



# **Contract and Procurement Procedure Rules in Association with Procurement Lincolnshire**

## **Contents**

**A Brief Guide to the Contract and Procurement Procedure Rules** Page - 196

<b>Section</b>	<b>Part</b>	
<b>1.</b>	<b>Scope of Contract and Procurement Procedure Rules</b>	
	1. Basic Principles	197
	2. Responsibilities	198-199
	3. Exceptions, Collaborative and E-Procurement Arrangements	199-201
	4. Contracts	201
<b>2.</b>	<b>Common Requirements</b>	
	5. Steps Prior to Purchase	202-210
	6. Records and Debriefing Applicants	210-211
	7. Approved Lists and Framework Agreements	211-213
<b>3.</b>	<b>Conducting a Purchase or Disposal</b>	

8.	Financial Thresholds, Asset Disposal and Appointment of Consultants	214-216
9.	Pre-tender Market Research and Consultation	216-218
10.	Standards and Award Criteria	218
11.	Invitations to Tender/Quotations	218-220
12.	Shortlisting	221
13.	Submission, Receipt and Opening of Tenders	221-223
14.	Clarification Procedures and Post-tender Negotiation	223
15.	Evaluation and Award of Contract	223-226
<b>4.</b>	<b>Contract and Other Formalities</b>	
16.	Contract Documents	227-229
17.	Bonds and Parent Company Guarantees	229
18.	Prevention of Corruption	230
<b>5.</b>	<b>Contract Management</b>	
19.	Managing Contracts	231
20.	Risk Assessment and Contingency Planning	231
21.	Contract Monitoring, Evaluation and Review	231
<b>6.</b>	<b>General</b>	
22.	Definitions	232-239

Whenever **DEFINED TERMS** are used they are in italics, begin with a capital letter and are in the Definitions in Section 6.

All costs stated in these Contract and Procurement Procedure Rules are exclusive of VA, staff costs and fees.

For further advice on Contract and Procurement Procedure Rules contact Procurement Lincolnshire

Telephone: 01522 553649

E-mail: [procurement.lincolnshire.gov.uk](mailto:procurement.lincolnshire.gov.uk)

Website: [www.procurementlincolnshire.co.uk](http://www.procurementlincolnshire.co.uk)

OR Financial Services South Kesteven District Council

## A Brief Guide to Contract and Procurement Procedure Rules

These procedure rules inform Officers of the Council's mandatory requirements and must be followed. These should be read alongside the

- Procurement Strategy,
- Council's Code of Conduct relating to Employees,
- Financial Regulations,
- All UK and European legislation in force in England from time to time,
- The Revenue and Capital Budget Book.

Contract and Procurement Procedure Rules promote good purchasing practice, public accountability and deter corruption.

Following the rules is the best defence against allegations that a purchase has been made incorrectly or fraudulently. This procedure covers all procurement undertaken on behalf of the Council and within a partnership arrangement, regardless of the source of funding.

Officers responsible for purchasing or disposal must comply with Contract and Procurement Procedure Rules, all other relevant regulations and legislation. Contract and Procurement Procedure Rules lay down minimum requirements.

**For the purposes of these Contract and Procurement Procedure Rules, where there is a requirement for communication to be in writing, this shall be deemed to include e-mail (plus other electronic forms) and fax transmissions as well as hard-copy.**

### You must:

- Follow the rules set out in these Contract and Procurement Procedure Rules if you purchase goods, services or for the carrying out of works;
- Take all necessary professional procurement, legal and financial advice;

- Declare any personal financial interest in a contract. Corruption is a criminal offence;
- Conduct any value for money review and appraise the purchasing need;
- Check whether there is any existing relevant *Corporate Contract* or *Framework Agreements* you can make use of before undergoing a competitive process;
- Keep bids confidential;
- Not negotiate with *Economic Operators* except if Procedure Rule 14.3 applies;
- Complete a written contract or Council order before the supply of goods, services or carrying out of works begin;
- Where appropriate identify a Contract Manager with responsibility for ensuring the contract delivers as intended;
- Keep records of dealings with *Economic Operators* in accordance with the Council's document retention policies;
- Assess each contract afterwards to see how well it met the purchasing need and *Value for Money* requirements.

In accordance with the Constitution the Corporate Finance Manager shall have the power to make amendments from time to time to these Contract and Procurement Procedure Rules after consultation with the Head of Procurement Lincolnshire, and taking appropriate legal and financial advice.

**NOTE: This Guide is explanatory only and is not a substitute for reading Contract and Procurement Procedure Rules in full.**

# Section 1 – Scope of Contract and Procurement Procedure Rules

## 1. Basic Principles

- 1.1 All purchasing or disposal procedures must:
- Follow the EU procurement principles by being open, fair, transparent and proportional;
  - Secure *value for money* for public money spent;
  - Be consistent with the highest standards of integrity;
  - Ensure fairness in allocating public contracts;
  - Comply with all legal requirements;
  - Ensure that *Non-Commercial Considerations* do not influence any *Contracting Decision*;
  - Comply with the Council's policies;
  - Comply with the Council's corporate and departmental aims;
  - Comply with the Council's Sustainable Procurement Strategy.

1.1.1 Further:

- Grant money received must be spent in line with these Contract and Procurement Procedure Rules unless the grant conditions state otherwise;
- The purchase is legitimate, lawful and within the budget and policy framework;
- All goods, services and the carrying out of works are ordered in accordance with Contract and Procurement Procedure Rules and all other relevant documentation and with all UK and EU binding legal requirements;
- The purchase is authorised by the appropriate person and correctly recorded;
- Goods, services and the carrying out of works received meet the requirements of the authorised order;
- Payments are only made for goods, services and the carrying out of works received at the correct price, quantity and quality standards;
- Authorisation of payments must be carried out in accordance with any schemes of authorisation;
- The budget holder monitors all expenditure through their budget;
- Ensure payments are recorded accurately in the Council's account on a timely basis;
- Processes are in place to maintain the security and integrity of data for transacting business electronically.

**Contract and Procurement Procedure Rules must be strictly complied with. They are minimum requirements.**

## 2. Responsibilities

### 2.1 Specific Assistant Director Responsibilities:

- 2.1.1 The Executive Managers have responsibility for ensuring that procedures for procurement are sound and properly administered for their areas of responsibility.
- 2.1.2 The Section 151 Officer is responsible for ensuring all income and expenditure is lawful.

### 2.2 Business Managers Responsibilities:

- 2.2.1 Business Managers are responsible for ensuring that staff are aware of their responsibilities under these procedures and receive adequate training and guidance.
- 2.2.2 Service Managers are responsible for consulting with the appropriate Executive Manager area and seeking approval on any matters liable to affect the Council's finances materially.
- 2.2.3 Service Managers are responsible for establishing the Scheme of Delegation for their business area. The Scheme of Delegation will detail where decision making has been delegated to the appropriate executive area and the financial parameters of that delegation.

### 2.3 Assistant Director Responsibilities:

- 2.3.1 Ensure that their staff comply with these Contract and Procedure Rules.
- 2.3.2 Ensure all Service Managers complete a Contract Register to record all approved exceptions and contracts including frameworks with a *Total Contract Value* of £5,000 and above including any changes over the contract life e.g. extensions (for the appointment of consultants all exceptions and contracts must be recorded on the *Contracts Register Form* no matter of the value) as identified in Procedure Rule 2.4.4.
- 2.3.3 Keep a register of:
  - **Contracts** completed by signature (rather than the Council's seal – See Procedure Rule 16.6.4) and arrange their safekeeping on Council premises.
  - **Exceptions** recorded under Procedure Rule 3.1. The use of exceptions will be monitored by the Monitoring Officer.

## **2.4 Officer Responsibilities:**

- 2.4.1 The *Officer* responsible for purchasing or disposal must comply with these Contract and Procurement Procedure Rules, and all other relevant regulations and with all UK and EU binding legal requirements.
- 2.4.2 The *Officer* must have regards to the guidance in the *Procurement Guide* and the principles of the Council's Sustainable Procurement Strategy.
- 2.4.3 The *Officer* must check whether a suitable *Corporate Contract* or *Framework Agreement* exists before seeking to let another contract. Where a suitable *Corporate Contract* or *Framework Agreement* exists, these must be used unless there is a good reason not to and these reasons must be recorded.
- 2.4.4 The *Officer* must inform the Service Manager to complete the *Contract Register Form* to record all approved exceptions and contracts including framework agreements with a *Total Contract Value* of £5,000 and above including any changes over the contract life e.g. extensions.
- 2.4.5 The *Officer* must keep the records required by Procedure Rule 6.
- 2.4.6 *Tender* procedures must be conducted in accordance with procedures set out in the *Invitation to Tender*.
- 2.4.7 *Officers* must also ensure that *agents* acting on their behalf also comply with Contract and Procurement Procedures Rules and all other relevant regulations, and with all UK and EU binding legal requirements.
- 2.4.8 *Officers* must take all necessary professional procurement, legal and financial advice.
- 2.4.9 When an employee, either of the Council or of a *Economic Operator*, may be affected by any transfer arrangements, *Officers* must ensure that the *Transfer of Undertaking (Protection of Employment) (TUPE)* issues are considered and obtain Human Resources and legal advice before proceeding with inviting *Tenders* or *Quotations*.

## **3. Exceptions, Collaborative and E-Procurement Arrangements**

### **3.1 Exceptions:**

- 3.1.1 Exceptions are subject to the detailed requirements set out in this Procedure Rule 3. Exceptions are provided for in very exceptional circumstances where it is necessary because of an unforeseen event involving immediate risk to persons, property, and serious disruption to Council services or where a Service Manager believes an alternative route to normal tendering procedures is required. It is not a substitute

for instances where procurement planning has not been exercised and *Officers* find themselves with insufficient time to undertake a competitive process.

3.1.2 In these exceptional circumstances a Service Manager must complete an exception request form as appended to these procedure rules and submit to Legal Services for approval. An exception, and the reasons for them under this Procedure Rule 3 allow a contract to be placed by direct negotiation with one or more *Economic Operator* rather than in accordance with Procedure Rule 8. No exceptions can be used if the *EU Procurement Directive* applies.

3.1.3 All exceptions must be recorded on the Contracts Register.

### 3.2 Joint Commissioning:

3.2.1 When the Council jointly commissions services with other public sector bodies such as Health Authorities, or other Local Authorities, the following procedures shall apply:

- The Authorities concerned will decide which of them is to act as the lead authority for the purposes of the particular service that is to be commissioned.
- The procedures for the procurement of services of the lead authority shall be followed.

3.2.2 Any contracts entered into through collaboration with other Local Authorities or other public bodies e.g. Health Authorities, where a competitive process has been followed that complies with their equivalent to the Contract and Procurement Procedure Rules of the leading purchasing organisation (but does not necessarily comply with this Council's Procedure Rules), will be deemed to comply with these Contract and Procurement Procedure Rules and no exemption is required. Advice on frameworks should always be sought from your Procurement Resource.

### 3.3 E-Procurement:

3.3.1 The use of e-procurement does not negate the requirements to comply with all elements of Contract and Procurement Procedure Rules, particularly those relating to competition and *Value for Money*.

3.3.2 **Electronic tendering is the preferred method of carrying out a quotation or tender exercise where the total value of the contract exceeds £25,000** Electronic tendering should be undertaken by using an e tendering suite of documents. To access these document users must first log on and register at <https://www.delta-esourcing> . Users should familiarise themselves with this system by taking advice from their procurement resource. This can be supplemented by using the

User Guides available on the home page once registration has been completed.

- 3.3.3 Once documents have been downloaded into an electronic vault *officers* will not be able to access these documents prior to the closing date. *Officers* should ensure that documents are downloaded to a suitable electronic repository that is accessible to all evaluators.

## 4. Contracts

4.1 All contracts must comply with Contract and Procurement Procedure Rules. A contract is any arrangement made by, or on behalf of, the Council for the carrying out of works or for the supply of goods or services. These include arrangements for:

- The supply or disposal of goods;
- The hire, rental or lease of goods or equipment;
- Execution of works;
- The delivery of services.

4.2 Contracts do not include:

- Contracts of employment which make an individual a direct employee of the authority;
- Agreements regarding the acquisition, disposal, or transfer of land and/or buildings or
- Grant award.



## Section 2 – Common Requirements

### 5. Steps Prior to Purchase

#### 5.1 Calculating the Estimated Total Contract Value

5.1.1 Before any Procurement Exercise is begun the *Procuring Officer* must calculate its *Estimated Total Contract Value* in accordance with this clause.

5.1.2 The *Estimated Total Contract Value* shall be calculated as follows:

- a) Where the contract period is fixed the *Estimated Total Contract Value* shall be the total estimated maximum value of the supplies, services or works to be supplied over the period covered including any extensions to the contract;
- b) Where the contract period is indeterminate the *Estimated Total Contract Value* shall be calculated by multiplying the estimated average monthly value by 48;
- c) For feasibility studies, the *Estimated Total Contract Value* to be identified within the feasibility study, shall be the value of the scheme or contracts which may be awarded as a result;
- d) For the appointment of consultants, the *Estimated Total Contract Value* shall be calculated using the requisite rate for the consultant, multiplied by the total duration of the assignment required to complete all of the activities and deliverables of the consultant for their entire appointment.
- e) For Concession Contracts (see section **Error! Reference source not found.**) the *Estimated Total Contract Value* shall be the concessionaire's estimated total turnover generated over the duration of the contract, in consideration for the works and services that are subject to the concession, and supplies incidental to such works and services.
- f) When establishing Framework Agreements the *Estimated Total Contract Value* should be a generous estimate of the total throughput expected to be placed through the framework in order to provide some additional capacity for unexpected requirements.
- g) The *Estimated Total Contract Value* must exclude Value Added Tax (VAT) but must include all other taxes and duties.
- h) Periodic purchases for the same requirement, whether that is from the same or different *Contracted Suppliers*, must be aggregated over a minimum of a 12 month period
- i) Where the *Council* may be contributing only part of the total value of a contract, it is nevertheless the *Estimated Total Contract Value* that should be applied in determining the correct procedures to be applied under these Rules.

**5.2 Council Procurement Thresholds based on the estimated total contract value, as identified in Section 2, the table below/overleaf makes provision for the minimum requirements for the subsequent procurement exercise.**

Contract Value		Process	Award Procedure based on	Contract Publication	Documentation	Selection
£0	£10,000	Quotation	One quotation – direct approach to single supplier	Not required	Employee to record details  Local supplier to be used where appropriate (or reason for not using recorded)	Officer
£10,001	£25,000	Quotation	At least three written quotations based on a RFQ document with appropriate T&Cs  At least one local supplier** to be invited	Not required	Local supplier to be used where appropriate (or reason for not using recorded) Where contract is below £25,000 a local supplier to be used where offers value for money (or reason for not using recorded)	Officer
£25,001	EU Services Threshold	Quotation	At least four written quotations based on a RFQ document with Appropriate T&Cs  At least two local suppliers** to be invited	Where EU Treaty principles require advertising, must be placed on Source Lincolnshire and Contract Finder.	Must be based on a written specification with appropriate terms and conditions	Evaluation Panel (It is advisable to include a Finance Officer)  Officer

Contract Value		Process	Award Procedure based on	Contract Publication	Documentation	Selection
Above EU Services Threshold <b>(Non-Works)</b>		Formal tender	Full tender process	OJEU, Source Lincolnshire, Contracts Finder  Specialist publication if appropriate	As required by the PCRs 2015 and detailed in the CPPRs.	Consult with your Procurement Resource – See Procedure Rule 8.1.3 Evaluation Panel
EU Services Threshold <b>(For Works)</b>	EU Works Threshold	Quotation	At least five tenders based on a full ITT document with appropriate T&Cs  At least two local suppliers** to be invited	Where EU Treaty principles require advertising tenders will be sought by open competitive tendering via public advertisement (Contracts Finder and Source Lincolnshire), or a framework let in accordance with EU legal requirements.	Must be based on a written specification with appropriate terms and conditions  Where contract is below £25,000 a local supplier to be used where offers value for money (or reason for not using recorded)	Consult with your Procurement Resource – See Procedure Rule 8.1.3 Evaluation Panel
Above EU Works Threshold <b>(For Works)</b>		Formal tender	Full tender process	OJEU, Source Lincolnshire, Contracts Finder  Specialist publication if appropriate	As required by the PCRs 2015 and detailed in the CPPRs.	Consult with your Procurement Resource ***  Evaluation Panel

\* When procuring in a specialist area where limited suppliers are available, one quotation is acceptable and an exception form must be completed

\*\*Local suppliers are defined as those whose trading premises are located within Lincolnshire and/or a 20 mile radius of the county of Lincolnshire's boundary.

\*\*\*Where the EU Procurement Directive applies the Officer shall consult the guidance on the EU Public Procurement Rules in the Procurement Guide or advice can be sought from your Procurement Resource to determine the method of conducting the purchase.

## 5.4 EU Procurement Thresholds

5.4.1 The relevant EU Thresholds as of 1st January 2016 are given below:

	Supplies	Services	Works
Other public sector contracting authorities	£ 164,176	£ 164,176	£ 4,104,394
	€209,000	€209,000	€ 5,225,000

5.4.2 These thresholds can be validated against the current EC Procurement Thresholds, which can be found here;

<http://www.ojec.com/thresholds.aspx>

5.4.3 Any procurement where the *Estimated Total Contract Value* is equal to or over £25,000 must be undertaken in accordance with the Public Contract Regulations 2015.

5.4.4 In the event that the *Estimated Total Contract Value* is below the OJEU threshold, and a non OJEU tender process is undertaken, and the proposed winning *Bidders' Total Bid Value* exceeds the OJEU thresholds, you should consult with your *Procurement Resource* as to the risks associated with awarding the contract.

## 5.5 Steps Prior to Purchase

5.5.1 Before beginning a purchase the *Officer* responsible for it must appraise the purchase and confirm certain matters set out in this clause 5. The *Officer* should consider:

- Taking into account the requirements from any relevant *Best Value* or other review;
- Appraising the need for the expenditure and its priority e.g. has a business case been developed which sets out the service objectives, the criteria for evaluation and the options for delivery;
- Defining the objectives of the purchase;
- Consider the risks associated with the purchase over its life and how to manage them;
- Considering what procurement method is most likely to achieve the purchasing objectives, including internal or external sourcing, and collaboration with other purchasers;
- Establish if corporate contracts and/or suitable frameworks exist and assess their suitability;
- Consulting users as appropriate about the proposed procurement method, contract standards, and also performance and user satisfaction monitoring; and
- Selecting the most appropriate procurement method.
- The maturity of the market (local, regional and national) and whether the contracting approach is likely to yield enough competition;

- Information Governance requirements / Data Protection.

**The Officer must confirm that;**

- The budget is available in line with the Council's policy and budget framework;
- There is member or delegated approval for the expenditure and/or award of contract and the purchase accords with the approved policy framework and the scheme of authorisation as set out in the *Constitution*;
- Prior Information Notices where required for the Public Contract Regulations 2006, have been placed in the Official Journal of the European Union (OJEU) and copied to Procurement Lincolnshire.

5.5.2 *Officers* shall ensure that where proposed contracts, irrespective of their *Total Contract Value*, may be of interest to potential *Applicants* located in other member states of the EU appropriate accessible advertising must take place. Generally, the greater the interest of the contract to such potential *Applicants*, the wider should be the coverage of the advertisement. Advertisements must always be placed on suitable web based publications e.g. Source Lincolnshire, Contract finder and may also be placed on:

- National official journals; and/or
- OJEU [Even if there is no requirement within the *EU Procurement Directive*].

5.5.3 In selecting an *Economic Operator*, an existing partnership or contractual arrangement should be considered as the first option. For example, the Officer must check whether a suitable *Corporate Contract or Framework Agreement* exists before seeking to let another contract.

5.5.4 If a corporate contract exists or appears to be suitable advice should be obtained from Legal support or Lincolnshire Procurement.

5.5.5 Where a suitable *Corporate Contract or Framework Agreement* exists, these must be used unless there is a good reason not to and these reasons must be recorded.

## **5.6 Social Value**

5.6.1 When proposing to procure or making arrangements for procuring a service contract where the *Estimated Total Contract Value* exceeds the relevant EU Threshold then consideration must be given as to how the Contract might improve the economic, social and environmental wellbeing of Lincolnshire, as required by the Public Services (Social Value) Act 2012.

- 5.6.2 The authority must consider in the form of a Social Value appraisal, whilst recognising the principle of proportionality;
- a) how, what is proposed to be procured, might improve the economic, social and environmental well-being of the relevant area, and
  - b) how, in conducting the process of procurement, it might act with a view to securing that improvement.
  - c) whether to carry out any consultation in relation to the above matters.

## **5.7 Utilising a Framework Agreement**

- 5.7.1 The Council encourages the use of *Framework Agreements* as a means to balance the resource burden of procurement activity with the need to achieve Value for Money.
- 5.7.2 The *Procuring Officer* responsible for the procurement activity must assess the *Value for Money* offered by the framework prior to its use.
- 5.7.3 Contracts based on *Framework Agreements* must always be awarded in accordance with the rules set out within the *Framework Agreement* documentation. This may be either:
- a) By undertaking a 'direct call-off' from the *Framework Agreement*, where the terms are sufficiently precise to cover the particular call-off requirements without re-opening competition and a contract can be awarded directly to a framework supplier; or
  - b) By holding a 'further competition' in accordance with the rules set out in the framework, where the requirements are provided to the framework suppliers in the relevant lot of the framework, and the framework suppliers provide their responses and price in return.
- 5.7.4 *Procuring Officers* must ensure they are fully conversant with the rules, stipulations and eligibility of the Council to use the framework, as stated within the *Framework Agreement*. If these rules are not sufficiently detailed for the *Procuring Officer* to be assured of the eligibility and requisite process, the *Procuring Officer* must engage with their *Procurement Resource* to seek advice on the validity of the *Framework Agreement*.
- 5.7.5 Unless otherwise specified in the rules and stipulations of the *Framework Agreement*, *Procuring Officers* must follow the award procedures set out in sections 15.3 and 15.4, whilst ensuring compliance with the framework rules identified within regulation 5.7.4.

## **5.8 Procuring with External Grant Monies**

- 5.8.1 Procuring contracts using external grant monies can bring about additional risks to the authority due to additional regulatory requirements in the way the money is controlled and additional scrutiny that the procurement process may receive.

5.8.2 It is therefore mandatory for the *Procuring Officer* leading the procurement to ensure they are fully conversant with all of the requirements of the relevant funding bodies, and identify any risks in a pre-procurement risk register.

5.8.3 *Procuring Officers* must ensure that they engage, in advance of undertaking a procurement activity, with their relevant Procurement Resource providing full access to any relevant additional guidance.

NOTE: Specifically for ERDF funding, *Procuring Officers* must appraise the intended procurement activity against the ERDF published 'common mistakes' guidance prior to initiating any procurement activity to ensure all of the common mistakes are avoided.

## 5.9 State Aid

5.9.1 State aid is any advantage granted by public authorities through state resources on a selective basis to any organisations that could potentially distort competition and trade in the European Union (EU).

5.9.2 The definition of state aid is very broad because 'an advantage' can take many forms. It is anything which an undertaking (an organisation engaged in economic activity) could not get on the open market.

5.9.3 State aid rules can (among other things) apply to the following:

- grants
- loans
- guarantees
- tax breaks
- the use or sale of a state asset for free or at less than market price

The rules can apply to funding given to charities, public authorities and other non-profit making bodies where they are involved in contract and procurement activities.

5.9.4 Prior to undertaking any tender the *Procuring Officer* must assess whether there are any state aid implications.

5.9.5 Where any state aid implications are found, e.g. grants, property, or services have been made available to *Economic Operators*, the *Procuring Officer* must seek advice from their *Legal Support* before continuing with the procurement.

## 5.10 Appointment of Consultants

5.10.1 The following procedure applies where, because of the specialist nature of the services required, it is believed to be necessary to appoint a *Consultant* to provide the services to the Council.

5.10.2 The *Procuring Officer* must not engage with any agencies to secure CVs, without prior engagement with the Commercial Team, and without a full understanding of the agency terms and conditions.

NOTE: Some agencies require you to accept their terms and conditions prior to receipt of CVs. These terms and conditions may include clauses regarding 'introductory fees' which may be payable even if no appointment is made. These fees are often substantial and pose significant financial risk to the authority.

5.10.3 The *Procuring Officer* must submit a report to the appropriate Assistant Director setting out:

- a) The nature of the services for which the appointment of a Consultant is required;
- b) The Estimated Total Contract Value of the services;
- c) The reason why a Consultant should be appointed

5.10.4 If the Assistant Director is of the opinion that in the interest of *Best Value* it is necessary to secure the appointment of a Consultant to provide those services they shall record that opinion in writing and authorise the Procuring Officer to engage a *Consultant* using an established *Corporate Contract or Framework Agreement* (including ESPO) or where the nature of the services required are so specialist and no suitable *Corporate Contract or Framework Agreement* is in place a formal RFQ or tendering process will follow receipt and evaluation of the business case proposals.

5.10.5 If the request is approved the Procuring Officer must then comply with the procedural requirements based upon the *Estimated Total Contract Value*.

## **5.11 Information Governance and Data Protection**

5.11.1 *Procuring Officers* must consider the information governance requirements of the contract if they anticipate any Personal Data is to be processed as part of the contract e.g. data protection, security of information, records management.

5.11.2 Where Personal Data may be processed as part of the contract Procuring Officers must seek further advice from their Information Governance resource and your Legal Support.

5.11.3 Where Personal Data may be processed as part of the contract, a Privacy Impact Assessment tool must be completed. This will help the Council identify the most effective way to comply with their data protection obligations, and meet individuals' expectations of privacy.



5.11.4 Where requirements are identified by the Privacy Impact Assessment, Procuring Officers must ensure that any requirements are considered and built into the specification, and assessed where necessary as part of the evaluation.

## 5.12 Concessions Contracts

A concession contract is an agreement between the Council and an *Economic Operator* (mostly private companies) where the *Economic Operator* is given the right to exploit works or services provided for their own gain. *Economic Operators* can either receive consideration for their services solely through third party sources, or partly through consideration from the Council, along with income received from third parties.

There are two types of concessions contracts: works concessions and service concessions. In a works concession, the *Economic Operator* operates, maintains and carries out the development of infrastructure. In a service concession, the *Economic Operator* provides services of general economic interest.

NOTE: A simple example may be where the Council would allow an *Economic Operator* to operate a café on a Council site, using Council owned assets, but where the *Economic Operators* carries the commercial risk in terms of profit and loss and the Council does not pay the Economic Operator to run the service.

5.12.1 Where the *Procuring Officer* is planning a contract which may be a concession contract, they must seek advice from both their Procurement Resource and their Legal Support.

## 6. Records and Debriefing Applicants

6.1 Where the Total Contract Value is between **£5,000 and £25,000**, the following documents must be kept in accordance with the retention policy:

- Requests for quotes and the Quotations;
- A record – of any exceptions under Contract Procedure Rule 3 and reasons for it
  - of the reason if the lowest price is not accepted;
- Written records of communications with the successful *Economic Operator* or an electronic record if a written record of the transaction would normally not be produced.

6.2 Where the Total Contract value **exceeds £25,000 and is below £75,000**, the Officer must record:

- The method for obtaining quotes (see Procedure Rule 8.1);
- Any *Contracting Decision* and the reasons for it

- Any exemption under Contract and Procurement Procedure Rule 3.1 together with the reasons for it;
  - The *Award Criteria* in descending order of importance;
  - Quotation documents sent to and received from *Applicants*
  - Pre-quotation market research;
  - Clarification and post-quotation negotiation (to include minutes of meetings);
  - The contract documents;
  - Post-contract evaluation and monitoring;
  - Written records of communications with *Applicants* and with the successful *Economic Operator* throughout the period of the contract.
- 6.3** Written records required by Contract and Procurement Procedure Rule 6.2 that **do not** have the Council's *Common Seal* must be kept in line with the Council's Retention Policy.
- 6.4** Where the Total Contract Value **exceeds £75,000** and that has the Council's Common Seal it must be kept in line with the Council's Retention Policy.
- 6.5** In respect of all contracts, irrespective of value *Tenderers* must be notified simultaneously or as soon as possible of any Contracting Decision. The notification must be in writing where the Total Contract Value exceeds £25,000. If a *Tenderer* requests in writing the reasons for a Contracting Decision, the *Officer* must give the reasons in writing within 15 days of the request (see further Procedure Rule 15.3).

## **7. Approved Lists and Framework Agreements**

### **7.1 Approved Lists:**

- 7.1.1 *Approved Lists* may be used to select *Economic Operators* as an alternative to RFQ's. *Approved Lists* should be used where recurrent transactions or a similar type are likely but where such transactions need to be priced individually and cannot easily be aggregated and proceed in a single tendering exercise. *Approved Lists* cannot be used where the EU Procurement Directive applies.
- 7.1.2 No person may be entered on an *Approved List* until there has been an adequate investigation into both their financial and technical ability to perform the contract.
- 7.1.3 *Approved Lists* shall be drawn up in consultation with *Procurement Resource* approved list of *Economic Operators* ready to perform contracts to supply goods or services, on the basis of agreed contract terms and must be drawn up after advertisement inviting applications for inclusion on the list. The advertisement must be placed to secure widest publicity among relevant *Economic Operators*.

7.1.4 The list and shortlisting criteria must be reviewed at least annually and re-advertised at least every three years. For clarification review means:

- The reassessment of the financial, technical ability and performance of those *Economic Operators* on the list unless such matters will be investigated each time bids are invited from that list, and
- The deletion of those *Economic Operators* no longer qualified, with a written record kept justifying the deletion.
- The entry of new *Economic Operators* who request and qualify for inclusion.

On re-advertisement, a copy of the advertisement must be sent to each *Economic Operator* on the list inviting them to reapply.

7.1.5 All *Approved Lists* shall be maintained in an open, fair and transparent manner and must be open to public inspection.

7.1.6 Lists maintained by third parties e.g. Constructionline, the New Qualification System (NQS) EXOR or any list maintained in substitution of the NQS will be deemed to be an *Approved List* for the purpose of these Contract and Procurement Procedure Rules and shall not be subject to the requirements of Regulation 7.1.2 and 7.1.5 inclusive.

## 7.2 Framework Agreements:

7.2.1 Where a contract is to be awarded based on a *Framework Agreement* let by an external Contracting Authority, the *Officer* should ensure that the *Framework Agreement* is fit for purpose. Prior to making the award, the *Officer* should ensure that the *Framework Agreement* is fit for purpose by:

- a) Confirming that the *Framework Agreement* is available for use by the *Contracting Authority*.
- b) Clarifying that the end date is appropriate.
- c) Understanding whether a call off is applicable or whether a mini competition is required.
- d) Demonstrating that value for money will be achieved by utilising the *Framework Agreement*.

7.2.2 The term of *Framework Agreements* (including any extension period) should not exceed four years, except in cases duly justified by *Contracting Authorities* and where an EU Procurement Directive applies and was included in the contract notice.

7.2.3 A *Framework Agreement* may be awarded to either a single *Economic Operator*, or three or more. Contracts based on *Framework Agreements* may be awarded either:

- By applying the terms laid down in the *Framework Agreements* (where such terms are sufficiently precise to cover the particular call-off) without reopening competition; or
- Where the terms laid down in the *Framework Agreements* are not precise enough or complete for the particular call-off, by holding a mini competition in accordance with the following procedures:
  - a) Inviting the *Economic Operators* within the *Framework Agreements* who are capable of executing the subject of the contract to submit written *Tenders*.
  - b) Fixing a time limit, which is sufficiently long, to allow *Tenders* for each specific contract to be submitted, taking into account factors such as the complexity of the subject of the contract.
  - c) *Tenders* shall be submitted in writing via an electronic vault, and their content shall remain confidential until the stipulated time limit for reply has expired.
  - d) *Contracting Authorities* shall award each contract to the *Tenderer* who has submitted the *best Tender* on the basis of the award criteria set out in the specifications of the *Framework Agreement*.

## Section 3 – Conducting a Purchase

### 8. Financial Thresholds

If a tender process is undertaken for procurements estimated to be lower than the *EU threshold* for services, the tender process must be modelled on an Open process (as defined by the Public Contract Regulations 2015). This means a single stage tender (i.e. no PQQ stage) where all bidders are required to submit a full tender response, and Procuring Officers must evaluate all compliant submissions.

The following procedures apply where there are no other procedures, which take precedence. If in doubt, *Officers* must seek the advice of their *Procurement Resource*.

#### 8.1 Public Contract Regulation Requirements

These procedures stem from the European Procurement Directive 2014 which the UK government chose to transpose earlier than many other EU member states. In addition to this the UK chose to introduce brand new measures in the PCR 2015 to regulate procurements below the OJEU Services threshold.

8.1.1 These regulations apply for contracts with an *Estimated Total Contract Value* between £25,000 and the *EU Threshold* for Services (see section 5.4). You must not sub-divide procurement to get around the regulations.

8.1.2 *Procuring Officers* must not include Pre-Qualification Questionnaires (PQQ), or any assessment of *bidders* within the procurement process, for the purpose of reducing the number of candidates invited to bid for the contract (i.e. shortlisting).

8.1.3 *Procuring Officers* may ask *Suitability* assessment questions but only where they are relevant to the contract's subject matter and proportionate. For example, you should not set a £20m public liability insurance level unless the risk of harm to the public was exceptionally high.

8.1.4 In order to manage the resource implications of not being able to shortlist, and to support the local economy, *Procuring Officers* should not advertise procurements identified in the value thresholds of section **Error! Reference source not found.** Rather *Procuring Officers* should contact the requisite number of *Economic Operators* directly to bid, as identified within the *Council* procurement thresholds – section 2 para 5.3**Error! Reference source not found.**

8.1.5 In the interest of achieving *Value for Money* a *Chief Officer* may decide to accept the risks for a particular procurement, and authorise the advertising of a particular activity. In this case the following rules must be observed;

- 8.1.6 If contracts are advertised anywhere they must also be advertised on 'contracts finder' within 24 hours of the original advert. Advertising constitutes:
- a) Anything to put the opportunity in the public domain generally (for example issuing an annual PIN)
  - b) Anything to bring the opportunity to the attention of *Economic Operators* generally (e.g. trade magazines, websites, Source Lincolnshire)

Making the opportunity available to a select number of *Economic Operators* does not constitute advertising. (e.g. contacting 3 *economic operators* directly / standing lists / frameworks)

- 8.1.7 *Procuring Officers* must ensure that all procurement documents are available electronically. If the procurement opportunity is advertised a URL to the documentation must be included within the advert.
- 8.1.8 Unless it would impede law enforcement, is contrary to the public interest, would prejudice the legitimate commercial interests of the *Bidder* or would prejudice fair competition, *Procuring Officers* must publish an award notice on Contracts Finder, to include:
- a) The name of the successful *Bidder*
  - b) The date of award / when the contract was entered into
  - c) The value of the contract
  - d) If the *Bidder* is a Small to Medium Enterprise (SME) or Voluntary Community and Social Enterprise (VCSE)

## 8.2 Request for Quotations (RFQs)

- 8.2.1 RFQs are the councils preferred method of undertaking procurement within the value thresholds set out in **Error! Reference source not found.**
- 8.2.2 The RFQ document must include a specification. The specification must describe clearly the *Council's* requirements in sufficient detail to enable the submission of competitive offers. In preparing specifications the *Procuring Officer* must have regard to any guidance in the Procurement Guide.
- 8.2.3 The RFQ must state that the *Council* is not bound to accept any Quotations received.
- 8.2.4 Evidence should be retained in respect of despatch of documents. Any supplementary information must be given on the same basis.
- 8.2.5 In determining and negotiating the terms and conditions of contract, the *Procuring Officer* must ensure, as a minimum, that the relevant Terms and Conditions from the Councils' Standard Terms and Conditions are incorporated into the RFQ documentation as amended to suit the

particular procurement requirements. If amendments are required advice should be sought from *Legal Support*.

- 8.2.6 All *Economic Operators* invited to quote must be issued with the same information at the same time, and subject to the same conditions. All procurement documents must be made available via the e-Procurement platform.
- 8.2.7 Where approved lists are available RFQs should be requested from the relevant approved list.
- 8.2.8 The evaluation of quotes should be based upon simplified *Award Criteria*, and records of evaluation results must be retained by the *Procuring Officer*. The evaluation must follow the principals of the EU treaty and therefore must be; *Transparent, Non-Discriminatory* and *Proportionate*.

## 9. Above OJEU Threshold Procurement

### 9.1 Pre-Tender Market Research and Consultation

- 9.1.1 In some instances, particularly in the case of specialist work it may be necessary to advertise for expressions of interest. The basic principles of equal treatment should be applied. A deadline for receipt of expressions of interest should be included in any advert.
- 9.1.2 Nothing in these procurement arrangements preclude informal contact with prospective *Economic Operators* for discussions prior to formal tendering procedures (publication of the contract notice). *Economic Operators* with whom such preliminary discussions take place should be made aware at the outset that selected *Economic Operators* might ultimately be invited to submit formal competitive *tenders*. In addition the *Officer* responsible for the purchase:
- May consult potential *Economic Operators* prior to the issue of the *Invitation to Tender* in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters **provided** this does not prejudice any potential *Applicant*, but
  - Must not seek or accept technical advice on the preparation of an *Invitation to Tender* or *Quotation* from anyone who may have a commercial interest in them, if this may prejudice the equal treatment of all potential *Applicants* or distort competition. Pre-tender enquiries may be carried out prior to the issue of an *Invitation to Tender*. The purpose is to ensure that an effective *Invitation to Tender* is prepared, for example, where the technical specification is so complex that it cannot be drawn up without information from prospective operators. All potential operators must be treated equally within this process;

- Must seek advice from their *Procurement Resource*.
- Must keep contemporaneous notes of dialogue held with *Economic Operators*
- All possible steps should be taken to ensure the principles of being *Transparent, Proportionate* and *without Discrimination* are met at all time.

## 9.2 Pre-Qualification Questionnaires (PQQs)

9.2.1 *Procuring Officers* shall pay due regard to the statutory guidance regarding the use of Pre-Qualification Questionnaires. The guidance sets out a new mandatory standard PQQ that *Procuring Officers* must use. Further information can be found here;

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/417963/4279-15\\_GN\\_PQQ\\_Lord\\_Young\\_Guidance.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/417963/4279-15_GN_PQQ_Lord_Young_Guidance.pdf)

9.2.2 In accordance with regulation 107(4) of the Public Contract Regulations, where a *Contracting Authority* conducts procurement in a way which represents a reportable deviation from the statutory guidance in **Error! Reference source not found.**, the *Contracting Authority* must send a report explaining the deviation to the Crown Commercial Service. The *Procuring Officer* must draft this report and ensure that it is submitted.

9.2.3 In restricted procedures *Procuring Officers* may specify within the contract notice that the *Council* may limit the number of *Bidders*, who meet the requirements of the PQQ, to be invited to ITT stage, i.e. shortlisting. When this occurs the *Procuring Officer* must allow a minimum of 5 *Bidders* to the ITT stage, providing that there are at least 5 *Bidders* meeting the PQQ criteria. If there are less than 5 *Bidders* who meet the PQQ criteria, all *Bidders* who meet the requirements of the PQQ must be invited to the ITT stage.

## 9.3 Selection and Suitability Criteria

9.3.1 Within the PQQ, or the Business Information section of an Open Tender ITT document, *Procuring Officers* may evaluate selection criteria in order to assess the suitability of the *Bidder* to meet the requirements of the contract.

9.3.2 Selection criteria may only relate to;

- a) Suitability to pursue a professional activity
- b) Economic and Financial standing
- c) Technical and Professional ability

9.3.3 *Procuring Officers* must limit any requirements to those that are appropriate to ensure that a *Bidder* has the suitability to pursue a professional activity, the legal and financial capabilities, and the



technical and professional abilities, to perform the contract to be awarded.

- 9.3.4 *Procuring Officers* must not use suitability criteria as award criteria.
- 9.3.5 *Procuring Officers* may, in relation to evaluating experience, ask for information regarding the experience of those specific individuals who will be deployed to deliver the contract at ITT stage, but not if prior experience was evaluated at PQQ stage.
- 9.3.6 *Procuring Officers* must seek advice from their *Procurement Resource* before setting any Pass / Fail conditions within the selection criteria.

## 10. Standards and Award Criteria

- 10.1 Where appropriate the *Officer* must ascertain what are the relevant British, European or International Standards which apply to the subject matter of the contract. The *Officer* must include those standards which are necessary and describe the required quality. Legal Services must be consulted if the *Officer* proposes to use standards other than European standards.
- 10.2 The *Officer* must define *Award Criteria* appropriate to the purchase. *Award Criteria* must be designed to secure a sustainable outcome which represents *Value for Money* for the Council. The basic criterion shall be:
- “Most economically advantageous” offer (where considerations other than price also apply) or;
  - “Lowest price”.
- 10.3 If the first criterion is adopted, it must be further defined by reference to sub-criteria. *Award Criteria* and sub-criteria may refer only to relevant considerations. These may include price, service, quality of goods, running costs, technical merit, previous experience, delivery date, cost effectiveness, quality, relevant environmental, social and economic considerations, aesthetic and functional characteristics (including security and control features), safety, after-sales services, technical assistance and any other relevant matters.
- 10.4 All *Award Criteria*, and if used sub-criteria, must be weighted.
- 10.5 *Award Criteria* must not include:
- *Non-Commercial Considerations* (as defined in the definitions appendix);
  - Include matters which discriminate against *Economic Operators* from the *European Economic Area* or signatories to the *Government Procurement Agreement*.

## 11. Invitations to Tender and Quotations

*Electronic tendering* is the preferred method of carrying out a quotation or tender exercise where the total contract value exceeds £25,000. This includes submission, receipt and opening of Tenders.

- 11.1** *Electronic tendering* should be undertaken by using an e tendering suite of documents. To access these document users must first log on and register at <https://www.delta-esourcing.com>. Users should familiarise themselves with this system by taking advice from their procurement resource. This can be supplemented by using the User Guides available on the home page once registration has been completed.
- 11.2** Once documents have been downloaded into an electronic vault officers will not be able to access these documents prior to the closing date. Officers should ensure that documents are downloaded to a suitable electronic repository that is accessible to all evaluators.
- 11.3** Section 11.2 to 11.14 is appropriate when undertaking both electronic and traditional tendering. Section 11.15, 11.16 and 11.17 are only appropriate when a non electronic tendering exercise has been followed.
- 11.4** The *Invitation to Tender or Quotation* must include a specification. The specification must describe clearly the Council's requirements in sufficient detail to enable the submission of competitive offers. In preparing specifications the *Officer* must have regard to any guidance in the *Procurement Guide*.
- 11.5** The *Invitation to Tender or Quotation* must state that the Council is not bound to accept any *Tender or Quotation*.
- 11.6** Except where the Open Procedure applies all *Applicants* invited to *Tender or quote* must be issued with the same information at the same time and subject to the same conditions.
- Evident should be retained in respect of despatch of documents (e.g. recorded delivery/acknowledge slip if non electronic). Any supplementary information must be given on the same basis.
- 11.7** The *Invitation to Tender* must specify the *Award Procedure* and forbid submission of *Tenders* by fax or email.
- 11.8** Where any prior advertisement has not defined the *Award Criteria*, *Invitations to Tender* must state the *Award Criteria* in weighted terms and if possible in descending order of importance.
- 11.9** The *Invitation to Tender* must include a form of *Tender*, *Tendering Certificate* and instructions to *Applicants* using relevant appendix from the *Procurement Guide*.
- 11.10** The instructions should be clear on the closing date and time for receipt of *Tenders*.
- 11.11** Elected Members, employees or *Consultants* employed by the Council who have a direct or indirect interest in the contract shall not be supplied with or

given access to any *Tender* documents, contracts or other information relating thereto without the authority of the relevant Service Manager.

- 11.12** In the event that *Bidders* seek clarification of the tender documentation due to ambiguity, lack of clarity or insufficient detail, all responses must be submitted electronically through the e- Procurement platform and shared to all *Bidders*.

*Procuring Officers* must ensure that any commercially sensitive information that the requesting Bidder may have included in their request is redacted and the response generalised, prior to sending it to the other *Bidders*.

- 11.13** The *Invitation to Tender* should normally include the contract terms (see Contract and Procurement Rules Procedure Rule 16).

### **For Paper based Tenders only**

- 11.14** The *Invitation to Tender* shall state that no *Tender* will be considered unless contained in a securely sealed envelope on which shall be indicated the name and address of the sender and the word "*Tender*" followed by the subject to which it relates, such envelope to be enclosed in a second plain securely sealed envelope bearing the word "*Tender*" followed by the subject to which it relates but not bearing any distinguishing mark or mark to indicate the identity of the sender. The second envelope should be addressed impersonally to the relevant Strategic Director.

- 11.15** *Applicants* must be informed that if a private courier firm is to be engaged to deliver a *Tender* package the outer packaging must comply with the rules above. It is acknowledged that this may not be achievable in the case of *Tenders* received from abroad.

- 11.16** The *Tender Book* must be completed with the names of the *Applicants* invited.

## **11.2 Presentations**

- 11.2.1 Due to the risks brought about by undertaking scored presentations they are no longer permitted as an assessed part of the procurement process, unless presenting is a material component of the specification and, the *Evaluation Criteria* is designed in such a way as to objectively evaluate the presentation offer of the submission, it is approved by a *Chief Officer (Tier 2 Officer)* and managed by your *Procurement Resource*.

- 11.2.2 If undertaking presentations as an evaluated component of the tendering process *Procuring Officers* must ensure that;
- a) Contemporaneous notes are collected detailing all questions, responses and points raised, or full auditory and/or visual records are kept.

- b) Questions are only permitted to be asked which are focussed solely on the scope required of the presentation. This is not an opportunity to deviate and probe wider components of a bid.
- c) Evaluators must ensure their scores accurately reflect the scoring criteria, with appropriate justifications in the evaluation commentary.

## 12. Shortlisting

- 12.1 Where *Approved Lists* are used, *Shortlisting* may be carried out by the *Officer* in accordance with *Shortlisting* criteria drawn up when the *Approved List* was compiled (see Contract and Procurement Procedure Rule 7). However, where the Public Contract Regulations 2015 apply, *Approved Lists* may not be used in this way.
- 12.2 Any *Shortlisting* must have regard to financial and technical standards relevant to the contract. Special rules apply in respect of the *EU Procurement Directives* (see guidance in the *Procurement Guide*).
- 12.3 *Officers* may decide not to *Shortlist* but to send *Invitations to Tender* and to evaluate all possible *Applicants*.
- 12.4 The *Officers* responsible for *Shortlisting* are specified in Procedure Rule 8.1.

## 13. Submission, Receipt and Opening of Tenders

- 13.1 *Electronic tendering* is the preferred method of carrying out a *Tendering exercise*. This does not include submission, receipt and opening of *Tenders*.

*Applicants* invited to respond must be given an adequate period in which to prepare and submit a proper *Tender*, consistent with the urgency of the contract requirement. Usually a minimum of at least four weeks should be allowed for submission of *Tenders*. The *EU Procurement Directive* lays down specific time periods which should be referred to in respect of EU tendering.

### 13.2 Receipt and Custody of Tenders:

Where the *Tender* is carried out non electronically, Procedure Rules 13.2.1 to 13.3.7 apply.

- 13.2.1 Every reply to an *Invitation to Tender* must be addressed to the Chief Executive if in paper format.
- 13.2.2 Tenders submitted by fax will not be considered.
- 13.2.3 Tender packets or envelopes received must be date stamped and locked away until the specified time for their opening.

### 13.3 Tender Opening:

- 13.3.1 The *Officer* responsible or their nominee, a Council Member and one other *Officer* must be present during the opening of the tender and at least one such officer must not be from the service responsible for the purchase.
- 13.3.2 The Tender Support Officer must ensure that all tenders are opened at the same time when the period for their submission has ended.
- 13.3.3 A record of the tenders must be logged on the *Tender Control Book*.
- 13.3.4 Paper tenders which are opened must be date stamped and signed by the two *Officers* at the time of opening on the page containing the overall contract value, alternatively on the pages containing the price information, where no overall value is quoted.
- 13.3.5 *Tenders* that are received after the closing date or *tenders* that are not submitted in accordance with these Rules are to be disqualified unless it is agreed otherwise by the Monitoring Officer and the relevant Cabinet Member.
- 13.3.6 After *tender* opening a copy of the Tender Control Form and opened tender should be sent to the Officer responsible for the procurement, where it is in paper format.
- 13.3.7 An original version of the tender must be retained for a period of six years.

### 13.4 Alteration of Opened Tenders:

- 13.4.1 *Tenderers* are not allowed to alter their final submission or Best and Final Offer after the date set for the receipt of their submission. An *Officer* should be identified whom has the delegated authority to agree corrections to bill of quantity type *Tenders* provided that:
  - The errors made appear to be reasonable and genuine and are such that they can be corrected without further contact with the *Tenderers*;
  - Normally such errors will be arithmetic, i.e. errors of summation, extension, carry forward etc.
  - No rates may be altered, deleted or added but *Tenderers* may be allowed to confirm an assumed rate calculated from the total charge against an item where no rate is shown;
  - Under no circumstances should *Tenderers* be invited to provide supplementary values for inclusion in a *Tender*;
  - The approval of the delegated *Officer* should be obtained and the nature of the alteration clearly recorded;
  - All *Tenders* should be similarly checked in order to ensure consistency of treatment.

- 13.4.2 After following these procedures, the successful *Tenderer* must be given details of any proposed alterations and afforded an opportunity of accepting the alterations or otherwise withdrawing the *Tender*. If the *Tenderer* accepts the alterations their written approval should be obtained. If the *Tenderer* withdraws their tender, the next *Tenderer* in competitive order is to be dealt with similarly.

## 14. Clarification Procedures

- 14.1 Any aspects of bids that are manifestly unclear or ambiguous may be clarified with the *Bidder* in writing. *Procuring Officers* must not undertake presentations as a way to clarify a *Bidders* response. Further, *Procuring Officers* must not use the clarification process to draw out additional components of the bid which were not previously submitted.
- 14.2 Any clarifications required of a *Bidder* must be worded in a way to not allow the *Bidder* an opportunity to vary, amend or improve the bid.
- 14.3 Any aspects of a *Bidders* response that needs clarification must not be scored until the clarification has been received.

## 15. Evaluation and Award of Contract

- 15.1 Apart from the debriefing requirements or permitted by Contract and Procurement Procedure Rule 16:
- Confidentiality of *Quotations*, *Tenders* and the identity of *Applicants* must be preserved at all times; and
  - Information about one *Applicant's* response must not be given to another *Applicant*.
- 15.2 Contracts must be evaluated, recorded and awarded in accordance with the *Award Criteria*.
- 15.2.1 *Tenders* may be evaluated on the basis of price, or a mixture of price, technical and quality. The basis on which the *Tender* will be evaluated must be determined before *Tenders* are invited and should be included as part of the *Tender* information. This includes the contract *Award Criteria* and any sub-criteria and their respective weightings.
- 15.2.2 Longer-term partnership evaluations may include price, technical, quality as well as the need to demonstrate adding value to the Council, acceptance of a portion of risk, and flexibility to meet changing circumstances. Key success factors should be identified and incorporated into the selection process and partnering agreement.

- 15.2.3 All *Tenderers* should be notified in the *quotation/tender* that no work or services may be commenced or goods/materials ordered until a formal contract has been signed and/or an official order has been raised.
- 15.2.4 For large contracts or long term partnerships the expectation is that *Officers* would seek assurance that *Economic Operators* are complying with the Public Interest Disclosure Act 1998 e.g. provision of a “whistleblowing” policy within their organisation. Also those *Economic Operators* are aware and practise the principles of good corporate governance.

**15.3** Where the *Total Contract Value* is over the *EU Threshold*, the *Officer* must inform all *Tenderers* of their intention to award the contract to the successful *Tenderer*. The *Officer* must allow a period of not less than 10 working days after announcing their Intention to Award to provide unsuccessful *Tenderers* with a period in which to challenge the decision before the *Officer* awards the contract. If the decision is challenged by an unsuccessful *Tenderer* then the *Officer* shall not award the contract and shall immediately seek the advice of Legal Services whilst also notifying their *Procurement Resource*. In cases of unforeseen emergency outside the control of the Council and where the 10 day standstill period would cause immediate risk to persons, property or serious disruption to Council services the *Chief Executive* or *other person acting on their behalf* may give approval to waive the 10 day standstill period.

**15.4** The *Officer* shall debrief in writing all those *Tenderers* who submitted a bid why they were unsuccessful and provide information and shall include:

- a) Scores for the relevant sections of the tender
- b) Evaluation commentary regarding how the *Award Criteris* were applied and a clear explanation as to the characteristics of the tender against the *Award Criteris*, and as against the successful *tender*;
- c) The name and contract price of the winning *Bidder*;

No other information should be given without taking the advice of your *Procurement Resource*.

**15.5** If requested, the *Officer* may also give the debriefing information required by Contract and Procurement Rule 15.4 to *Applicants* who were deselected in a pre-tender shortlisting process.

## **15.6 Reporting Requirements**

15.6.1 It is a requirement of the Public Contract regulations for *Procuring Officers* upon completing a tender, to draw up a written *Procurement Report* which shall include at least the following;

- a) The name and address of the *Contracting Authority*, the subject-matter and value of the contract, *Framework Agreement* or dynamic purchasing system;

- b) Where applicable, the results of the qualitative selection and reduction of numbers pursuant to regulations 65 and 66, namely:-
  - i) the names of the selected candidates or *Bidders* and the reasons for their selection;
  - ii) the names of the rejected candidates or *Bidders* and the reasons for their rejection;
- c) the reasons for the rejection of tenders found to be abnormally low;
- d) the name of the successful *Bidder* and the reasons why its tender was selected and, where known-
  - i. the share (if any) of the contract or *Framework Agreement* which the successful *Bidder* intends to subcontract to third parties, and
  - ii. the names of the main contractor's subcontractors (if any);
- e) for competitive procedures with negotiation and competitive dialogues, the circumstances as laid down in regulation 26 (PCRs) which justify the use of those procedures;
- f) for negotiated procedures without prior publication, the circumstances referred to in regulation 32 (PCRs) which justify the use of this procedure;
- g) where applicable, the reasons why the *Contracting Authority* has decided not to award a contract or *Framework Agreement* or to establish a dynamic purchasing system;
- h) where applicable, the reasons why means of communication other than electronic means have been used for the submission of tenders;
- i) where applicable, conflicts of interests detected and subsequent measures taken.

15.6.2 *Procuring Officers* must submit a copy of the *Procurement Report* identified above to the Cabinet Office or Commission upon request.

15.6.3 *Procuring Officers* must keep sufficient documentation to justify decisions taken in all stages of the procurement procedure, including but not limited to;

- a) Communications with *economic operators* and *bidders*.
- b) Internal deliberations
- c) Preparation of the procurement documentation
- d) Dialogue or negotiation, if any
- e) Selection and award of the contract

15.6.4 *Procuring Officers* must ensure the documentation is kept in line with the Councils document retention schedule, in this case a minimum of three years.

## 15.7 Moderation

15.7.1 *Evaluating Officers* should not score bids separately, and then reconsider outliers and average scores during a moderation process to reach a score.



- 15.7.2 Instead *Evaluating Officers* in the *Evaluation Panel* must now attend a moderation meeting, which must be chaired by the relevant *Procurement Officer* whom are not permitted to be evaluators.
- 15.7.3 Bids must be read in advance of the moderation meeting, and may be annotated, but must not be formally scored prior to the moderation meeting.
- NOTE: It is important that no prior scoring audit trail be created prior to the moderation meeting. The Chair does need to have read the bids as they may have to refer to the content to help resolve any disagreements within the evaluation team. Their role is to explore the arguments for any scoring variations, resolve errors and inconsistencies, and help the team come to an agreed consensus score about the characteristics and relative merits of the Tender as against the scoring criteria, and the other Tenders.
- 15.7.4 *Evaluating Officers* are required to reach consensus during the moderation meeting, and produce an agreed narrative as described in section 15, which using the evidence from the Tender, records the characteristics and merits of the tender and the appropriate mark from the scoring table.
- 15.7.5 Full auditory records, or very detailed minutes of the discussions are not required.
- 15.7.6 In the case when a chaired moderation meeting is not possible and evaluators are scoring independently, and scores will be averaged and outliers considered by the *Evaluation Panel*, *Procuring Officers* must ensure detailed justifications are recorded for the adjustment of any scores.

## Section 4 – Contract and Other Formalities

### 16. Contract Documents

**16.1 Every contract with a Total Contract Value of £5,000 and above must be recorded on a Contract Register and forwarded to Procurement Lincolnshire for inclusion on the Corporate Contracts Register including any changes over the contract life e.g. extensions. Property and Facilities**

**16.2** Every contract must be recorded in writing (this may include the relevant documents e.g. Procurement Card log. Where an order is placed using an electronic system e.g. an *E-Marketplace* or via a *Procurement Card* it must state clearly:

- What is to be supplied (description and quality);
- Payment provisions (amount and timing).

**16.3 Where possible every contract over £5,000 must state clearly:**

- When the Council will have the right to terminate the contract;
- That the contract is subject to the law as to prevention of corruption (Procedure Rule 18);
- The Council's standard terms and conditions or order form must be used.

**16.4 Every contract over £25,000, (or where relevant for lower values) must state clearly:**

- That the *Economic Operator* may not assign or sub-contract without prior written consent;
- Any Insurance requirements;
- Health and Safety requirements;
- Ombudsman requirements;
- Data Protection requirements if relevant;
- That Charter Standards are to be met if relevant;
- Race Relations requirements;
- Disability Discrimination Act requirements;
- Freedom of Information Act requirements;
- That agents must comply with the Council's Contract and Procurement Procedure Rules relating to contracts (where agents are used to let contracts);
- A right of access to relevant documentation and records of the *Economic Operator* for monitoring and audit purposes if relevant;
- Price mechanism including inflationary issues where appropriate;
- Future service performance measures and efficiency targets;
- Any other relevant legislation e.g. Section 11 of the Children's Act;
- Business Continuity requirements.

**16.5** The advice of your *Procurement Resource* may be sought for the following contracts:

- Those involving leasing arrangements (must receive the approval of Director);
- Where it is proposed to use the *Economic Operator's* own terms;
- Where the *Total Contract Value* exceeds £75,000;
- Those which are complex in any other way.

**16.6 Contract Formalities**

16.6.1 Contracts must be completed as follows:

Total Contract Value	Method of Completion	By
Up to £25,000	Signature Use of Purchase Order or Written Contract for complex requirements	Officer with appropriate authority to enter into a contract (see Regulation 16.6.3)
£25,001 to £75,000	Signature on Written Contract	Service Manager or Officer with appropriate authority to enter in a contract (see Regulation 16.6.3)
Above £75,000	Completion of a <i>Contract Register Form</i> followed by Sealing	See Regulation 16.6.4
Over £500,000	Signature on Written Contract	Service Manager with appropriate authority, once the appropriate Cabinet Members have been consulted.
Contracts for sealing	Sealing	See Regulation 16.6.4

16.6.2 All contracts must be concluded formally in writing before the supply, service or construction work begins, except in unforeseen emergencies, and only with the written consent of the *Chief Officer* (see Procedure Rule 15.3). An award letter is insufficient. Each *Chief Officer* has the responsibility to ensure that a Scheme of Authorisation is in place and contracts should be signed in accordance with this scheme.

### 16.6.3 Signature:

The *Officer* responsible for signing the contract must be granted the appropriate authority and ensure that the person signing for the contracting party has authority to bind it.

### 16.6.4 Sealing:

A contract must be sealed where:

- The Council may wish to enforce the contract more than six years after its end (e.g. for construction works); or
- The price paid or received under the contract is a nominal price and does not reflect the value of the goods, services or the carrying out of works; or
- Where there is any doubt about the authority of the person signing for the other contracting party; or
- Where a bond is established on behalf of the contractor(s) or their guarantors; or
- Where required by parties to the agreement; or
- The *Total Contract Value* exceeds £75,000.

Where contracts are completed by each side adding their common seal, the affixing must be attested by or on behalf of the Solicitor to the Council. The Solicitor to the Council is responsible for the processing of sealing contracts.

### 16.6.5 Archiving & Lodgement of Records:

The original sealed contract must be deposited, by the *Officer*, with Legal Services with a copy being retained within the relevant service department in accordance with the document retention policy.

## 17. Bonds and Parent Company Guarantees

17.1.1 The officer responsible for the contract must consult with the appropriate Assistant Director with regards to whether a *Parent Company Guarantee or Performance Bond* is necessary when a potential supplier is a subsidiary or a parent company.

17.1.2 A Parent Company Guarantee or Performance Bond is needed:

- Where the *Total Contract Value* exceeds **£500,000** or
- Where it is proposed to make staged or other payments in advance of receiving the whole of the subject matter or the contract or
- There is concern about the stability of the subsidiary supplier.

17.1.3 The Council must never give a bond.

## 18. Prevention of Corruption

**18.1** The *Officer* must comply with the Code of Conduct and must not invite or accept any gift or reward in respect of the award or performance or any contract:

- It will be for the *officer* to prove that anything received was not received corruptly;
- High standards or conduct are obligatory. Corrupt behaviour will lead to dismissal and is a crime under the statutes referred to in Contract Procedure Rules 18.2.

**18.2** The following clause must be placed in every written Council contract:

“The Council may terminate this contract and recover all its loss if the Contractor, its employees or anyone acting on the Contractor’s behalf do any of the following things:

- (a) Offer, give or agree to give to anyone inducement or reward in respect of this or any other Council contract (even if the Contractor does not know what has been done); or
- (b) Commit an offence under the Prevention of Corruption Acts 1889 to 1916 or Section 117 (2) of the Local Government Act 1972; or
- (c) Commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors or employees.

Any clause limiting the Contractor’s liability shall not apply to this clause.

## Section 5 – Contract Management

### 19. Managing Contracts

- 19.1 The Assistant Director in sponsoring service areas are to name Contracts Managers for the entirety of the contract.
- 19.2 Contracts Managers must follow the procedures set out in the Council's *Procurement Guide*.
- 19.3 All variations to contracts shall be in writing and your *Procurement Resource* must be consulted prior to issuing any variations.

### 20. Risk Assessment & Contingency Planning

- 20.1 A business case must be prepared for all procurement with a potential value over the *EU Threshold*. Provision for resources for the management of the contract, for its entirety, must be identified in the business case.
- 20.2 For all contracts with a value of over **£75,000**, Contract Managers must:
- Maintain a risk register (generic register acceptable) during the contract period and review it at least every three months;
  - Undertake appropriate risk assessments;
  - For identified risks, ensure contingency measures are in place;
  - Ensure critical support and maintenance arrangements are documented in the Specification in order to avoid costly post-tender negotiation.

### 21. Contract Monitoring, Evaluation and Review

- 21.1 All contracts which have a value higher than the *EU Threshold* limits, or which are *high risk*, are to be subject to a regular formal review (based on the risk) with the successful *Tenderer*.
- 21.2 Where a contract is let on the basis of cost/quality criteria, the management processes and procedures accepted through the quality submission must be adhered to for all material/services procured through that contract.
- 21.3 During the life of the contract the *Officer* must monitor in respect of:
- Performance;
  - Compliance with specification and contract;
  - Cost;
  - Any *Value for Money* requirements;
  - Working practices where appropriate e.g Health and Safety
  - User satisfaction and risk management; and
  - Any additional factors in accordance with any guidance in the *Procurement Guide*.

## Section 6 – General

“Applicant”	Any person who asks or is invited to submit a Quotation or Tender
“Approved List”	A list drawn up in accordance with Procedure Rule 7
“Agent”	A person or organisation acting on behalf of the Council or on behalf of another organisation
“Award Criteria”	The criteria by which the successful Quotation or Tender is to be selected (see Procedure Rule 10 or 11.5)
“Award Procedure”	The procedure for awarding a contract as specified in Procedure Rule 10)
“Best Value”	<p>The duty, which Part 1 of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by the Council (see also the Procurement Guide with respect to the impact of Best Value in purchasing and disposal).</p> <p>This terminology has now in many instances been superseded with Value for Money.</p>
“Bond”	An insurance policy: If the <i>Economic Operator</i> does not do what it has promised under a contract with the Council, the Council 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 Council against a level of cost arising from the <i>Economic Operator’s</i> failure.
“Cabinet”	The Council’s Cabinet as defined in the Constitution
“Chief Officer”	The Officers defined as such in the Constitution
“Code of Conduct”	The code regulating conduct of Officers and Members is defined in the Constitution
“Collaborative Arrangements”	Use of a framework let by a third party e.g. <i>ESPO</i> or a joint procurement exercise which involves two or more parties

“Committee”	A committee, which has power to make, decisions for the Council, for example a joint committee with another local authority but not a scrutiny committee.
“Common Seal”	A contract that is signed and sealed as a Deed.
“Constitution”	<p>The constitutional document approved by the Council which:</p> <ul style="list-style-type: none"> <li>• Allocates powers and responsibilities within the Council and between it and others;</li> <li>• Delegates authority to act to the <i>Cabinet, Committees, Cabinet Members and Officers</i>; and</li> <li>• Regulates the behaviour of individuals and groups through rules of procedure, codes and protocols</li> </ul>
“Consultant”	<p>Someone employed for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role, and where the Council has no ready access to employees with skills, experience or capacity to undertake the work.</p> <p>All consultants must confirm to the HR tests.</p>
“Contracting Authority”	The organisation letting the contract in question.
“Contracting Decision”	<p>Any of the following decisions:</p> <ul style="list-style-type: none"> <li>• Composition of <i>Approved Lists</i></li> <li>• Withdrawal of <i>Invitation to Tender</i></li> <li>• Whom to invite to submit a <i>Quotation or Tender</i></li> <li>• <i>Shortlisting</i></li> <li>• Award of contract</li> <li>• Any decision to terminate a contract.</li> </ul>
“Contract Register Form”	A notification form that must be completed for all contracts awarded and when amended and forwarded to Procurement Lincolnshire as stated Procedure Rule 2.4.4 and 16.1.
“Contract Regulations”	Rules of Procedure of the Council’s <i>Constitution</i> titled Contract Regulations which covers the general principles to be followed by <i>Officers</i> in procuring goods, services and works from organisations external to the Council.



“Corporate Contract”	A contract let or approved by Procurement Lincolnshire to support the Council’s aim of achieving <i>Value for Money</i> . Where a Corporate Contract is in place, the <i>Officer</i> is obliged to use it unless an exemption has been granted under Procedure Rule 3.
“Council”	For the purpose of these Contract and Procurement Procedure Rules “Council” refers to South Kesteven District Council.
“Deed”	A signed and usually sealed instrument containing some legal transfer, bargain, or contract.
“Economic Operator”	A contractor, a supplier or a service provider. Any person who offers on the market supplies, services or works and who sought, who seeks, or who would have wished to be the person to whom a public contract is awarded.
“Electronic Tendering”	A totally secure means to store and transmit all contract/Tender documentation via a secure electronic vault.
“E-Marketplace”	An internet based system that the Council uses which allows commerce between it and a variety of Economic Operators.
“ESPO”	The Eastern Shires’ Purchasing Organisation.
“ESPO Contract”	A contract let by <i>ESPO</i> on behalf of the Council to support the Council’s aim of achieving Value for Money. Where a suitable <i>ESPO</i> Contract exists, the <i>Officer</i> must use it unless there are auditable reasons for going elsewhere. See also “Framework Agreement”.
“EU Procurement Directive”	The main EU legislation that covers public procurement.
“EU Threshold”	The contract value at which the EU public procurement directives must be applied. (See Procurement Guide for current values).
“European Economic Area”	The members of the European Union, and Norway, Iceland and Liechtenstein.

“Evaluation Panel”	A group of relevant Officers which may include and not limited to Commissioning, Procurement, HR, Finance, Legal and Service Managers.
“Evaluation Report”	A report produced by the Officer detailing the outcome of the evaluation process undertaken, from which a recommendation is put forward for approval.
“Executive Member”	A Member of the Executive to whom political responsibility is allocated in respect of specified functions
“Financial Regulations”	The financial regulations outlining Officer responsibilities for financial matters issued by the Director of Resources in accordance with the Constitution.
“Framework Agreement”	An agreement between one or more contracting authorities and one or more <i>economic operators</i> , the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
“Government Procurement Agreement”	The successor agreement to the General Agreement on Trade and Tariffs. The main signatories other than those in the European Economic Area are: the USA, Canada, Japan, Israel, South Korea, Switzerland, Norway, Aruba, Hong Kong, China and Singapore.
“High Profile”	A high-profile purchase is one which could have an impact on functions integral to Council service deliver should it fail or go wrong.
“High Risk”	A high-risk purchase is one which presents the potential for substantial exposure on the Council’s part should it fail or go wrong.
“High Value”	A high-value purchase is one where the value is greater than that of the EU Threshold values.
“Invitation to Tender”	Invitation to Tender documents in the form required by these Contract and Procurement Procedure Rules.

<p>“Invitation to Tender by Advertisement/List”</p>	<p>An Invitation to Tender sent to Applicants shortlisted from among either:</p> <ul style="list-style-type: none"> <li>• Those responding to advertisement of the contract inviting proposals placed in such publications as shall secure widest publicity among relevant Economic Operators; or</li> <li>• Those included on an Approved List in respect of the type of purchase which is the subject of the Invitation to Tender.</li> </ul>
<p>“Key Decision”</p>	<p>Decisions that are defined as Key Decisions in the Constitution.</p>
<p>“Nominated Economic Operators and Sub-Contractors”</p>	<p>Those persons specified in a main contract for the discharge or any part of the contract.</p>
<p>“Non-Commercial Considerations”</p>	<p>Except as provided below, the following matters are non-commercial considerations:</p> <ol style="list-style-type: none"> <li>(a) The terms and Conditions of employment by <i>Economic Operators</i> of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces (See “Workforce Matters”);</li> <li>(b) Whether the terms on which Economic Operators contract with their sub-contractors constitutes, in the case of contracts with individuals, contracts for the provision by them as self-employed persons of their services only;</li> <li>(c) Any involvement of the business activities or interests of Economic Operators with irrelevant fields of Government policy;</li> <li>(d) The conduct of Economic Operators or workers in industrial disputes between them or any involvement of the business activities of <i>Economic Operators</i> in industrial disputes between other persons;</li> <li>(e) The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, <i>Economic Operators</i>;</li> <li>(f) Any political, industrial or sectarian affiliations or interests of <i>Economic Operators</i> or their directors, partners or employees;</li> <li>(g) Financial support or lack of financial support by <i>Economic Operators</i> for any institution to or from which the authority gives or withholds support;</li> <li>(h) Use or non-use by <i>Economic Operators</i> of technical or professional services provided by the authority under the Building Act 1984 or the Building (Scotland) Act 1959.</li> </ol>

	Workforce matters and industrial disputes, as defined above in paragraphs (a) and (d) of this definition, cease to be non-commercial considerations to the extent necessary or expedient to comply with Best Value; or where there is a transfer of staff to which the Transfer of Undertakings (Protection of Employment) Regulations 1981 ( <i>TUPE</i> ) may apply.
“Officer”	The officer designated by the Chief Officer to deal with the contract in question.
“Open Procedure”	All Applicants are invited to bid in response to advertisement.
“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 Council, they can require the parent company to do so instead.
“Procurement Card”	A card issued to an Officer by the Council, to be used for procuring goods and services.
“Procurement Lincolnshire”	The Council’s corporate procurement unit charged with providing strategic direction and advice to secure value for money in the Council’s procurement activities.
“Procurement Guide”	The manual entitled Best Value Procurement Guide.
“Procurement Resource”	Directorate Procurement Unit charged with providing direction and advice to secure value for money in Directorate procurement activities.  Procurement Resource may also be known as the Commissioning Team.
“Quotation”	A quotation of price and any other relevant matters (without the formal issue of an invitation to Tender).
“Selected Lists”	Also can be known as Approved Lists. Please refer to Approved Lists definition.

“Shortlisting”	<p>Where Applicants are selected:</p> <ul style="list-style-type: none"> <li>• To quote or bid or</li> <li>• To proceed to final evaluations</li> </ul>
“Sustainable Procurement Strategy”	The document setting out the Council’s approach to procurement .
“Tender”	A Tenderer’s proposal submitted in response to an Invitation to Tender.
“Tenderer”	Any Economic Operator who has submitted a Tender.
“Total Contract Value”	<ul style="list-style-type: none"> <li>• The whole of the value or estimated value (in money or equivalent value) for a single purchase or disposal;</li> <li>• Whether or not it comprises several lots or stages;</li> <li>• To be paid or received by the Council.</li> </ul> <p>The Total Contract Value shall be calculated as follows:</p> <ol style="list-style-type: none"> <li>(a) Where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period.</li> <li>(b) Where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months;</li> <li>(c) Where the contract is for an uncertain duration by multiplying the monthly payment by 48;</li> <li>(d) For feasibility studies: The value of the scheme or contracts which may be awarded as a result;</li> <li>(e) For nominated Economic Operators and Sub-contractors: The Total Contract Value shall be the value of that part of the main contract to be fulfilled by the nominated Economic Operator or Sub-Contractor.</li> </ol>
“TUPE – Transfer of Undertakings (Protection of Employment)”	TUPE refers to the Transfer of Undertakings (Protection of Employment) Regulations, 1981. These regulations were introduced to ensure the protection of employees when, for example, a business is taken over by another organisation. Broadly, TUPE regulations ensure that the rights of employees are transferred along with the business.

"Value for Money"	Where quality and cost combine to produce a service which meets technical and customer requirements at an acceptable level of expenditure.
"Workforce Matters"	<p>Authorities cannot focus on matters classed as Non-Commercial Considerations as part of the contractual process. However, the restrictiveness of the original definitions was considered too great, and so from 2001 authorities may consider the following matters to the extent that they are relevant to the delivery of Best Value or for the purposes of a TUPE transfer.</p> <ul style="list-style-type: none"> <li>• The terms and conditions of employment by Economic Operators of their workers or the composition of, the arrangements for the promotion, transfer or training of or other opportunities afforded to, their workforces (section 17(5)(a));</li> <li>• The conduct of Economic Operators or workers in industrial disputes between them (section 17(5) (d)).</li> </ul> <p>Save for the above restrictions on other non-commercial considerations listed in Section 17 of the Local Government Act 1988 remain in place.</p>