.