

# Contract Procedure Rules

**Adopted by Cambridgeshire County Council      29 October 2012**  
**Sixth Edition (Revised 01 October 2015)**

**Adopted by Northamptonshire County Council      29 October 2012**  
**Part 4 G (Revised 01 October 2015)**

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# Part 1 –Introduction, Scope& Responsibilities

## 1. Introduction

- 1.1 These rules apply to all Officers of the Council or any companies or organisations within the Council's control, they are part of the Council's Constitution and therefore Officers have a duty to ensure they have fully understood them prior to commencing any procurement or contracting activity.
- 1.2 Officers must also ensure that any persons and or organisations acting on behalf of the Council fully comply with these rules.
- 1.3 The aim of these rules is to assist Officers in achieving good procurement and benefits that it brings. These rules are the Council's rules for buying, renting, leasing of goods, services and works for the Council. They do not apply to internal purchases or internal service provisions.
- 1.4 If there is any change to the law which affects these rules then that change must be observed until these rules can be revised. If these rules conflict in any way with the law then the law takes precedence. It is the Officers responsibility to seek appropriate support from the Central Procurement Team in relation to any procurement activity.
- 1.5 Before embarking on any procurement activity it is the Officers ultimate responsibility to seek appropriate support and guidance from the Council's Central Procurement Team. If the Officer is in any doubt about whether the rules apply, he/she must always consult with the Council's Central Procurement Team immediately.
- 1.6 Any value stated within these rules are exclusive of VAT.

## 2 Basic Principles

- 2.1 All procurement activity and contract/supplier management must:
  - Achieve Value for Money for public money spent
  - Be consistent with the highest standards of integrity
  - Ensure fairness and transparency in awarding public contracts
  - Ensure that the Council comply with all legal requirements
  - Ensure that Non-Commercial Considerations do not influence any contracting decision.
  - Support the Council's corporate and departmental aims and policies

### 3 Exceptions to the Rules

3.1 These rules apply to every procurement/ Contract made by or on behalf of the Council except for:

- 3.1.1 grants which the Council may receive or make except where the grant is the form of payment for a contract for services where the Council specifies the output or outcomes to be delivered;
- 3.1.2 acquisition or disposal of any interest in land;
- 3.1.3 goods, works or services procured in a genuine Emergency (e.g. natural disasters such as flooding or fires, immediate changes to legislation) because of a need to respond to events that were beyond the genuine control of the Council. Any Emergency procurement must be reported to Head of the Central Procurement Team as soon as practical. Any such Contract entered into by the Council must not be for a term of more than six months. Please note that not allowing enough time to go to Tender is not an Emergency;
- 3.1.4 goods, services or works purchased through the ESPO General Catalogue up to £10,000 per transaction and as long as the Officer is satisfied that the catalogue offers Value for Money (for CCC Officers only). This does not include ESPO Dealing Direct, Pro 5 or Government Procurement Services (GPS) contracts to which the rules must still be followed;
- 3.1.5 contracts for employment,
- 3.1.6 for existing supplies, services or goods works which are available only where there is no genuine satisfactory alternative available such as public utility infrastructure providers, e.g. Gas mains, sewage and water supply.
- 3.1.7 any Contracts entered into through collaboration with other Local Authorities or other public bodies, where a competitive process has been followed that complies with the rules of the lead organisation (but does not necessarily comply with these rules). This does not include regional procurement bodies such as ESPO Dealing Direct, Pro 5 or GPS contracts to which the rules must still be followed. Evidence should be obtained and held for audit purposes;
- 3.1.8 the lending or borrowing of money;
- 3.1.9 The Officer may secure a care placement without calling for competition providing he/she has ensured best value for the Council and the placement satisfies all of the four criteria below:
  - 1) The care requirement is not more than one care provider in a reasonable proximity to meet the individual's needs.
  - 2) The care requirement is both complex and unique to the individual.
  - 3) There is no accessible framework for placing the care requirement.
  - 4) The requirement has been approved by the Chief Officer of the relevant directorate and the 151 Officer.

It is the Officer's responsibility to ensure that such all care placements in the Officer's remit are reviewed regularly for continued value for money.

## 4 Requesting An Exemption

- 4.1 Exemptions from these rules must be obtained in advance of the Officer commencing procurement and in accordance with the following procedure and will only be granted in exceptional circumstances. Lack of forward planning will not constitute a reason for an exemption.
- 4.2 The Officer seeking the exemption is responsible for estimating the Total Value of the proposed Contract. Please see Part 2 rule 2 of this document.
- 4.3 Where the Total Value is up to ~~£30,000~~ £25,000

Exemptions for proposed Contracts up to £25,000 in Total Value must be documented and authorised by the relevant Chief Officer. The Chief Officer making the decision must be satisfied that the exemption is both Value for Money and in the best interest of the Council.

- 4.4 Where the Total Value is from ~~£30,000~~ £25,000 up to £100,000

Exemptions for proposed Contracts with a Total Value of ~~£30,000~~ £25,000 and not exceeding £100,000 must be recorded using the Exemption Request Form located in the central procurement team pages of the intranet. The Officer must secure approval from the Chief Officer and then send to the Central Procurement Team for approval by the Head of the Central Procurement Team. Approval must be obtained by the Officer prior to any procurement activity commencing. The Exemption Request Form will be returned to the relevant department for retention with the Contract records, with a copy retained by the Central Procurement Team.

- 4.5 Where the Total Value is £100,000 up to the current EU Threshold.

Exemptions sought that are equal to or over £100,000 and not exceeding the EU Threshold for goods and services must be recorded using the Exemption Request Form located in the central procurement team pages of the intranet. The Officer must secure approval from the Chief Officer, the Monitoring Officer and the Section 151 Officer and then send the approved form to the Central Procurement Team. Approval must be obtained by all parties prior to any procurement activity commencing. The Exemption Request Form will be returned to the relevant department for retention with the Contract records, with a copy retained by the Central Procurement Team.

- 4.6 Exemptions Equal to and Over the EU Threshold

Exemptions sought that are equal to or above the EU Threshold for works, goods or services and not exceeding the Council's Key Decision threshold can be requested in specific circumstances where the Officer can demonstrate clear evidence that there would be no benefit from competition due to the nature of the provider market. An exemption would only be considered if the obligations under the EU regulations are satisfied. Exemptions sought under any other circumstances at this level are not permitted. The Officer must record the exemption using the Exemption Request Form located in the central procurement team pages of the intranet. The Officer must secure approval of authorisation from the Chief Officer, the Monitoring Officer and the Section 151 Officer and then send the approved form to the Central Procurement Team. The Exemption Request Form will be returned to the relevant department for retention with the Contract records, with a copy retained by the

Central Procurement Team.

#### 4.7 Exemptions over the Council's Key Decision Threshold

Exemption requests cannot be sought for exemptions equal to or above the Council's Key Decision threshold.

#### 4.8 Repeat Exemptions

In instances where a repeat exemption is requested, then the Total Value of the requested exemption will be added to previous exemptions and the appropriate rule/ regulation relating to the Total Value will apply. See Part 2 rule 2 of this document re calculating Total Value.

#### 4.9 Exemptions for Works

In the case of exemptions for procurement of works, exemptions will not be granted above the EU Threshold for Supplies/Services except as applied in rule 4.6 of this section.

#### 4.10 Exemption Initiated by the Central Procurement Team

In instances where an exemption request is initiated by any member of the Central Procurement Team, a procurement specific Exemption Request Form located in the central procurement pages of the intranet will be completed and submitted to the Monitoring Officer for approval or rejection. A copy will be retained by the Central Procurement Team.

### **5 Non-Compliance with the Rules**

- 5.1 Where an Officer becomes aware of any non-compliance with these rules and which cannot be remedied, they must notify the Monitoring Officer at the earliest opportunity.

### **6 Recommended Reading**

- 6.1 It is strongly recommended that Officers and Chief Officers read the following documents in conjunction with these rules and which are available on the intranet and offer further guidance:

- Procurement Best Practice Guide (CCC Officers only).
- The Council's Financial Regulations (CCC Officers only).
- Financial Procedure Rules (NCC Officers only).
- Any relevant S.O.R.P.s especially Procurement S.O.R.P. (NCC Officers only).
- Policies and processes on the Central Procurement Team's intranet pages.

### **7 Officer Responsibilities**

- 7.1 The Officer responsible for the procurement must comply with these rules and any public procurement legislation; failure to do so could result in disciplinary action.
- 7.2 Officers must take account of all necessary legal, financial, procurement and any technical advice.
- 7.3 The Officer must have regard to current guidance (see rule 6 of this section) provided by the Central Procurement Team and the principles of the Council's Procurement Strategy.

- 7.4 The Officer is responsible for the procurement and must ensure:
- Continuing compliance with the Council's requirements.
  - Value for Money
  - Compliance with these rules, any legal, statutory requirements and any Council policies.
- 7.5 The Officer must ensure security and confidentiality of documentation supplied at all stages of the procurement activity, including Tender Evaluation Reports, working papers and minutes of meetings. The Officer must ensure that he or she records in writing all minutes of meetings and decisions/actions taken.
- 7.6 Where the Total Value of the procurement is less than ~~£30,000~~ £25,000 the Officer must take steps to secure Value for Money by clearly defining the business requirement and seeking offers at the lowest cost commensurate with meeting that business requirement.
- 7.7 The Officer must consider whether the procurement involves a "Key Decision". If it does then the Officer must seek approval from the relevant Committee appropriate to the nature of the Contract (CCC Officers only) or Cabinet (NCC Officers only) prior to the procurement commencing.

## **8 Chief Officer Responsibilities**

- 8.1 Chief Officers must comply with these rules and must ensure that their Officers comply with these rules.
- 8.2 The Chief Officer must keep a written record of all approved exemption requests for his/her department and work with the Central Procurement Team to avoid seeking exemptions in future. This record must be produced when required by the Monitoring Officer or audit.
- 8.3 Chief Officers must keep a register of contracts completed by signature (rather than by the Council's seal) and arrange their safekeeping on Council premises as per the Council's retention policy available on the Central Procurement Team's intranet pages.

## **9 Prevention of Corruption and Conflict of Interest**

- 9.1 Officers and Chief Officers have a duty in law to avoid any form of behaviour or conflict of interest that might distort or restrict competition, or make a Contract award subject to the risk of being challenged. Officers or Chief Officers involved in procurement must declare any conflicts of interests relating to the procurement activity where they, or their significant other, have a vested interest that could conflict with the best interests of the Council.
- 9.2 The Officer and the Chief Officer must always comply with the Council's Code of Conduct and must not offer, promise or give any gift or reward in respect of the award or performance of any Contract.
- 9.3 The Officer and the Chief Officer must always comply with the Council's Code of Conduct with regards to receiving of gifts in respect of the award or performance of any Contract.
- 9.4 Officers are advised that any inappropriate behaviour that is deemed contrary to the Bribery Act 2010 could result in dismissal and then matter may be reported to the police.

# Part 2 - Procurement Behaviour & Thresholds

## 1 Procurement Thresholds and Value for Money

- 1.1 Value for Money is defined with reference to price, quality, availability, functionality and the optimum combination of whole life costs. Opportunities to save money by providing the optimum service for less than budgeted price should also be pursued.
- 1.2 If the lowest Quotation/ Tender obtained exceeds the threshold applicable to the procedure selected, the Officer must consult with the Central Procurement Team for approval to proceed or restart the procurement.

## 2 Total Value

- 2.1 Officers shall not sub-divide works, services or goods that could reasonably be treated as a single Contract so as to avoid these rules, thresholds or any legal requirements.
- 2.2 The total estimated value of orders for a given type of goods, services or works should, wherever practicable, be amalgamated for the purpose of determining procurement procedures and thresholds. This will also apply to Framework Agreements.
- 2.3 If a Contract is for a period greater than one year then the estimated value of orders to be placed over the full period should be used to determine the appropriate procedure, inclusive of any allowance for inflation. This must also include any extension term offered in the Contract.
- 2.4 Unless otherwise agreed by the Monitoring Officer the Contract term should not exceed 4 years in total (including any optional extension period(s)).
- 2.5 Where leasing arrangements, purchasing support or maintenance agreements are used, the total amount payable over the life of the lease or maintenance period shall determine the appropriate procedure. This should include lease costs and any other costs such as consumables/servicing and maintenance.
- 2.6 Where Contracts entail both revenue and capital costs the value of the Contract shall be calculated by the aggregation of the total estimated capital cost and the estimated revenue costs calculated as identified above.
- 2.7 Where a Contract includes the service provider offering goods, services or works as part of their offering, the monetary value of the goods, service and works must be considered in addition to any remaining monetary value of Contract and let in accordance with these rules thresholds. Officers should seek the advice of the Central Procurement Team in these cases.
- 2.8 All costs stated in these rules are exclusive of VAT.



### 3 Steps Prior To Purchase

- 3.1 The size, scope, term and specification of the goods, services or works required must be decided in advance of the procurement process commencing.
- 3.2 The Officer must define the duration of the Contract that will provide the most economically advantageous outcome for the Council. This decision must be made in advance of the procurement process and done in accordance with rule 2.4 of this section.
- 3.3 The Officer must consider the options for the delivery of the required goods, services or works. The options include but are not limited to:
- Not buying the goods or services or not having the works done at all;
  - Providing the goods, services or works ourselves;
  - Get a third party to provide the ongoing goods, services or works on behalf of the Council;
  - Providing the goods, services or works in partnership with a third party;
  - By commissioning jointly with another Council;
  - By utilising a buying consortium (e.g. ESPO, CBC, Government Procurement Services) to procure on behalf of the Council.
  - Whether a Corporate Contract exists within the Council (see rule 6 of this section).
- 3.4 Before beginning a purchase, the Officer responsible for it must:
- appraise the need for the expenditure and its priority;
  - define the objectives of the purchase;
  - assess the risks associated with the purchase and how to manage them;
  - consider what procurement method is most likely to achieve the objectives.
- 3.5 The Officer's approach to the appraisal must be proportionate to the complexity and value of the purchase and take into account any guidance in the Council's Procurement Best Practice Guidance available on the Central Procurement Team's intranet pages.
- 3.6 The Officer must consider (where relevant) any specific requirements for what they are purchasing such as Criminal Record Bureau checks or statutory requirements.
- 3.7 The Officer must ensure that any Prior Information Notices (PINs) or Voluntary Ex-Ante Transparency (VEAT) notices, required for the EU Procedure are placed in the Official Journal of the European Union by a member of the Central Procurement Team.
- 3.8 The Officer must be satisfied that there is sufficient budgetary provision for the anticipated Contract expenditure and any sources of funding are agreed before conducting the procurement.
- 3.9 Where the procurement meets the criteria defined for submission to an established Council review group the Officer must comply with those requirements.

## **4 Market Research and Consultation with Third Parties**

### **4.1 The Officer responsible for the purchase**

4.1.1 May consult potential providers prior to the issue of the Invitation to Tendering general terms about the nature, level and standard of the supply, Contract packaging and other relevant matters provided this consultation does not prejudice any potential Candidate.

4.1.2 Must not accept technical advice on the preparation of an Invitation to Tender or Quotation from anyone whom may have a commercial interest in them, if this may prejudice the equal treatment of all potential Candidates or distort competition.

## **5 TUPE – Transfer of Undertakings (Protection of Employment)**

5.1 When any employee either of the Council or of a service provider is likely to be affected by changes to staffing or work conditions, redundancy, relocation or transfer of employment or any other aspects relating to the Transfer of Undertaking of Protected Employment Regulations 2006. Such TUPE issues should be included in evaluation and Tender reports. Due regard must be taken of all regulations concerning TUPE and Workforce Matters including appropriate consultation with staff and trade unions, furthermore due care must be taken to ensure the validity and accuracy of all TUPE information. Pension entitlements must also be considered and as far as possible, protected within this process. Advice regarding TUPE must be sought from the Central Legal Team.

## **6. Corporate Contracts**

6.1 The Council has a number of “Corporate Contracts” created by the Central Procurement Team for common goods, supplies and services where the prices and terms have been negotiated to achieve the Value for Money for the Council as a whole.

6.2 The Officer must ensure he/she does not procure any goods or services or seek an exemption in relation to procuring any Contract without first checking whether the provision can be provided by a Corporate Contract. Where Corporate Contracts exist the Officer must use these Corporate Contracts unless specifically agreed with the Central Procurement Team. The list of Corporate Contracts are available on the Central Procurement Team's intranet pages.

## **7. Collaboration**

7.1 Officers should actively seek out opportunities to collaborate with other public bodies where this is of benefit to the Council, taking into account any adverse affect on Local economy and voluntary sector.

7.2 Where a collaborative procurement occurs, it is the procurement rules of the authority leading the procurement which will apply unless the lead authority specifically agrees otherwise.

7.3 Where the authorities opt for the use of a collaborative Framework Agreement, the anticipated expenditure of the authority concerned will dictate which procurement rules to apply.

7.4 The Council's Constitution relating to whether the expenditure is a Key Decision must be applied regardless of which body will lead a collaborative procurement.

## **8 Insurance**

- 8.1 The standard levels of cover required by the Council can be found on the Council's intranet or by contacting the Council's Insurance team. Where the Council's standard level of cover is not considered to be suitable by the Officer, advice on levels should be discussed and agreed in writing with the Insurance team. Professional indemnity must be evaluated on a case by case basis as it may not always be necessary.

## **9 Sustainable Procurement**

- 9.1 Sustainable procurement offers the Council the opportunity to encourage working collaboratively with suppliers to adopt practices that minimise environmental and social impacts. Officers must consider minimising the impact on the environment whilst also acquiring goods, works and services at a competitive rate. Officers are required to consider ways of procuring more resource and energy efficient alternatives and pay particular regard to the Council's environmental policies.

## **10 Supporting Local Enterprises, Voluntary and Community Organisations and Ensuring the County Benefits.**

- 10.1 Officers should use the Council's purchasing power to support Local small and medium enterprises (S.M.Es) and/or voluntary and community organisations and seek benefits and added value for the Local geographical area wherever possible and where this provides equal or better Value for Money for the Council than alternatives. It must be noted that the EU public procurement legislation requires Officers not to give direct favour or show bias. Therefore Officers must carefully review the required specifications and evaluation methodology of any procurement to ensure that small and medium sized enterprises are not being disadvantaged in their ability to Tender for goods, works or services with the Council.
- 10.2 Officers must ensure that processes do not over burden or restrict either S.M.Es or voluntary and community organisations from having the same opportunity to respond to procurements as those in the commercial sector.
- 10.3 Officers must consider the supply chain and how each specific procurement can help the Local community and Local small medium enterprises Local to the Council. This consideration should also be given when purchasing from Frameworks Agreements (see rule 13 of this section).
- 10.4 Officers must where possible incorporate questions in their Tenders that evaluate responses relating to any of the following:
- Local economical benefits,
  - social value benefits,
  - regeneration within the community,
  - local employment,
  - local apprenticeships
  - or any other benefits that support the Local economy and prosperity for the County where this is appropriate to the procurement.
- 10.5 This consideration should also be given when purchasing from Frameworks (see rule 13 of this section). Advice on this issue must be sought from the Central Procurement

Team. Please also refer to the Council's policy on apprenticeships which can be found on the Council's intranet.

- 10.6 Under the Localism Act 2011 and the Community Right to Challenge, an individual or group can propose a solution to provide a service that the Council currently provide. Advice on the process to follow should a challenge be received can be found on the Council's intranet.

## **11 Income Generating Purchases**

- 11.1 Where an Officer is proposing to enter into a Contract where either;
- (i) the Council will be the service provider, or
  - (ii) the Contract may generate income for the Council possibly to off-set the monies otherwise payable by the Council to the supplier (e.g. a sponsorship agreement), in addition to the other requirements in these rules,
- 11.2 The Officer shall only enter into a Contract if the relevant Chief Officer is satisfied that:
- the services to be provided and any benefits to the Council have been clearly specified;
  - the Council has power to provide the service, if applicable;
  - the proposed Contract is in the best interests of the Council.

## **12 Consultants**

- 12.1 For the procurement of a Consultant the relevant Chief Officer must follow the Council's process (available on the Central Procurement Team's pages of the intranet) justifying the requirement and must achieve approval according to that process prior to any procurement activity commencing.
- 12.2 The Chief Officer must consider whether internal resource can provide the requirement in the first instance.
- 12.3 The Chief Officer must consider whether the temporary agency staff provision can provide the requirement in the second instance.
- 12.4 The Chief Officer must comply with the Council's policy on Consultancy available on the Council's intranet.
- 12.5 A Consultant appointed to advise on the procurement or design of the project, or to advise on an evaluation or similar exercise must not be permitted to bid for any subsequent stage of the work or project. Any enhancement or changes to the original appointment on advising on a project must undergo a further justification as per rule/ regulation 12.1 of this section.

## **13 Purchasing From Framework Agreements**

- 13.1 The Officer may purchase goods, services or works from a Framework Agreement if the Council is named either specifically or in acceptable geographic terms on the Framework Agreement and the scope for the Officer's purchase is specified in the framework.
- 13.2 The Officer must not call-off from a Framework Agreement if there is no clear and specific call-off criteria in the agreement.

- 13.3 A Framework Agreement should not be considered if a Corporate Contract or any other approved Contract exists.
- 13.4 The Officer must consult with the Central Procurement Team if the proposed value of the purchase is £100,000 or more.
- 13.5 Where the terms of the Framework Agreement provide for direct purchase without competition and the terms of such call-off are sufficiently precise, Officers may purchase under the Agreement without re-opening competition.
- 13.6 Where the terms laid down in the Framework Agreement are not sufficiently precise to make a direct award or the terms of the Framework Agreement so specify, the Officer must hold a mini competition in accordance with the provisions of the Framework Agreement and the following;
- Inviting all of the organisations within the Framework Agreement who are capable of executing the subject of the Contract to submit a written response to Quotation or Tender
  - Fixing a time limit, which is sufficiently long so as to allow Tenders for each specific Contract to be submitted, taking into account factors such as the complexity of the subject of the Contract.
  - Tenders shall be submitted in writing, and their content shall remain confidential until the stipulated time limit for reply has expired.
  - Contracting Authority shall award each Contract to the Bidder who has submitted the best Tender on the basis of the award Criteria set out in the Tender documents for the Framework Agreement.

## **14 Setting up a Framework Agreement**

- 14.1 The term of any Framework Agreements must not exceed four years (EU requirement) except in exceptional circumstances, in particular, circumstances relating to the subject of the Framework Agreement. In the event that a Framework Agreement is required for more than four years Officers must seek approval from the Monitoring Officer.
- 14.2 The default for creating a call-off mechanism when creating a Framework Agreement should be a mini-competition. Where a mini-competition mechanism is not used this must be approved by the Central Procurement Team.
- 14.3 The Officer must consider the impact of potentially closing the market in this sector to new suppliers during the period of the Framework Agreement and ensure that the benefits and length of the Framework Agreement are justified.

## **15 Purchases up to £2,000 in Total Value**

- 15.1 Whilst obtaining Value for Money remains the primary objective, multiple Quotations are not essential where the Total Value of the proposed Procurement is less than £2,000.
- 15.2 Officers must not seek to procure any goods, services or works if the requirement can be satisfied by using the ESPO Catalogue up to £10,000 per transaction (For CCC Officers only).
- 15.3 Officers must not seek to procure any goods, services or works if the requirement can be satisfied by using an existing Corporate Contract.
- 15.4 It is optional to place an advert for the procurement activity on the Council's Tender Advertising Portal.
- 15.5 A purchase order must be raised unless the purchase is conducted using GPC Card. The terms of the purchase order should suffice unless the Officer believes the complexity of the purchase requires more bespoke terms from the Central Legal Team. The purchase order must specify clearly what the Officer wants.

## **16 Low Value Contracts from £2,000 up to ~~£30,000~~ £25,000 in Total Value**

- 16.1 Officers must not seek to procure any goods, services or works if the requirement can be satisfied by calling off using an existing Corporate Contract, the ESPO Catalogue (For CCC Officers only) up to £10,000 Total Value.
- 16.2 The Officer must not seek to procure any goods, services or works if the requirement can be satisfied by calling off using an existing Corporate Contract.
- 16.3 A minimum of three written Quotations must be obtained for requirements between £2,000 and up to ~~£30,000~~ £25,000 and a purchase order must be processed before goods or services or works are purchased. Wherever possible at least ~~one~~ two quotes must normally be from a Local provider. The written Quotations must contain:
  - The goods, services or works to be supplied;
  - Where and when they are to be supplied;
  - The Total Value of the transaction and;
  - The terms and conditions to apply to the procurement including price and payment terms
- 16.4 Written Quotations must be by way of letter, fax or email. Quotations submitted through an E-Tendering solution are acceptable.
- 16.5 (CCC only) An advert must be placed on the Council's Tender Advertising Portal where the total spend is £10,000 or more. For under £10,000 in total spend it is recommended to place an advert for the procurement activity on the Council's Tender Advertising Portal.
- 16.6 If the Officer cannot obtain three Quotations, the Officer must satisfy themselves that they have obtained Value for Money for the Council and must seek approval from their direct Chief Officer to proceed and the justification to proceed must be recorded and be available for inspection.
- 16.7 Where more than three Quotations are returned the Council reserves the right to select those Candidates whose Quotations will be evaluated based on its Officers' professional judgement

which must be explained in the notice and/or documents. The Officer must make this clear in his/her Request for Quotation document and in the advert to Bidders.

- 16.8 A purchase order must be raised. The terms of the purchase order should suffice unless the Officer believes the complexity of the purchase requires more bespoke terms from the Central Legal team. Where it is proposed that a form of Contract be used which does not adopt the Council's standard terms the use of such must be approved by the Central Legal Team. The purchase order must state:

- What is to be supplied (description and quality)
- Payment provisions (amount and timing)
- When the Council will have the right to terminate the Contract.

## **17 Purchases from ~~£30,000~~ £25,000 up to £100,000 in Total Value.**

- 17.1 The Officer must not seek to procure any goods, services or works if the requirement can be satisfied by calling off using an existing Corporate Contract.
- 17.2 A minimum of three comparable written Quotations must be sought and wherever possible at least one quote must be normally from a Local provider. This must be done using the Formal Request for Quotation documentation (available on the Central Procurement Team's pages of the intranet ) unless otherwise agreed by the Central Procurement Team and must specify:
- (a) The goods, services or works to be supplied;
  - (b) Where and when they are to be supplied;
  - (c) The Total Value of the Contract;
  - (d) The terms and conditions to apply to the procurement including price and payment terms.
- 17.3 An advert must be placed on the Council's Tender Advertising Portal.
- 17.4 The Criteria for selecting the most economically advantageous Quotation must be robust and established before the written Quotations are invited.
- 17.5 Written Quotations must be by way of letter, fax or email and must be addressed personally. Printouts of catalogues are not written Quotations. Quotations submitted through an E-Tendering solution are acceptable.
- 17.6 If it is not possible to obtain three Quotations, the Officer must complete an Exemption Request Form and obtain approval to the requested exemption before any procurement activity commences.
- 17.7 A purchase order must be raised but the Officer must ensure the Council's standard terms and conditions located on the Council's intranet site are used as the Contract terms unless the Officer believes the complexity of the purchase requires bespoke terms from the Central Legal Team. Where it is proposed that a form of Contract be used which does not adopt the Council's standard terms the use of such must be approved by the Central Legal Team
- 17.8 The Officer must advertise an award notice on the Council's Tender Advertising Portal where the Officer has placed the advertisement (see 17.3).

## **18 Purchases from £100,000 in Total Value up to the Current EU Threshold**

- 18.1 The Officer must not seek to procure any goods, services or works if the requirement can be satisfied by calling off using an existing Corporate Contract.
- 18.2 Where it is anticipated that the procurement activity will lead to a Contract with a Total Value in excess of £100,000, the Officer must develop a summary proposal to be agreed by the Central Procurement Team. This summary includes baseline costs and will be used to calculate the benefit of the Procurement activity. The Central Procurement Team currently uses a Summary Procurement Proposal form to do this and it is available on the Central Procurement Team's pages of the intranet.
- 18.3 Officers must consult with the Central Procurement Team before commencing the procurement.
- 18.4 Officers must follow a formal Tender process (see Part 3). The Council's Procurement Best Practice Guidance available on the intranet can offer guidance on the Tender process.
- 18.5 An advert must be placed on the Council's Tender Advertising Portal. The Criteria for selecting the most advantageous Tender must be established before the written Tenders are invited.
- 18.6 Officers must consult with the Central Legal Team as early as possible and prior to commencing the Tender process.
- 18.7 The Officer must advertise an award notice on the Council's Tender Advertising Portal where the Officer has placed the advertisement (see 18.5).

## **19 Contracts over EU Threshold in Total Value**

- 19.1 The Officer must not seek to procure any goods, services or works if the requirement can be satisfied by calling off using an existing Corporate Contract.
- 19.2 All goods, services and works with a procurement Total Value in excess of the EU Threshold levels covered by the EU Procurement Directives are enforced by EU Public Contracts Regulations 2015, which lay down a strict process for advertising, timetabling and supplier selection. The latest thresholds and regulations can be found at the following site <http://www.ojec.com/Thresholds.aspx>. These regulations take precedence over all County Council and UK national regulations and carry potentially heavy penalties for non-compliance. Officers must comply with the detail and principles of the Directives at all times.
- 19.3 The Central Procurement Team must be consulted on the developments of all EU notices and are responsible for EU notice publication. The Criteria for selecting the most economically advantageous Tender must be established and published at the time that the notice is placed.
- 19.4 Officers must consult with the Central Procurement Team before commencing the procurement.



- 19.5 The Central Procurement Team must be consulted regarding decisions relating to whether a procurement of services should be treated as either a Part A service or Part B service.
- 19.6 In addition the Officer must advertise the procurement on the Council's Tender Advertising Portal immediately AFTER despatch of advert to OJEU and must contain no more information than the OJEU version.
- 19.7 Officers must ensure that in the award of any Contract covered by the EU Procedures they follow the formal award process described in the EU notice.
- 19.8 Officers must consult with the Central Legal Team as early as possible and prior to commencing the Tender process.
- 19.9 The Officer must advertise an award notice on the Council's Tender Advertising Portal where the Officer has placed the advertisement (see 19.6).

----- End of Part 2 -----

# Part 3 -Tendering& Contract Management

## 1 Fair and Equal Competition

- 1.1 The Officer must manage any Tender or Quotation process in such a way that all Bidders are treated equally and ensure that any clarification meetings (at pre and post Tenderstage, if necessary) are conducted fairly and transparently.
- 1.2 Officers must take care in compiling lists of Bidders and in preparing Tender documentation, as well as in the conducting of post-Tender clarification and/or negotiation meetings. Decisions must be recorded in writing.
- 1.3 Officers need to be aware of the key pieces of legislation in relation to equality and diversity, which include but are not limited to the Equalities Act 2010 and seek advice within the relevant bodies within the Council.

## 2 Tender Preparation

- 2.1 Unless confined by market conditions or legal requirements, a minimum of three Bidders must be invited to Tender. The Officer must invite a minimum of five Bidders if the Total Value is over the EU Threshold (excluding negotiated and competitive dialogue procedures which require three Bidders to be invited). At least three tenders must also be received.
- 2.2 In the event that less than three tenders are received then an exemption must be sought.
- 2.3 Candidates invited to Tender must be given an adequate period in which to prepare and submit a Tender response consistent with the urgency of the procurement requirement, the level of complexity of the requirement and according to the industry norm. Normally at least three weeks should be allowed for submission of Tenders. For Tenders above the EU Threshold, Officers must adhere to the EU Tender minimum time scales. The Officer must ensure that the specification and evaluation Criteria take into account the Council's priorities.
- 2.4 The Officer must ensure that the specification clearly describes the intended outcomes/ outputs and that it is complete, adequate and fair to allow Tenders to be sought.
- 2.5 The Officer must assess the quality of Tenders by pre-determined non discriminatory evaluation Criteria and weightings, including whole life cycle cost where appropriate.
- 2.6 The Officer must assess the risks associated with the Contract.
- 2.7 The Officer must maintain a Tender file to record all decisions and other matters associated with the Tender.
- 2.8 The Contract terms and conditions must be included with the Invitation to Tender documents. These must be obtained from the Central Legal Team. Where it is proposed that a form of Contract be used which does not adopt the Council's standard terms the use of such must be approved by the Central Legal Team.

- 2.9 The Tender documentation must explain how information provided in the Bidder's response/s will be treated with regard to any statutory requirements (e.g. Freedom of Information Act requests). If in doubt please seek advice from the Central Legal Team.
- 2.10 Invitations to Tender must include a statement that the Council does not bind itself to accept the lowest price Tender or any other Tender.
- 2.11 Bidders must be required to hold their Tenders open for acceptance for a minimum of 90 days from the date of opening.
- 2.12 The Evaluation Criteria and sub Criteria must be disclosed in the Invitation to Tender documentation and any prequalification documentation.
- 2.13 Officers should ensure that the Contract terms and conditions provide that the Contract price may be adjusted should the Total Value of a Contract increase or decrease due to increased or decreased volume or value.
- 2.14 Officers must take account of Council policies with regard to SMEs and apprenticeships etc (see rule 10 of Part 2 of this document).

### **3 Selection and Award Criteria**

- 3.1 Officers must treat selection and award Criteria separately. Selection Criteria are based on a Bidder's ability to perform the Contract and are only used at the PQQ (pre-qualification to Tender) stage in a Restricted Tender Procedure or as an initial stage of the evaluation in an Open Tender Procedure. Award Criteria are used at the Invitation to Tender stage and are described in the Tender documentation.
- 3.2 In a Restricted Tender Procedure the selection Criteria would be at PQQ stage. In an Open Tender Procedure the selection Criteria would be treated as a first part of the evaluation of the Tender to be evaluated before award Criteria is evaluated.

### **4 Use of Presentations and Site Visits in a Tender Process**

- 4.1 Careful consideration should be given to the use of presentations and/or site visits within the Tender process. There should be a clear understanding of the reason for the use of the presentation or visit and how it will contribute to the evaluation process. The default position should be not to use presentations or conduct site visits. If however, it is required this must be declared as part of the evaluation Criteria in the Tender document. All Bidders must be invited to present or be included in site visits. Any questions should be sent to Bidders in advance. The documentation must clearly state what weighting presentations/site visits carry as part of the award Criteria.

### **5 Conducting an Electronic Tendering (E-Tendering) Process**

- 5.1 The Officer must where possible run his/her Tender process as an electronic Tender process (as per thresholds Part 2 rules 18 and 19). Where an electronic process is not used, this must be agreed with the Council's Central Procurement Team.
- 5.2 Other E-procurement tools such as (but not limited to) e-auctions and electronic Quotations and/or Dynamic Purchasing Systems must also be considered for Tenders. Tenders by fax must be rejected.

## **6 Conducting a Non Electronic Tender (Hard Copy Tender)**

- 6.1 A Non Electronic Tender must be agreed by the Head of the Central Procurement Team that the Tender process can be run as a non-electronic process.
- 6.2 The Officer must consult with the following department to receive delivery of Tenders when arranging for Tender responses from Bidders returned in hard copy format:
- The Central Legal Team (for NCC led Tenders only)
  - The Post Room (for CCC led Tenders only)
- 6.3 Hard copy responses received (by the departments identified in rule 6.2) must be date stamped and locked away until the specified time for their opening and a record of the Tenders received must be signed for and logged on the Tender record book.
- 6.4 All opened hard copy Tenders must be:
- Opened in the presence of a representative from the Central Legal Team and the Officer (NCC Officers only).
  - Opened by two representatives from the Post Room and the Officer (CCC Officers only).
  - Date stamped and signed by the Officer 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.
  - Logged on the Tender record book
- 6.5 After Tender opening a copy of the Tender Control Form and the opened Tender should be sent to the Officer responsible for the procurement.
- 6.6 An original version of the winning Tender must be retained for the period and comply with the Council's document retention policy.
- 6.7 The Officer must not disclose the names of Candidates to any staff involved in the receipt, custody or opening of Tenders.
- 6.8 Details of expected Tender responses that are submitted as hard copies must be notified to the Central Legal Team or their nominee at least five days prior to the Tender opening date using the Tender Control Form on the Central Procurement Team's intranet page.

## **7 Receiving Late Tenders, Irregular Tenders or Errors in Tenders**

- 7.1 Where a Tender has been received which is an Irregular Tender in that it does not fully comply with the instructions given in the Invitation to Bidders, the Officer shall, prior to opening any of the Tenders, report this to his/her Chief Officer giving details of the Irregular Tender. The appropriate Chief Officer, with the prior approval of the Monitoring Officer may accept the Irregular Tender if they determine that the Bidder has gained no unfair advantage from its irregularity. The Chief Officer shall record in writing the reasons why each Irregular Tender has been accepted or rejected and sign and date the record.
- 7.2 The appropriate Chief Officer, with the prior approval of the Monitoring Officer may permit a Bidder to correct an error or omission that, in the opinion of the Chief Officer, is an obvious one and if they determine that the Bidder has gained no unfair advantage from correcting the

error. Any such corrections will be recorded on the Tender file. The Chief Officer shall record in writing the reasons why each Irregular Tender has been accepted or rejected and sign and date the record.

- 7.3 Where a Tender has been received which is deemed to be late (has passed the Tender response deadline) the Officer shall prior to opening any of the Tenders report this to his/her Chief Officer giving details surrounding the circumstances of the late Tender. The Chief Officer with the prior approval of the Monitoring Officer may accept the Irregular Tender if they determine that the Bidder has gained no unfair advantage from it being late.
- 7.4 Officers must ensure that experts or appropriately experienced officers in the Council evaluate all tenders in accordance with the pre-determined evaluation Criteria which must have been specified in the Invitation to Tender and where used the prequalification Criteria.

## **8 Tender Evaluation**

- 8.1 Tenders must be assessed in accordance with the pre-determined evaluation Criteria.
- 8.2 The results of the Tender evaluation must be recorded and retained on the Tender file.
- 8.3 The evaluation process must clearly demonstrate that the Council is seeking to identify the Value for Money Tender. Further guidance on evaluation can be found in the Council's Procurement Best Practice Guidance available on the intranet.
- 8.4 The arithmetic in compliant Tenders must be checked. If arithmetical or clerical errors are found they should be notified to the Bidder, which should be requested to confirm the correct figures/wording or withdraw its Tender.
- 8.5 In determining the relevant evaluation Criteria on which Tenders are to be assessed Officers must consider, where pertinent, all factors relevant to their requirements including environmental and social considerations.
- 8.6 For details of Tendering evaluation and award Officers must consult with the Council's Procurement Best Practice Guidance available on the intranet.

## **9 Seeking Clarification**

- 9.1 Providing clarification of an Invitation to Tender to potential or actual Candidates or seeking clarification of a Tender whether in writing or by way of a meeting is permitted only with the approval of the Central Procurement Team.
- 9.2 Clarifications are not opportunities to conduct major negotiations.
- 9.3 For all Tenders, Officers shall take into account the requirements of EU public procurement legislation and their regulations for any negotiations, clarifications or refinements to any Tender and related documentation.
- 9.4 Officers may, in consultation with the Central Procurement Team, and with the approval of the Central Legal Team, make clarifications and/or refinements to the Invitation to Tender and related documentation where a Tender process provides for this, provided that all such clarifications and/or refinements are recorded in writing by an Officer of the Council. There must be no significant variation of the Invitation to Tender or related documentation.

- 9.5 Full written records of all clarification decisions must be made and retained by the relevant officer.

## 10 Negotiations

- 10.1 Post-Tender negotiation means negotiations with any Bidder after submission of a Tender and before the award of the Contract with a view to obtaining an adjustment in price, delivery or content. Any such discussion must be conducted in line with the relevant EU Procedure and must not distort competition particularly with regard to price.
- 10.2 Where post-Tender negotiation results in a significant change to the specification (or Contract terms) the Contract must not be awarded but re-Tendered.
- 10.3 Approval must be granted from the Head of the Central Procurement Team or any of his/her nominated officers:
- Wherever it is proposed to enter into post-Tender negotiation, and
  - About whether the negotiation is to be with all Bidders
- 10.4 Negotiations must be conducted by a team of at least two officers, one of whom must be from the Central Procurement Team.
- 10.5 The Officer must refer to the Council's Procurement Best Practice Guidance available on the intranet.
- 10.6 Full written records of all decisions must be made and retained by the Officer.

## 11 Intention to Award a Contract

- 11.1 For Contracts that are subject to the Light Touch requirements and threshold of the EU Procurement Regulations, Officers must allow Bidders a mandatory minimum standstill period of 10 calendar days for electronic Tenders (otherwise 15 days for non-electronic Tenders) from notification to all Bidders before entering into a contractually binding agreement with the successful Bidder. The Officer must consult with the Central Procurement Team to submit an EU Contract Notice at the start of the Procurement process and a Contract Award Notice at the end of the process. It is most important that any communication with the preferred supplier(s) does not constitute a Contract award or a conditional award. The Central Legal Team or Central Procurement Team can advise on this.
- 11.2 The results of the Tender evaluation process must be recorded in writing.
- 11.3 A Contract must only be awarded and signed by an Officer authorised to do so, who must ensure that the appropriate budget holder has the funds in place to sustain the Contract prior to award. Following the standstill period an OJEU award notice must be placed by the Council's Central Procurement Team.
- 11.4 For Tenders above the EU Thresholds all Bidders must be notified in writing of the award. Guidance must be sought from the Central Procurement Team.
- 11.5 Any complaints from unsuccessful Bidders must be sought in writing and Officers must submit these to the Central Procurement Team for review. Guidance on debriefing candidates or Bidders can be found in the Council's Procurement Best Practice Guidance available on the

intranet. Procurement must be notified immediately of any challenge to a procurement process, in order that appropriate action may be taken.

- 11.6 If requested by a candidate, the Officer may also give the debriefing information to Candidates who were deselected in a pre-Tenders short listing process.

## **12 Award & Placing of Contract**

- 12.1 The Contract must be recorded on the Council's Central Contracts Register immediately after award as per rule 13 of this section.
- 12.2 All Contracts made on behalf of the Council must be in writing and cannot be made by email. Chief Officers must ensure that a signed Contract is in place before the goods are ordered or work or services begin.
- 12.3 Officers must ensure that all the necessary permissions are in place (e.g. funding commitments, licences, and leases) before the Contract is entered into.
- 12.4 Officers must ensure that the terms and conditions of the Contract are appropriate for the purpose and if in any doubt must take advice from the Central Legal Team.
- 12.5 Records of all procurement activity must be retained in accordance with the Council's retention policy.
- 12.6 Agreements must only be signed by Chief Officers and Officers with the delegated authority to do so. Please see the table in Appendix 2.
- 12.7 The Officer responsible for securing a signature must ensure that the person signing on behalf of the supplier has authority to bind it.
- 12.8 Where Contracts are completed by each side adding their formal seal, the fixing of the Council's Seal must be witnessed by or on behalf of the Central Legal Team. Every Council sealing will be consecutively numbered, recorded and signed by the person witnessing the seal. The seal must not be affixed without the appropriate authority in accordance with the Council's Constitution. A Contract must be sealed where:
- The Council may wish to enforce the Contract more than six years after its end (e.g. Land or construction work or
  - The price paid or received under the Contract is a nominal price and does not reflect the value of the goods, services or works; or
  - Where there is any doubt about the authority of the person signing on behalf of the supplier; or
  - The Total Value exceeds £100,000.

- 12.9 No supply of goods, services or works must commence until all Contract documentation is duly completed unless an exemption has been requested and approved in accordance with these rules.
- 12.10 Where the Total Value of the Contract exceeds ~~£30,000~~ £25,000 a record of the contract award must be made on the Council's Tender Advertising Portal.

### **13 Contracts Register**

- 13.1 The Council has a Central Contracts Register accessible via the Central Procurement Team's pages of the intranet.
- 13.2 The Officer must ensure all new and existing Contracts with a value equal to or exceeding ~~£30,000~~ £25,000 and up to £100,000 for its department are entered on the register at the time of the Contract award and ensure that the register is updated if these details change in accordance with the guidance stated on the intranet.
- 13.3 The Central Procurement Team will enter any Contracts equal to or over £100,000.

### **14 Contract Documentation**

- 14.1 Every Contract must have an order raised using the Council's purchase to pay software solution. This will have the effect of recording commitments, which will be reported in the Council's financial management reports.
- 14.2 The advice of the Central Legal Team must be sought for the following Contracts:
- Those involving leasing arrangements
  - Where it is proposed to use the supplier's own terms
  - Where the Total Value exceeds £100,000
  - Those which are complex in any other way
- 14.3 Officers must ensure that they obtain a written Contract for all goods, services or works.
- 14.4 A letter or an email exchange can constitute a Contract and therefore Officers should be careful to avoid accidental or premature contractual agreements occurring.
- 14.5 A verbal commitment can equally constitute a Contract therefore the Officer must use caution as to what he/she commits to.
- 14.6 Advice on which form of Contract would be most suitable for the procurement can be sought from the Central Procurement Team and the Central Legal Team.
- 14.7 Contracts must not be split into smaller value agreements to avoid having to meet the Tendering and contractual requirements imposed for larger Contracts by these rules/ regulations or the law.
- 14.8 The Council may wish to enter into "nil value Contracts", for example where the supplier receives payment from a third party, or where the supplier receives non-monetary benefits.



Nevertheless, any such Contract must be let in accordance with these rules and Officers should seek the advice of the Central Legal Team in these cases.

## **15 Bonds, Parent Company Guarantees and other Sureties**

### **15.1 The Officer must consult the Section 151 Officer:**

When a Candidate is not a subsidiary of a parent company the following conditions must be satisfied as to whether a Bond is needed:

- where the Total Value exceeds £500,000, or
- where it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the Contract, or
  - Where there is concern about the stability of the supplier regardless of value.

### **15.2 The Council must never give a Bond or other sureties.**

## **16 Managing Contracts**

### **16.1 The Chief Officer must name a Contract Manager for each new Contract. All Contracts must have a named Contract Manager for the entirety of the Contract and these must be recorded on the Council's Central Contracts Register.**

## **17 Risk Assessment & Contingency Planning**

### **17.1 The Council operates a risk management approach designed for the identification and appropriate management of any risks which might prevent the Council from achieving their priorities or outcomes. Contracting represents a significant risk to the Councils both in terms of finance and enabling the Councils to function effectively.**

### **17.2 Contract Managers are therefore required to consider if there are any significant risks to key Contracts which might adversely impact on Contract cost or delivery. Such risks should be recorded on team/service/directorate risk registers as necessary and should indicate how the risks are being, or are proposed to be, managed to bring the risk to a level acceptable to the Council. This approach will make any key contracting risks visible and ensure they are managed in accordance with Risk Management policy.**

### **17.3 Guidance on risk management can be obtained from the Council's pages of the intranet.**

## **18 Contract Monitoring, Evaluation and Review**

### **18.1 All Contracts which have a value higher than the EU Threshold, or which are high-risk, are to be subject to formal reviews between the Officer and the supplier.**

### **18.2 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
- User satisfaction and risk management
- In accordance with any guidance in the Council's Procurement Best Practice Guidance available on the intranet.

## **19 Purchase Orders**

- 19.1 Unless specially agreed by Finance and Procurement, the cost of every Contract must be entered as a requisition on the Council's Finance System.
- 19.2 Once a Purchase Order is generated from the requisition, any invoices received in respect of that order will be recorded against it so that the 'committed value' of the order reflects the Contract value outstanding.
- 19.3 Purchase orders must be updated where there has been a variation to a Contract that might contradict the purchase order. Further guidance regarding the Council's finance is provided in the Finance pages of the intranet.
- 19.4 Purchase orders must not be raised retrospectively. Work must not be carried out nor goods delivered, nor services provided prior to a purchase order being raised. The only exception should be an Emergency.
- 19.5 The Purchase order raised that relates to a Contract must not be sent to the supplier if the terms and conditions are agreed in separate a Contract. Where a purchase order must be sent to the supplier, the purchase order must state that the Council's Contract's terms and conditions prevail over the purchase order terms and conditions.

## **20. Variations**

- 20.1 A variation to a Contract may involve (i) a change to the specification, (ii) a one-off item of work or particular service, or (iii) material change in terms affecting the Contract. If an Officer wishes to vary a Contract, the Central Legal Team must be consulted and the changes if permitted will normally be made using a Deed of Variation or Variation Order, which will be contractually binding on both parties.
- 20.2 The Officer must always consider whether the Total Value is such that the Contract should be re-Tendered. The Officer should seek advice from the Central Procurement Team.
- 20.3 A variation to a Contract does not need to be Tendered where:
- a Contract has been entered into for goods, services and/or works on a particular project; and
  - additional or unforeseen goods, services and/or works occur on the same project; or
  - an extension of such goods, services and/or works is required for the completion of that Contract, and the existing supplier has provided the price in writing for the additional or unforeseen goods, services and/or works provided in all cases that: the Officer, Central Procurement Team and the relevant Chief Officer certify that it is in the interests of the Council to agree the variation and that such a variation is compliant

with EU Procedures. Advice upon agreeing a variation should always be sought from the Central Legal Team.

- 20.4 The Variation to the Contract must state the period of notice for implementing variations.
- 20.5 Where variations may cause the original Contract Total Value to be exceeded by 50%, the Central Procurement Team must be consulted in writing.
- 20.6 All variations should be kept with the original Contract and once agreed, all variations on Contracts with a Total Value of £25,000 or more must be noted on the Central Contracts Register.
- 20.7 The Financial Procedure Rules and related regulations must be followed when agreeing Contract variations.

## **21. Extensions**

- 21.1 In certain situations, the duration of the Contract may be extended. Extensions can only be made where:
- there is budgetary provision; and
  - Value for Money can be clearly demonstrated; and
  - there is a provision stipulated in the original Contract for an extension; or
  - An exemption request is made where no specific provision exists in the Contract.
- 21.2 If the Contract was subject to EU Procedures, then for an extension to the Contract to be permitted the original advertisement and the Contract must permit the extension. It is not possible to extend the Contract if an extension provision was not in place from the outset of the Tendering process.
- 21.3 All Contract extensions where the Total Value of the Contract as extended will be £25,000 or more must be included in the Council's Central Contract Register.

## **22. Assignments and Novations**

- 22.1 If an Officer becomes aware that an existing supplier has or may be subject to a company reorganisation, where they may be taken over or merged with another company or simply assigned to another or even otherwise disposed of, the advice of the Central Legal Team should be sought.
- 22.2 Any proposed assignment, novation or disposal must be referred to the Central Legal Team for advice. Any assignment or novation of a Contract must be recorded by the Officer on the Council's Central Contract Register.

## **23. Receivership/Liquidation**

- 23.1 In the event of the Officer becoming aware that a supplier is entering into a change of control, insolvency, bankruptcy, receivership or liquidation the Officer must inform both the Central Procurement Team and the Central Legal Team immediately. The supplier shall only be permitted to assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof with the prior written consent of the Council. The Council reserves the right to decline a supplier that is deemed to be not suitable. If a suitable alternative is not identified the Contract must be re-Tendered.

## **24. Claims & Disputes**

- 24.1 The Officer must consult the Central Legal Team immediately in regard to the making of or receipt of any Contract claims (e.g. for breach of Contractor disputes) and refer also to the Financial Procedure Rules.

## **25. Termination of Contract**

- 25.1 The date on which the Contract will terminate, and the terms on which the Contract may be terminated early (e.g. for breach of Contract) must be clearly described within the Contract. Only the body/individual who approved the Contract award can agree to implement any provision for early termination. Termination may be a Key Decision and require the relevant Committee approval appropriate to the nature of the Contract (CCC Officers only) or Cabinet approval (NCC Officers only).

## **26. Freedom of Information and Data Protection Acts**

- 26.1 The Council has specific obligations under the above acts regarding disclosure of information and the Officer has an obligation to record and maintain accurate records relating to Contracts and comply with requests under these Acts. Any queries regarding Freedom of Information or Data Protection should be referred to the Data Protection/FOI Team.
- 26.2 During Tender processes, Bidders must be informed that they should state if any of the information supplied by them is confidential or commercially sensitive or should not be disclosed in response to a request for information made to the Council. Bidders should state why they consider the information to be confidential or commercially sensitive. This will not guarantee that the information will not be disclosed but will be examined in the light of the exemptions provided in the Act.

## **27 Retention of Records**

- 27.1 The Officer must keep and maintain records in respect of each Contract (from the time the project begins until the point at which the Contract is awarded or a decision is made not to award a Contract) in order to demonstrate the achievement of Value for Money, openness, probity and compliance with the Rules.
- 27.2 The Officer must ensure that originals and copies of all Contract documentation adhere to the Council's retention policy available on the Central Procurement Team's intranet pages. The Officer must ensure that he/she has no conflict of interest and must report in writing where he/she suspects a conflict of interest in compliance with the Council's HR policy.
- 27.3 For more information on specific retention dates please refer to the procurement retention policy on the Central Procurement Team's pages of the intranet.

## **28 Disposal of Goods**

- 28.1 Please see the Council's disposal policy on Central Procurement Team's pages of the intranet.

## **29 Amendments to these Rules**

- 29.1 The Monitoring Officer in consultation with the Head of the Central Procurement Team shall have the power to make incidental amendments from time to time to these rules.

----- End of Part 3 -----

# Appendix 1 Definitions

Agent	means a person or organisation acting on behalf of the Council or on behalf of another organisation. An entity that is capable of action or who acts for, or in the place of, another (the Principal).
Bidder	means a potential supplier, vendor or organisation who responds to an invitation to bid, tender or quote. Also called offeror, Bidder or quoter.
Bond	Means a type of surety, if the supplier 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 supplier's failure.
Cabinet	means the Council's Cabinet as defined in the Constitution.
Candidate	means any person who asks or is invited to submit a Quotation or Tender.
CBC	means a Central Buying Consortium. The Central Buying Consortium is currently the largest local authority purchasing consortium in the UK. It currently has 17 local authority members, represents most of the major authorities from the Midlands to the South East, outside London.
CCC	means Cambridgeshire County Council.
Chief Officer	means the Council Officer(s) defined as such in the Constitution.
Code of Conduct	means the code regulating conduct of Officers located on the Council's intranet.
Committee	means a committee as defined in the Constitution, which has power to make decisions for the Council, for example a joint committee with another local authority but not a scrutiny committee.
Council	means as defined in the Council's Constitution. The rules refer to either Northamptonshire County Council or Cambridgeshire County Council depending on whom the Officer is employed by.
Criteria	means the criteria by which the successful Quotation or Tender is to be selected at selection stage or awarded a Contract at award stage.
Central Contract Register	means a register process managed by the Central Procurement Team that stores details of the Council's Contracts such as duration and expiry dates. The register is currently available on the Procurement pages of the Council's intranet.

Central Procurement Team	means the central procurement team is part of Cambridgeshire County Council's or Northamptonshire County Council's operating structure and is currently known as LGSS Procurement.
Central Legal Team	means the Central Legal Team as part of Cambridgeshire County Council's or Northamptonshire County Council's operating structure and is currently known as LGSS Law.
Constitution	means the constitutional document approved by the Council which: <ul style="list-style-type: none"> <li>•allocates powers and responsibility within the Council and between it and others</li> <li>•delegates authority to act to the Cabinet, Committees, Portfolio Holders and Officers; and</li> <li>•regulates the behaviour of individuals and groups through rules of procedure, codes and protocols.</li> </ul>
Consultant	A Consultant or Interim Contractor means 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, advice or knowledge to the role and where the Council has no ready access to employees with the skills, experience or capacity to undertake the work. They are typically engaged to fulfil a brief in terms of helping to find solutions to specific issues for a limited time. This is different to temporary agency staff who normally fulfil a role that usually exists within the organisation or helping to bridge a gap caused by staffing shortages for whatever reason.
Contract	means an agreement between two or more parties for performing, or refraining from performing, some specified act(s) in exchange for lawful consideration.
Contract Manager	Means an Officer of the Council who is responsible for the contract in terms of the document and the relationship between the Council and the named parties within the Contract.
Contracting Authority/Authorities	means the organisation which is letting the Contract in question.
Contracting Decision	means any of the following decisions: <ul style="list-style-type: none"> <li>• withdrawal of Invitation to Tender</li> <li>• whom to invite to submit a Quotation or Tender</li> <li>• shortlisting</li> <li>• award of Contract</li> <li>• any decision to terminate a Contract.</li> </ul>
Corporate Contract	means a Contract let by the Central Procurement Team for the benefit of Council staff to support the Council's aim of achieving Value for Money. Where a Corporate Contract is in place, the Officer is obliged to use it unless an exemption has been granted.
Council	means for the purposes of these rules, "Council" or the Council refers to Cambridgeshire County Council (CCC) and/or Northamptonshire County Council (NCC) as the case may be.

Emergency	<p>means a serious situation or occurrence that happens unexpectedly and demands immediate action.</p> <p>A condition of urgent need for action or assistance that cannot be remedied by standard procedure.</p> <p>An emergency for the purpose of this document must be agreed as an emergency by the Officer, Chief Officer, Monitoring Officer and a Section 151 officer.</p>
ESPO	means the Eastern Shires' Purchasing Organisation of which Cambridgeshire County Council is a Member.
ESPO Catalogue	means ESPO catalogues offer over 25,000 product lines for Cambridgeshire County Council staff. For the purpose of this document, ESPO Catalogues do not include use of ESPO strategic procurements or ESPO range of frameworks or Dealing Direct offerings. The current site is <a href="http://www.espocatalogue.org/">www.espocatalogue.org/</a>
E-Tendering	means a totally secure means to store and transmit Expression of Interest (EOI) Invitation to Tender (ITT) and other relevant documentation (e.g. Invitations to Submit Outline and Detailed Proposals and Best and Final Offers) and then to receive and manage responses electronically via the Internet. Any process used must be compliant with HM Government Information Security Standards, the requirements of the Manual of Protective Security (MPS) and all UK legislation relevant to the processing of information.
E-Tender Portal	means a tool used to host and platform Tendering processes and related documentation electronically by the Council. Currently the Council's E-tender portal is Bravo Solution.
EU Procedure	means the procedure required by the EU where the Total Value exceeds the EU Threshold. For the purpose of this document this includes Part A and Part B procedures without distinction unless specifically stated in the rules.
EU Threshold	means the Total Value threshold at which EU public procurement directives must be applied. The current procurement thresholds are published on The latest thresholds and regulations can be found at the following site <a href="http://www.ojeu.eu/Thresholds.aspx">http://www.ojeu.eu/Thresholds.aspx</a> .
Evaluation Report	means a report produced by the Officer detailing the outcome of the evaluation process undertaken, from which a recommendation is put forward for approval by the Chief Officer.
Exemption Request Form	means a standard form that must be used to request an exemption from these rules which can be found on the Central Procurement Team's intranet pages.
Financial Procedure Rules	means the Council's financial procedure rules that form part of the Council's Constitution.
Financial Regulations	means the financial regulations outlining Officer responsibilities for financial matters issued by the Section 151 Officer in accordance with the Constitution.



Finance System	<p>means the Council's software systems providing the necessary tools to run a business in the areas of Financial Management, Human Resources and extended Supply Chain operations for Finance and Human Resources purposes.</p> <p>At NCC this is known as ERP. At CCC this is known as E-Business Suite. Also referred to as Oracle or R12.</p>
Formal Request for Quotation"	means a template document to be used by Officers for obtaining formal quotations and found on the Central Procurement Team's intranet page.
Framework Agreement	means agreement between one or more Contracting Authorities and one or more economic operators, the purpose of which is to establish the terms governing call-off Contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
Government Procurement Services (GPS)	means a national purchasing organisation who award frameworks for use across the public sector.
GPC Card	means a purchasing card (similar to the common credit card) for the purchase of low value goods and services for use in the Council as detailed on the Central Procurement Team's intranet pages.
Irregular Tender	means a Tender, which is received after the appointed time for receipt or contains a mark of identification.
Key Decision	means decisions that are defined as Key Decisions in the Constitution. Refer Article 13 NCC and Article 14 CCC.
Local	<p>means for Cambridgeshire Officers areas covered by the Cambridgeshire LEP see <a href="http://www.yourlocalenterprisepartnership.co.uk/">http://www.yourlocalenterprisepartnership.co.uk/</a>. For NCC Officers areas covered by the Northamptonshire LEP at <a href="http://www.northamptonshireep.co.uk/location-why-northamptonshire/northamptonshire-local-economic-partnership">http://www.northamptonshireep.co.uk/location-why-northamptonshire/northamptonshire-local-economic-partnership</a>.</p> <p>An organisation that is not local in its address but can help Local economy/employment within the areas covered by the LEP may be included in this definition.</p>
Light Touch	A new descriptor within the EU Procurement Contracts Regulations 2015 that identifies specific categories within the public sector for exemption from some of the EU Procurement Regulations' requirements.
Member	means a member of the Council elected to provide political leadership to the Council.
Monitoring Officer	means as identified in the Council's Constitution.
NCC	means Northamptonshire County Council.

Non-Commercial Considerations:	means that under Part II of the Local Government Act 1988 (LGA 1988) it is the duty of every local authority to exercise relevant functions without reference to non-commercial matters and to avoid the inclusion of non-commercial matters within contract documentation. These non-commercial matters are listed in section 17(5) of the LGA 1988.
Officer	means the Officer designated by the Chief Officer to deal with the Contract in question.
Open Tender Procedure	means one stage Tender process whereby all candidates are invited to bid in response to an advertisement.
Parent Company Guarantee	means 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 Strategy	means the documents setting out the Council's approach to procurement and key priorities for the next few years.
Procurement Best Practice Guidance	means the relevant procurement guidance document found on the Council's intranet site. For CCC this is currently the Procurement Best Practice Guide. For NCC this is the Procurement SORP.
Quotation	means a quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
Request for Quotation	means a formal quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
Restricted Tender Procedure	means a Tender process that operates with two stages. The first stage is a selection stage assessing Bidder capability with the purpose of short listing Bidders for the second stage. The second stage is an award stage assessing Bidder's responses to the requirements.
Section 151 Officer	means as identified in the Council's Constitution.
Shortlisting	means where candidates are selected: <ul style="list-style-type: none"> <li>• to quote or bid or</li> <li>• to proceed to final evaluation.</li> </ul>
Summary Procurement Proposal	means a document used by the Central Procurement Team to confirm the strategy of a procurement activity and record existing baseline costs that will be used to calculate procurement benefits.
Tender	means a candidate's proposal submitted in response to an Invitation to Tender.
Tender Control Form	means a record of expected Tenders, a copy of which can be found on the Central Procurement Team's intranet pages

Tender Advertising Portal	means an Internet site that the Council have endorsed the use of for potential providers to the Council can view details of forthcoming Tender requirements of the Council. This is <del>currently Source Cambridgeshire</del> <u>Contracts Finder</u> or Source Northamptonshire.
Total Value	means the whole of the value or estimated value (in terms of money or equivalent value) for a single purchase, whether or not the purchase comprises several lots or stages across the Council as a whole and whether or not it is to be paid or received by the Council or a discrete operational unit within the Council.
TUPE	means the Transfer of Undertaking (Protection of Employment) Regulations 2006. 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 service.
Value for Money	means Value for Money (VfM). VfM is a term used to explain the relationship between cost and quality. It is not necessarily the lowest possible price as it combines goods or services that fully meet your needs, with the level of quality required, delivery at the time you need it, and at an appropriate price.

# Appendix 2 Summary of Procurement Thresholds

Value of Contract	Purchase Decision	Advertising	Procurement Process	Approval / Signature of Contract
<b>Goods, services and works up to £2,000</b>	Officer.  If "Key Decision" RelevantCommittee approval(CCC)/ Cabinetapproval (NCC).	Desirable but not mandatory	Obtain Best Value. Multiple Quotations not necessary.	Contract approved by Purchase Order.  Written Contract only required where complex requirements signed by Officerwith appropriate authority Or Purchase Order issued.
<b>Goods, services and worksfrom £2,000 up to £30,000£25,000.</b>	Officer.  If "Key Decision" RelevantCommittee approval(CCC)/ Cabinetapproval (NCC).	(NCC) Desirable but not mandatory  <u>(CCC) Must use the Council's Tender Advertising Portal Advertising mandatory £10,000 or more</u>	Obtain at least 3 Written Quotations (1-2Local quotes).	Contract approved by Purchase Order.  Written Contract only required where complex requirements signed by Officerwith appropriate authority or Purchase Order issued.
<b>Goods, services and works from £30,000£25,000 up to £100,000.</b>	Officer.  If "Key Decision" RelevantCommittee approval(CCC)// Cabinetapproval (NCC).	Must use the Council's Tender Advertising Portal for advert notice and award notice.	Obtain at least 3 Written Quotations (1Local quote) using formal RFQ process.	Purchase Order raised not issued.  Written contract signed by 1 Chief Officer or Officer with appropriate authority to enter into a Contract.  Standard terms approved by the Central Legal Team.
<b>Goods, services and worksfrom £100,000 up to EU Threshold.</b>	Officer and The Central Procurement Team.  If "Key Decision" RelevantCommittee approval(CCC)/ Cabinetapproval (NCC).	Must use the Council's Tender Advertising Portal for advert notice and award notice.	Obtain at least 3 Tenders using formal Tender process.	Purchase Order raised not issued.  Written contract signed by One Chief Officer or Officer with appropriate authority to enter into a contract.  Central Legal Team provide bespoke terms.
<b>Goods, services and works from EU Threshold and over</b>	Officer and The Central Procurement Team.  If "Key Decision" RelevantCommittee approval(CCC)/ Cabinetapproval (NCC).	Must use The Council's Tender Advertising Portal for advert notice and award notice.  All EU Notices must be issued by Central Procurement Team.	All EU Notices to be published by the Central Procurement Team.  Obtain at least 3 Tenders using formal tender process.	Purchase Order raised not issued.  Written Contract signed by 1 Chief Officer or Officer with appropriate authority to enter into a Contract.  Central Legal Team provide bespoke terms.
<b>Goods, services and works using a Framework Agreement</b>	Officer (and Central Procurement Team if over £100,000)  If "Key Decision" RelevantCommittee approval(CCC)/ Cabinetapproval (NCC).	N/A	Follow call-off procedure within Framework Agreement.	Purchase Order raised not issued.  Written contract created from Framework Agreement.  Signoff as per above thresholds.