

Please send waivers to [procurement@swale.gov.uk](mailto:procurement@swale.gov.uk)

## P.01 – CONTRACT STANDING ORDERS WAIVER FORM

**Please note Waivers will only be approved in advance and only in exceptional circumstances**

Pages 1 – 5 are to be completed by the officer requesting the waiver. Incomplete requests will be returned. This waiver request must be signed and dated.

Name of Project / Procurement	Nightly Paid Temporary Accommodation
Works, Goods, Consultancy or Services	Service
Capital <sup>1</sup> or Revenue Spend	Revenue
Whole Life Contract Value Inc. extension period (including VAT)	Estimated - £4,353,067 (ex VAT) pa £5,223,680.40 (inc VAT) pa
Description of Works / Service / Goods / Consultant	Provision of nightly paid temporary accommodation (statutory duty).
For Consultancy, has an IR35 Check been undertaken	N/A
Result of IR35 – Only for the appointment of consultants (please supply a copy with the waiver form)	N/A
Whole life Contract Period	Estimated up to £13,059,201 (ex VAT) £15,671,041.20 (inc VAT)
Contract start and end dates	N/A
Date waiver submitted to Procurement team	05/10/2023
Name and contact details of supplier	Multiple
Company registration number	Multiple

Please identify the elements of 'Procedure to be used' below which are intended to be complied with for the relevant threshold.

Total Value of Contract (including VAT)	Type of Contract	Procedure to be used	Can the requirements be complied with? (delete as appropriate)
£120,000 to £213,477 **	Works, supplies and services	a) At least three electronic tenders in advance	Yes/No
		b) Spend should be agreed by relevant Committee Chair;	Yes/No <b>Please state which Committee Chair:</b>
		c) Risk assessment conducted (in writing) and kept on the file	Yes/No
		d) As a minimum to be advertised <a href="http://www.swale.gov.uk">www.swale.gov.uk</a> the Council's <a href="#">E-procurement System</a> plus <a href="#">Contract Finder</a>	Yes/No

<sup>1</sup> All Capital spend over £10,000 will need to be either identified in the budget endorsed by the relevant Committee or received S.151 Officer approval or published in the currently published Budget Book. **Please provide this information with your waiver submission**

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		e) Tenders opened at the same time by the Democratic and Electoral Services Manager (or nominee), in the presence of the Responsible Officer (or nominee) and a suitable person from Legal Services (or Nominee);	Yes/No
		f) Financial appraisals shall be carried out by Financial Services prior to award;	Yes/No
		g) Award of contract approved by the Responsible Officer plus signed by another officer;	Yes/No
		h) Contracts in writing using the standard clauses and to include the core clauses as set out within the CSOs document or other terms and conditions approved in advance by Legal and Finance;	Yes/No
		i) Record to be entered on the Council's Contract Register at award stage.	Yes/No
		j) Contract executed as a deed	Yes/No
<b>£213,477** plus</b>	Supplies and services	a) Public Contract Regs apply – full competitive process with tenders following advertisement in Find a Tender Service for supplies and services, there is a presumption in favour of advertising and a competitive process. This will also be advertised on the Swale website, The Council's e-procurement system and Contract Finder;	<b>Yes</b> but not on Swale's website as it was led by MBC & TWBC.  <b>Committee Chair:</b>
		b) Points a; b; c; d; e; f; g; h, i and j as above for works, supplies and services for £120,000 to £189,330**	<b>No</b>
		a) Points a, b, c, d, e, f, g, h, i and j as above for works, supplies and services for £120,000 to £213,477**.	Yes/No

\*\* or relevant threshold in force at the time under the Public Contracts Regs.

**Please complete:**

<b>I confirm that a Purchase Order (PO) will be raised (&lt;£30k) or a contract will be drawn up using SBC's standard T&amp;Cs.</b>	No
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<p><b>I confirm that the Provider has in place the following insurances: Public liability Insurance to a minimum level of £5 million, Employers Liability Insurance to a minimum level of £10 million, Professional Indemnity Insurance £2 million (if applicable) and Product Liability Insurance £2 million (if applicable).</b></p>	<p>Insurance certificates are not currently requested.</p>
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**Please provide a full explanation for seeking a waiver of the rules. For Waivers OVER 25k, you are required to include neighbouring authority approaches to delivering similar works, goods and services:**

Temporary accommodation is a critical service that the Council has a statutory duty to provide. A joint procurement exercise was undertaken with Maidstone and Tunbridge Wells. Market engagement was undertaken followed by a fully compliant open tender exercise. The tender was advertised on the Kent Business Portal, Contracts Finder and Find a Tender Service. 9 submissions were received but many tenders were either non-compliant, would not include a fixed price or did not include local properties so there were not enough providers for contracts to be awarded.

The intention is to consider rerunning a procurement exercise in 24 to 36 months' time when it is anticipated that the housing markets may have settled and we that we could find ourselves in a more receptive market.

The intention in the interim, is to continue to operate under the short-term agreements in place with local providers and to therefore waive contract Standing Orders until a new procurement process is undertaken. It is acknowledged that Public Contracts Regulations cannot be waived but as a compliant procurement process has been undertaken which was unsuccessful, the risk of challenge is low.

<p><b>Responsible officer Name (PRINT)</b></p>	<p><b>Roxanne Sheppard</b></p>	<p><b>Dept. / Section</b></p>	<p>Housing Options</p>
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<p>I confirm that waiver of the regulation have been sought and a written report submitted to;</p> <p>a) The Head of Finance and Procurement as 13.3.2 for contracts not exceeding £120,000 (including VAT).</p> <p>b) The relevant Committee for contracts of £120,000 (including VAT) and above.</p>			<p><input type="checkbox"/></p> <p><input checked="" type="checkbox"/></p>
<p><b>Signed by responsible officer</b></p>	<p><b>Roxanne Sheppard</b></p>	<p><b>Insert signature</b></p>	<p>Date</p>
<p><b>Authorised by line manager</b></p>	<p><b>Charlotte Hudson</b></p>	<p><b>Insert signature</b></p>	<p>Date</p>

**You will be notified within 7 days of receipt of request. Please see below for primary acceptance of waiver regulations criteria**

**THIS SECTION FORWARD IS FOR PROCUREMENT USE ONLY**

**Waiver of Regulations in Accordance with Contract Standing Orders 13.3**

**Re: Temporary Accommodation**

I have considered the reasons for the waiver in relation to the above for an estimated contract sum of £ for the period of **days/months/years**. I am **satisfied/ not satisfied** that the circumstances for the waiver are justified in line with CSO 13.1.4 and are genuinely exceptional by virtue of details provided and contained with the waiver report form to Procurement dated **05/10/2023**.

The primary reasons for **waiver** regulations are set out as:

- a) the work, supply or service is required as a matter of urgency and a delay would be likely to lead to financial loss, personal injury or damage to property (13.1.1)
- b) the circumstances set out in Regulation 14 apply (whether or not the contract is of a type which is subject to the application of the Public Contracts Regs); (e.g. where the council has already gone out to competitive tender and only non-compliant tenders received) (13.1.2)
- c) the contract is awarded under a Purchasing Scheme of a type where a competition has already been undertaken on behalf of the Council (13.1.3)
- d) The proposals are most expedient to the efficient management of the service for the reasons recorded (13.1.4)
- e) Waiver declined as deemed non-compliant with Contract Standing Orders. CSO 13.2 (Re Purchasing guide)

The primary reason for the **waiver** is therefore point **d**.

I confirm consultation has taken place with Legal and Financial Services, (if applicable), through the agreed email procedures protocol for procurements of value of £30,001 - £119,999.

**Comments / Conditions / Suggestions:**

Condition / Comment No.	Description	By Who
1		
2		
3		

Signed Name Title	<b>Insert signature here</b>  <b>Director of Resources</b>  The Director of Resources is authorised to complete the necessary documentation as per the SBC constitution.
Dated	
Reference	A946
Department	Finance & Procurement