

# Contract Procedure Rules

Cambridgeshire County Council

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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. The rules 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 ensure that any persons and or organisations acting on behalf of the Council fully comply with these Rules.
- 1.3 The Contract Procedure Rules apply to all Procurement activities, including expenditure of external funding, such as grant allocation, received by the Council from external sources.
- 1.4 The main legislation governing these rules is the Public Contract Regulations 2015 (PCR15) which derive from the 2014 EU Public Procurement Directive. If there is any change to the PCR15 or any other related 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.
- 1.5 Before embarking on any procurement activity it is the Officer's 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 values stated within these Rules are exclusive of VAT.

### 2 Basic Principles

- 2.1 All procurement activity and contract/supplier management must:
  - Achieve best 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 other than in consideration of the Public Services (Social Value) Act 2012 (please refer to Part 2 clause 29).
  - 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 acquisition or disposal of any interest in land (please refer to the Council's

disposal policy disposal available on the Strategic Assets pages of the intranet);

- 3.1.2 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 the Head of the Central Procurement Team as soon as practical. Any such Contract entered into by the Council must be for the shortest term possible and 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;
- 3.1.3 contracts for employment except consultants and agency staff (see Part 2 Rule 12 Consultants/ External Subject Matter Experts).
- 3.1.4 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 Eastern Shires Purchasing Organisation (ESPO) or Crown Commercial Services (CCS) contracts for which these Rules must still be followed. Evidence to demonstrate an open, competitive process must be obtained and held locally by the Officer for audit purposes, by the budget holder on whose cost centre the expenditure is made;
- 3.1.5 the lending or borrowing of money;
- 3.1.6 A public body to public body co-operation where the Council and other parties come together to deliver a public service (and following consultation from Legal Services prior to entering into contract) under any of the following conditions;
- achieve objectives which are common to both parties; and
    - the arrangement is solely for the public interest;
    - and the parties perform less than 20% of the services covered by the arrangement
  - any procurement activity within the co-operation would follow the lead body's contract procedure rules or equivalent (See rule 7 of Part 2).
  - Arrangements which do not involve payments by the Council which may be between two or more parties, including local authorities or local authorities and the public/private sector) e.g:
    - memorandums of Understanding (MoUs),
    - non Disclosure Agreements (NDAs),
    - heads of Terms,
    - development Agreements,
    - partnership Agreements,
    - data/Information Sharing Agreements,
    - arrangements under which the Council is providing services in exchange for payment from a third party.
- 3.1.7 In-house awards (this is where the Council awards a contract to an entity it has a level of control over. This exception will only apply if all of the following conditions are met;
- The Council exercises a similar control on the entity as it does with its own departments;
  - The entity carries out more than 80% of its activities for the Council;
  - There is no private sector money in the entity.

- 3.1.8 Section 75 NHS Act 2006 arrangements where the Authority delegates the health- related functions to their partner(s), this arrangement are not subject to these Contract Procedure Rules other than the details of the agreement must be recorded on the Council's Contract Register.
- 3.1.9 Purchases or service provisions conducted between this Council's departments (internal purchases).
- 3.1.10 Any award of grants of money must be in accordance with the Constitution and the Council's Grants to External Organisations Policy. Prior advice should be sought from Legal Services in relation to the governance process for award of grants and the legal documentation that will be required to be put in place. Unless the terms of the grant stipulate otherwise, best value for money and these CPRs should be followed for the award of grants.
- 3.1.11 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. This does not include other ESPO provisions, such as its frameworks to which the rules must still be followed.
- 3.1.12 Purchases made using a GPC card are exempt from these rules. Please refer to the Finance pages of the intranet regarding the rules for use of GPC Cards.

## **4 Exceptions for Care Placements**

- 4.1 Adult Social Care and Childrens Care Placements are underpinned by the following contractual arrangements:

- 4.1.1 Tier 1: Block contracts - when a supplier is procured with guaranteed service levels and pre-agreed prices, to which the Council may refer users over the contract period. All Contract Procedure Rules apply to Block Contracts and all Officers must endeavour to maximise the use of block contracts.
- 4.1.2 Tier 2: DPS/Framework Agreements - procured lists of approved providers, with fixed or average rates, to which the Council may refer users over the contract period. All Contract Procedure Rules apply to DPS and Framework Agreements which must be utilised only when the Block Contracts are unable to meet the required needs.
- 4.1.3 Tier 3: Spot Placements - Non-procured contractors who can only be utilised when the required needs cannot be met by Tier 1 or Tier 2 suppliers. The relevant Chief Officer for NASS or Childrens Families and Education may award spot contracts if the following four criteria below are satisfied. These are:
- The care requirement is such that only one care provider in a reasonable proximity can meet the individual's needs.
  - The care requirement is both complex and unique to the individual.
  - There is no accessible block contract or Framework Agreements or DPS for placing the individual.
  - The requirement has been approved in writing by the Chief Officer of the relevant directorate, prior to purchase.

All Tier 3 placements must be reviewed on at least an annual basis, to assess

whether changes in the market mean that it is now possible to procure the placement as a Tier 1 or Tier 2 arrangement.

4.2 All of the above three Tiers will be reviewed at least annually by the Chief Officer and will form part of a quarterly report to the relevant Committee Member or group detailing the following:

- The nature, extent and value of spot contracts entered into in the previous quarter, and the percentage of total expenditure made via spot purchasing.
- The specific rationale for utilising Rule 4.1.
- Append a summary of the previous instances where this Rule is used in the current financial year.

## **5 Requesting A Waiver from these Rules**

5.1 The Officer must obtain a fully-approved Waiver where these Rules cannot be complied with, and the approval must be in advance of;

- The Officer commencing a procurement, if the Waiver relates to a rule prior to the procurement commencing (such as not advertising).
- The Officer awarding a contract, if the Waiver relates to a rule during the procurement process (such as not receiving three quotes/tenders).

5.2 A Waiver must only be granted in exceptional or unavoidable circumstances. Lack of forward planning does not constitute a reason for a Waiver.

5.3 The Officer seeking the Waiver is responsible for following the process for Waivers identified on the Council's procurement pages of the intranet and this Rule 5.

5.4 The Officer must estimate the Total Value of the proposed Contract in accordance with Part 2, Rule 2 of this document.

5.5 The Officer must update the Council's Central Contracts Register with any new contract or change to an existing contract as a result of a Waiver being approved. This must be done in accordance with the Council's Contract Register protocol on the Procurement pages of the intranet.

5.6 The Officer must ensure the actual spend incurred as a result of the Waiver does not exceed the Total Value stipulated in the approved waiver.

5.7 Where the Total Value is up to £25,000

Waivers for proposed Contracts up to £25,000 in Total Value must be recorded using the Waiver Request Form located on the procurement pages of the Council's intranet and authorised by the relevant Chief Officer. The Chief Officer making the decision must be satisfied that the waiver is both Value for Money and in the best interest of the Council and the Law. The Officer must add details of the approved Waiver to the Central Contracts Register where the value is over £5,000.

#### 5.8 Where the Total Value is from £25,000 up to £100,000

Waivers for proposed Contracts with a Total Value of £25,000 and not exceeding £100,000 must be recorded using the Waiver Request Form located on the procurement pages of the Council's intranet. See Appendix 3 for flow chart. The Officer must secure approval from:

- The Officer's Chief Officer.
- Then approval from the Head of the Central Procurement Team,
- Then approval from the Chief Finance Officer who reserves the right to seek guidance from from Commercial Board.
- Where the waiver relates to a provision that is the responsibility of the People and Communities directorate, the exemption or proposed exemption needs to be discussed for approval with the Peterborough & Cambridgeshire Joint Commissioning Board before it can be approved as an exemption beyond Chief Officer level.
- The Officer must add the approved Waiver to the Central Contracts Register in accordance with the Contracts Register protocol available on the intranet.

#### 5.9 Where the Total Value is £100,000 up to the Current Goods and Services Public Contract Regulations 2015 Threshold.

Waivers sought that are equal to or over £100,000 and not exceeding the EU Threshold for goods and services must be recorded using the Waiver Request Form located on the Procurement pages of the Council's intranet. See Appendix 3 for flow chart. The Officer must secure approval from:

- (Only where the waiver relates to a provision that is the responsibility of the People and Communities directorate) the Peterborough & Cambridgeshire Joint Commissioning Board.
- His/her Chief Officer.
- Then obtain comments from the Head of Procurement.
- Then approval from the Chief Finance Officer who reserves the right to seek guidance from (who reserves the right to seek guidance from Commercial Board).
- Then approval from the the Monitoring Officer.
- Then the Officer must add the approved Waiver to the Central Contracts Register in accordance with the Contracts Register protocol available on the intranet.

#### 5.10 Waivers above the Public Contract 2015 Threshold and Below the Council's Key Decision Threshold

Waivers sought that are equal to or above the Public Contract 2015 Threshold for goods or services and not exceeding the Council's Key Decision threshold can be requested only in specific circumstances where the Officer can demonstrate clear evidence of:

- that there would be no benefit from competition due to the nature of the provider market and;
- is still compliant with the obligations of the Public Contracts Regulations 2015 or any other legislation (such as
  - Works or the Light Touch Regime which both have higher thresholds than goods or services.

- Regulation 32 Negotiation without Prior Publication.

See Appendix 3 for flow chart. Waivers that do not satisfy this rule 5.10 at this threshold are not permitted.

The Officer must record the waiver using the Waiver Request Form located on the Procurement pages of the intranet and must secure approval from the following:

- (Only where the waiver relates to a provision that is the responsibility of the People and Communities directorate) the Peterborough & Cambridgeshire Joint Commissioning Board.
- His or her Chief Officer
- Then obtain comments from the Head of Procurement.
- Then approval from the Chief Finance Officer (who reserves the right to seek guidance from Commercial Board).
- Then approval from the Monitoring Officer.
- Then the Officer must add the approved Waiver to the Central Contracts Register in accordance with the Contracts Register protocol available on the intranet.

#### 5.11 Waivers over the Council's Key Decision Threshold

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

The single exception is in circumstances where a minimum of three bids cannot be obtained following a competitive procurement process (excluding a Framework Agreement etc.) and the total value is equal to or above the Key Decision threshold, written approval must be obtained from;

- the Chief Officer,
- the Monitoring Officer ,
- and the Chief Finance Officer.
- The Officer must not make an award or carry out an award of contract unless they have a fully approved Waiver.

The approval must be obtained prior to notifying any bidders of an intention to award. This would not alter the Officer's requirement to notify Committee that it intends to procure over the key decision limit nor seek approval of the outcome (unless delegated earlier by Committee).

#### 5.12 Repeat Waivers

In instances where a repeat waiver is requested, then the Total Value of the requested waiver will be added to previous waivers and the appropriate rule/ regulation relating to the Total Value will apply.

Previous Committee papers where a Waiver has been sought through must also be included as a previous waiver and included when calculating Total Value of the repeat Waiver. See Part 2 Rule 2 of this document re: calculating Total Value.



### 5.13 Retrospective Waivers

A Waiver to any of the Rules should never be sought retrospectively but exceptions to this principle will be allowed where:

- It has been necessary to act urgently because of an unforeseen emergency which involves immediate risk of injury or damage or to prevent serious disruption to services.
- It is necessary for an Officer in Children's Services or Adult Social Care to act immediately to secure care for any vulnerable person.
- Engineering, where commercial offers are time-limited and represent best value for the Council.
- There are less than three bids and it is necessary to continue with the evaluation of the procurement process. The Officer must not notify bidders of an intention to award or carry out an award of contract unless they have a fully approved Waiver. If the procurement is over the Key Decision threshold please see Rule 5.11 of this Part 1.
- All other requests for retrospective waivers must have Officer confirmation of approval from the Monitoring Officer prior to the submission of the waiver.

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

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. The consequences of such non-compliance could lead to suspension or dismissal from the Council.

## 7 **Recommended Reading**

It is strongly recommended that Officers and Chief Officers read the following documents in conjunction with these Rules and essential to read where a procurement is high risk or high value. These are available on the intranet and offer further guidance:

- Financial Procedure Rules.
- The Council's Procurement Best Practice Guide.
- The Council's policies and processes relevant to your procurement.
- The Public Contract Regulations 2015.
- Contract Register guidance, system instructions and protocol.

## 8 **Officer Responsibilities**

- 8.1 Officers undertaking any contracting activity must comply with these Rules and any UK legislation; failure to do so could result in disciplinary action and/or potential court legal proceedings. It is strongly recommended that they seek advice from the Central Procurement team before proceeding. The Central Procurement team also offer training available on the Organisational Workforce Development pages of the Council's intranet.
- 8.2 Officers must take account of all necessary legal, financial, procurement and any technical advice.
- 8.3 The Officer must have regard to current recommended reading (see rule 7 of this section)

provided by the Central Procurement Team.

8.4 The Officer is responsible for the contracting activity 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. The Officer must ensure security and confidentiality of documentation supplied at all stages of the current procurement activity such as notes, evaluation scores or tender reports.

8.6 The Officer must ensure that he or she records in writing all minutes of meetings and decisions/actions taken.

8.7 The Officer must secure Value for Money by clearly defining the business requirement and seeking the most economically advantageous offers for the Council.

8.8 The Officer must consider whether the procurement constitutes a Key Decision. If it does then the Officer must seek approval from Committee prior to the procurement commencing.

8.9 The Officer is responsible for recording all contracts over £5,000 in total value onto the Council's Central Contract Register where the procurement has not been led by an Officer of the Central Procurement team. Please refer to the Council's Central Contract Register protocol on the Procurement pages of the Council's intranet.

8.10 The Officer is responsible for retaining a copy of the signed contract, evidence to demonstrate compliance with these rules in the procurement process, and any associated contract variations and updates he or she is contract manager of.

## **9 Chief Officer Responsibilities**

9.1 Chief Officers are accountable for all Procurement in their directorates/area of responsibility. Their duties in relation to all Procurement and Contract Management are to ensure;

- compliance with legislation, and
- adherence to Council policy, and
- ensure that their Officers comply with these Rules, and
- ensure their Officers adhere to their contracts, and
- consider whether the activity is a Key Decision.

9.2 Chief Officers must ensure a record is kept of their Officers' signed contracts and follow the Council's retention policy available on the Council's Information Management intranet pages.

9.3 Chief Officers must ensure that their Officers record all spend relating to his/her directorate on the Council's Central Contracts Register in accordance with the Council's Contracts Register protocol available on the Procurement pages of the intranet. This includes any updates to contracts, extensions or waivers.

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

10.1 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 a procurement must declare any

conflicts of interests (e.g. if there is a relationship / pecuniary interest with one of the suppliers from which a quotation or tender is being sought / received) 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. This declaration should be made in line with the reporting requirements reflected in the Council's Code of Conduct. Depending on the conflict of interest, this may result in the officer being required to withdraw from the procurement exercise.

- 10.2 The Officer and the Chief Officer must 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, unless the contract is financially constructed, in such way to pay the contractor by payment of results.
- 10.3 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.
- 10.4 Officers are advised that any inappropriate behaviour that is deemed contrary to the Bribery Act 2010 could result in dismissal and the matter may be reported to the police.
- 10.5 Any officer who has reason to suspect an inappropriate conflict of interest or corruption in a procurement process must report this to the Council, in line with the process outlined in the Council's Anti-Fraud and Corruption Policy and/or Whistleblowing Policy.

## Part 2 Pre-Procurement

### 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 (including taking into account any statutory or regulatory requirements).
- 1.2 It is a core principle that Council procurement should be based on the award of contracts to the supplier that will provide the requirements of the service at the lowest price. In order to achieve this, it is important that officers use the pre-procurement stage to ensure that a sufficiently detailed specification is produced for every procurement process.
- 1.3 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.
- 1.4 In some instances, tender bids may offer additional quality or innovation which goes over and above the core requirements of the service. If officers feel that the additional cost of this additional quality can be justified as representing the best value for money, then a formal process is in place to allow this to be approved. In such instances, officers must follow the process to obtain a procurement waiver, set out at Part 1, Section 5 of these procedure rules.

### 2 Total Value

- 2.1 *Annual value can be calculated as “number of years + extension period = total value”*
- 2.2 The calculation in 2.1 may be subject to the following variances:
  - Where the contract is for a fixed period, the value is the total price to be paid or which might be paid during the whole of the contract period, including any possible extensions to the contract period;
  - Where a number of goods or services contracts are to be entered into, the estimated value of each contract shall be the total value of the payment which the Council expects to pay under each of those contracts;
  - Where a number of works contracts are to be entered into, the estimated value for carrying out the works shall be total value of the payment which the Council expects to give under all the contracts for carrying out the works;
  - Where the contract is for services has been provided over an indefinite period the value is obtained by multiplying the monthly payment under the contract by 48;
  - Where a service contract includes one or more options the estimated value of the contract shall be determined by calculating the highest possible payment which could be given under the contract;
  - Where the contract is a single contract comprising services, supplies or works in combination, the value is calculated according to the price of the largest element of the contract.
- 2.3 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.

- 2.4 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.
- 2.5 If a Contract is for for goods or works 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.
- 2.6 The Contract term should not exceed four years in total (including any optional extension period(s)) unless otherwise agreed in writing by the Monitoring Officer in advance of the procurement commencing.
- 2.7 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.
- 2.8 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.
- 2.9 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.
- 2.10 All values stated in these Rules are exclusive of VAT.

### **3 Steps Prior To Procurement**

- 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 Specifications should give specific details of the core requirements that are necessary to provide the service. To develop an effective specification, officers must be mindful of the difference between requirements and preferences, and concentrate on defining required outcomes rather than being prescriptive as to the method the supplier should use to deliver these outcomes. In order to avoid over-specifying and ensure the best balance between whole-life cost and quality, the focus should be on establishing the minimum appropriate, adequate level of service.
- 3.3 When developing expected service outcomes, officers should consider the performance requirements from the contract, how good performance from the supplier will be incentivised and how poor performance will be addressed. It is recommended that large-scale service contracts should include key performance indicators including targets for expected performance, and should include the ability for the Council to levy financial penalties for inadequate performance.
- 3.4 Officers must also determine the evaluation criteria by which quotations/tenders will be judged. As the Council aims to award contracts to the provider which can supply the necessary level of service at the lowest cost, this should be based on a pass/fail criteria according to whether or not the service provider can meet the core requirements of the service as detailed in the specification. If officers subsequently believe that a provider has offered an additional level of quality or innovation which goes beyond the requirements of the specification but represents best value for money, officers must obtain approval to award on this basis by following the

process for obtaining a procurement waiver as set out at Part 1, Section 5 of these rules. The application for the waiver must specify the extra service(s) to be provided above the original specification; the cost of these extra services (i.e. the difference between the price of the bid and the lowest-cost bid which met the minimum requirements of the specification); and the justification for why this represents best value for money.

- 3.5 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.
- 3.6 The Officer must consider the following options for the delivery of the required goods, services or works. The options include (but are not limited to):
- Ensure sufficient funding and resources are available.
  - Define the objectives of the purchase.
  - Determine whether a Corporate Contract or Corporate Framework exists within the Council (see rule 6 of this section).
  - Determine whether not buying the goods or services or not having the works done at all is beneficial to the Council.
  - Determine the cost of purchasing outweighed by the benefits received.
  - Determine whether the products or skills within the Council that can be used without the need to source these externally.
  - Determine other alternatives to your purchase or whether you might co-purchase with other councils so achieve further economies of scale.
  - Consider procurement via a buying consortium (e.g. ESPO, CBC, CCS).
  - Appraise the need for the expenditure and its priority.
  - Assess the risks associated with the purchase and how to manage them.
  - Consider what procurement method is most likely to achieve the objectives.
  - Follow any additional Council approvals in place.
  - Determine whether there is sufficient market interest in the procurement opportunity.
  - Prepare the market for this opportunity.
- 3.7 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.
- 3.8 The Officer must consider (where relevant) any specific requirements for what they are purchasing such as Disclosure and Barring Service (DBS) checks or statutory requirements.
- 3.9 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.
- 3.10 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.
- 3.11 The Officer must comply where his/her procurement meets the criteria defined for submission to any established review group or board within the Council.
- 3.12 Where a procurement relates to an IT provision, the Council's central IT team must be notified before the procurement.
- 3.13 Where a procurement relates to a property, FM or construction provision, the Council's central Property team must be notified before the procurement commences.

- 3.14 Where a procurement relates to a provision that is the responsibility of the People and Communities directorate approval must first be obtained by the Peterborough & Cambridgeshire Joint Commissioning Board.
- 3.15 Where a procurement relates to a provision that is of a commercial nature approval must be obtained from the Commercial Board.

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

- 4.1 The Officer responsible for the purchase must conduct adequate market research prior to starting the procurement.
- 4.2 The Officer must engage with the Central Procurement Team where the procurement is at or over £100k in Total Value and document such decisions.
- 4.3 The Officer should consult potential providers 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 consultation does not prejudice any potential Candidate.
- 4.4 The Officer must not adopt any technical advice in the preparation of an Invitation to Tender or Quotations from anyone which may distort competition or disadvantage potential bidders.

#### **5 Pensions and TUPE – Transfer of Undertakings Protection of Employment**

- 5.1 The Officer must determine if any employee either of the Council or of a service provider is likely to be affected by changes to pension or for 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.
- 5.2 The Officer must follow all Council rules and UK legislation on 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.
- 5.3 Advice regarding TUPE must be sought from the Central Legal Team before undertaking the procurement process .
- 5.4 Advice regarding pensions must be sought from the Central Pensions team before undertaking the procurement process.

#### **6. Corporate Contracts and Corporate Frameworks**

- 6.1 The Council has a selection of Corporate Contracts, Frameworks and Dynamic Purchasing Systems (DPSs) created by the Central Procurement Team for goods, services and works

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 a waiver in relation to procuring any Contract without first checking whether the provision can be provided by a Corporate Contract or corporate framework. Where Corporate Contracts exist the Officer must use these Corporate contracts. The list of Corporate Contracts are available on the Central Procurement Team's intranet pages.
- 6.3 Call-offs from a Corporate Framework/Contract must be published on the procurement advertising portal if over £25,000 and in accordance with the Public Procurement Regulations 2015 where at or over the EU threshold (see rule 13 of this Part 3).
- 6.4 Corporate Contracts can include provisions that are managed by an in-house team such as Translation Services or Property frameworks, as examples. These are available under corporate contracts on the procurement pages of the intranet.

## **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. The combined value of the collaboration must be used to consider the procurement route.
- 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 Where the Officer is conducting a collaborative procurement, this Council's sole financial value alone will be the amount the Officer should use to determine the Key Decision threshold.
- 7.5 The Officer must consider any other risks to this Council regarding a collaborative contract regardless of which body will lead the collaborative procurement. For example, where the Council is the biggest stakeholder or takes on risks on behalf of the other collaborators.



## **8. Contracts Reserved for Mutuals**

- 8.1 The Officer can limit competition for services such as administrative services in relation to education, healthcare and housing, health and social work services, library and other cultural services to mutual type organisations. For such contracts the maximum duration is three years.
- 8.2 A mutual type organisation must meet all of the following requirements;
- The organisation's objective must be the pursuit of a public service mission linked to the services set out in the Public Contracts Regulations 2015.
  - The profits of the organisation must be re-invested to achieve the mission;
  - The organisation must be employee owned or require active employee organisation;
  - The organisation must not have been awarded a contract under this process within the last three years.
- 8.3 The Officer must contact the Central Legal Services Team, Procurement Team and Finance Team if he/she wish to undertake such a process.

## **9 Public Services (Social Value) Act 2012**

- 9.1 This Act of Parliament requires public authorities to have regard to economic, social and environmental well-being in connection with public service contracts; and for connected purposes.
- 9.2 The Act states that Officers must consider the following before starting the procurement process:
- How what is proposed to be procured might improve the economic, social and environmental well-being of the county.
  - How the procurement might be structured to deliver that improvement.
- 9.3 When considering this potential improvement officers must only take into account what is relevant to that procurement and whether or not it is proportionate to do something;
- 9.4 Officers must consider whether to do any consultation as part of its thinking about whether improvements could be made; and
- 9.5 Compliance with the Act is not negated if officers delay the procurement so much so that to comply would not be possible in the time given.
- 9.6 Officers must consult the Central Procurement team for advice on specifying requirements under Social Value and how to evaluate tenders.

## **10 Insurance**

- 10.1 The standard levels of cover required by the Council can be found on the Council's Insurance pages of the intranet or by contacting the Council's Insurance team.
- 10.2 The Officer must consult with the Central Insurance Team where the procurement is of a specialist nature or poses a new potential risk to the Council, to discuss the potential risks to ensure they are adequately mitigated.

## **11 Income Generating Purchases/ Concessions**

- 11.1 The Officer must consult with his/her Chief Officer, the Central Procurement Team and the Central Legal Team where an Officer is proposing to enter into a Contract where either;
- the Council will be the service provider, or
  - 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/ External Subject Matter Experts**

- 12.1 The relevant Chief Officer must follow the Council's HR Consultancy policy available on the Procurement pages of the intranet justifying the requirement and must achieve the necessary approvals according to the policy prior to any procurement activity commencing.
- 12.2 The Chief Officer must also follow these Rules and the Public Contract Regulations 2015.
- 12.3 The Chief Officer must consider whether internal resource can provide the requirement in the first instance.
- 12.4 The Chief Officer must consider whether the temporary agency staff provision can provide the requirement in the second instance.
- 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.
- 12.6 Any enhancement or changes to the original Consultant 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 must ensure there is no Corporate Contract/ Corporate Framework already in existence on the Council's intranet page (refer to clause 6 of this Part 2).
- 13.2 The Officer may purchase goods, services or works from a Framework Agreement if:
- the Council is named either specifically or in acceptable geographic and organisational terms on the Framework Agreement;
  - and the scope for the Officer's purchase is specified in the framework;
  - The framework is set up in compliance with the EU legislation.

- 13.3 The Officer must not call-off from a Framework Agreement if there is no clear and specific call-off criteria in the agreement.
- 13.4 The Officer must consult with and obtain approval from 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 a mini competition is prescribed, obtaining three quotes is desirable but not mandatory due to the restrictive market response of the framework.
- 13.7 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.
- 13.8 The Officer must publish an award on the Council's Procurement Advertising Portal for contracts derived from a Framework where the value is over £25,000. This must include:
- the name of the contractor;
  - the date on which the contract was entered into;
  - and the end date and review date;
  - the value of the contract.

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

- 14.1 The Public Contract Regulations 2015 stipulate that the term of any Framework Agreements or Dynamic Purchasing System must not exceed four years 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 position for choosing a provider when setting up 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.

- 14.4 The Officer must consider the income generation possibilities and advantages of opening the framework for other organisations to use.
- 14.5 It is the Officer's responsibility to carry out due diligence on Framework providers and conduct mini competitions within the framework (as per the framework agreement terms) from agreement start date until expiry.

## **15 Setting up a Dynamic Purchasing System (DPS)**

- 15.1 The Public Contract Regulations 2015 stipulate that Contracting Authorities shall indicate the period of validity of the DPS in the call for competition. There is no maximum term for a DPS (unlike with a Framework Agreement). Approval for a DPS for longer than four years must be sought in line with Rule 2.4.
- 15.2 In order to procure under a dynamic purchasing system, the rules of the procedure must be followed. The default position for choosing a provider under 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. The minimum time limit for receipt of tenders (under mini competition) shall be at least 10 days from the date on which the invitation to tender is sent, unless otherwise agreed with the Central Procurement Team.
- 15.3 The DPS shall be operated as a completely electronic process, and shall be open throughout the period of validity of the purchasing system to any economic operator that satisfies the selection criteria. All the candidates satisfying the selection criteria shall be admitted to the system, and the number of candidates to be admitted to the system shall not be limited.
- 15.4 It is the Officer's responsibility to carry out due diligence on DPS providers and conduct mini competitions within the DPS (as per the DPS agreement terms) from agreement start date until expiry.

## Part 3 Procurement up to EU Threshold

### 1 Purchases up to £5,000 in Total Value

- 1.1 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 £5,000. Please refer to Appendix 2.
- 1.2 Officers must not seek to procure any goods, services or works if the requirement can be satisfied by using an existing Corporate Contract.
- 1.3 The Officer may choose to issue an advert and award notice on the Council's Procurement Advertising Portal.
- 1.4 The Officer must raise a purchase order. The terms of the purchase order should suffice for a contract, 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 requires from the supplier.

### 2 Low Value Contracts from £5,000 up to £25,000 in Total Value

- 2.1 The Officer must not seek to procure any goods, services or works if the requirement can be satisfied by using an existing Corporate Contract/ Corporate Framework.
- 2.2 The Officer must obtain a minimum of three comparable written Quotations for requirements between £5,000 and up to £25,000 and a purchase order must be processed before goods or services or works are purchased. Please refer to Appendix 2. Wherever possible at least 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
- 2.3 Written Quotations must be by way of letter or email or via the council's e-procurement system. This information must be retained by the service in a shared filing system, for audit purposes.
- 2.4 The Officer may choose to issue an advert and award notice on the Council's Procurement Advertising Portal.
- 2.5 Where more than three comparable written Quotations are returned the Officer may shortlist those Candidates whose Quotations will be evaluated based on his/her professional judgement which must be explained in the notice and/or documents.
- 2.6 A purchase order must be raised. The terms of the purchase order should suffice for a contract, unless the Officer believes the complexity of the purchase requires more bespoke terms from the Central Legal team.

- 2.7 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.
- 2.8 The Officer must ensure that the contract and description in the purchase order is sufficiently clear what the provision is for and for how long for transparency and auditability purposes.
- 2.9 The Officer must record the purchase on the Council's Central Contract Register.

### **3 Purchases from £25,000 up to £100,000 in Total Value**

- 3.1 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.
- 3.2 The Officer must obtain a minimum of three comparable written Quotations and wherever possible at least two quotes must be normally from a local provider. Please refer to Appendix 2. This must be done using the Formal Request for Quotation documentation available on the Procurement pages of the intranet, unless otherwise agreed by the Central Procurement Team and must specify:
- The goods, services or works to be supplied;
  - Where and when they are to be supplied;
  - The Total Value of the Contract;
  - The terms and conditions to apply to the procurement including price and payment terms.
- 3.3 An advert and award notice must be placed on the Council's Procurement Advertising Portal.
- 3.4 The criteria for selecting the most economically advantageous Quotation must be robust and established before the written Quotations are invited.
- 3.5 The Officer must raise a purchase order and ensure the Council's standard terms and conditions located on the Procurement pages of the 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.
- 3.6 The Officer must obtain approval from the Central Legal Team if he/she wishes to use terms and conditions that do not comply with 3.5 of this section.
- 3.7 The Officer must ensure that the contract and description in the purchase order is sufficiently transparent.
- 3.8 The Officer must advertise an award notice on the Council's Procurement Advertising Portal.
- 3.9 The Officer must record details of the Contract on the Council's Central Contract Register.
- 3.10 Relevant documentation from the procurement process, particularly regarding the quotations received and the evaluation process, must be retained by the service in a shared filing system, for audit purposes.

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

- 4.1 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.
- 4.2 The Officer must consult with the Central Procurement Team before commencing the procurement. The Officer must complete a Tender Request Form (TRF) provided by the Central Procurement Team.
- 4.3 The Officer must work with the Central Procurement Team to maintain a record of all decisions from pre-procurement to post procurement with regards to decisions associated with the Tender.
- 4.4 The Officer must obtain a minimum of three comparable written Quotations and wherever possible at least two quotes must be normally from a local provider. Please refer to Appendix 2. This must be done using the Request for Quotation (RFQ) documentation available on the Procurement pages of the intranet, unless otherwise agreed by the Central Procurement Team and must specify:
  - The goods, services or works to be supplied;
  - Where and when they are to be supplied;
  - The Total Value of the Contract;
  - The terms and conditions to apply to the procurement including price and payment terms.
- 4.5 Written Quotations must be by way of the Council's e-procurement system.
- 4.6 An advert must be placed on the Council's Procurement Advertising Portal.
- 4.7 The criteria for selecting the most advantageous Quote must be established before the written Quote are invited.
- 4.8 The Officer must consult with the Central Legal Team as early as possible and prior to commencing the procurement process.
- 4.9 The Officer must advertise an award notice on the Council's Procurement Advertising Portal. Please refer to Appendix 2.
- 4.10 The Officer must raise a purchase order and obtain bespoke terms from the Central Legal Team.
- 4.11 The Officer must obtain approval from the Central Legal Team if he/she wishes to use terms and conditions that do not comply with 4.10.
- 4.12 The Officer must ensure that the contract and description in the purchase order is sufficiently transparent.
- 4.13 The Officer must record the details of the contract on the Council's Central Contract Register.
- 4.14 The Central Procurement Team must decide what procurement process is appropriate (e.g Quotation, Tender or another compliant competitive model) where the procurement is identified by the Central Procurement team as falling in the scope of the Light Touch Regime in the Public Contract Regulations 2015 and is under the Light Touch Regime threshold.

## Part 4 Procurement over EU Threshold

### 1 Purchases over Current EU Threshold in Total Value

- 1.1 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.
- 1.2 All goods, services and works with a procurement Total Value in excess of the Public Contract Regulation 2015 threshold are enforced by Public Contracts Regulations 2015, which lay down strict processes for advertising, timetabling and supplier selection. The latest thresholds and regulations can be found at the following site <https://www.ojec.com/Thresholds.aspx> . These regulations take precedence over these Rules or any other Council rules and carry potentially heavy penalties for non-compliance. Officers must comply with the detail and principles of the Directives at all times.
- 1.3 The Officer must consult with the Central Procurement Team on the development of all advertisements and is responsible for the publication. The criteria for selecting the most economically advantageous Tender must be established and published at the time that the notice is placed.
- 1.4 The Officer must consult with the Central Procurement Team at preparation stage for and before commencing the procurement or any soft market testing.
- 1.5 The Officer must contact the Central Procurement Team for decisions as to whether a procurement follows the regulations of the Light Touch Regime.
- 1.6 The Officer must consult with the Central Legal Team as early as possible and prior to commencing the Tender process. The Central Procurement Team must decide if an RFQ or Tender process is appropriate where the procurement is identified by the Central Procurement team as falling in the scope of the Light Touch Regime in the Public Contract Regulations 2015 and is under the Light Touch Regime threshold.

### 2 Fair and Equal Competition

- 2.1 The Officer must manage any Tender process in such a way that all Bidders are treated equally and ensure that any clarification meetings (at pre and post Tender stage, if necessary) are conducted fairly and transparently.
- 2.2 The Officer must work with the Central Procurement team to ensure fairness, transparency equal treatment and best value for money from early market engagement to Tender award, as



well as in the conducting of post-Tender clarification and/or negotiation meetings. Decisions must be recorded in writing.

### **3 Tender Preparation**

- 3.1 The Officer must obtain a minimum of three tender responses and work with the Central Procurement team to ensure compliance with the Public Contract Regulations 2015.
- 3.2 Bidders invited to Tender must be given the minimum timescales stipulated in the Public Contract Regulations 2015. The Officer must ensure that the specification and evaluation criteria take into account the Council's priorities.
- 3.4 The Officer must ensure that the specification clearly describes the intended outcomes/ outputs and that it is complete, adequate and fair to allow adequate Tenders to be received.
- 3.5 The Officer must assess the quality of Tenders as per the Public Contract Regulations 2015.
- 3.6 The Officer must assess the risks to the Council associated with the Procurement.
- 3.7 The Officer must work with the Central Procurement Team where to maintain a record of all decisions from pre-procurement to post procurement with regards to decisions associated with the Tender.
- 3.8 The Contract terms and conditions must be included with the Invitation to Tender documents. These must be obtained from the Central Legal Team.
- 3.9 The Officer must obtain approval from the Central Legal Team if he/she wishes to use terms and conditions that do not comply with 3.8.
- 3.10 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.
- 3.11 Invitations to Tender must include a statement that the Council does not bind itself to accept the lowest price Tender or any other Tender.
- 3.12 Bidders must be required to hold their Tenders open for acceptance for a minimum of 90 days from the date of opening.
- 3.13 The Officer must ensure that the Evaluation Criteria and sub Criteria is disclosed in the Invitation to Tender documentation and advertisements.
- 3.14 The Officer must ensure that the Contract terms and conditions provide for adjustment should the Total Value of a Contract increase or decrease due to increased or decreased volume or value.
- 3.15 The Officer must take account of Council policies with regard to Small Medium Enterprises and apprenticeships as per Part 2 rule 9 or any of this Council's policies on these subjects.

- 3.16 The Central Procurement team must place an advert as per the Public Contract Regulations 2015.
- 3.17 The criteria for selecting the most advantageous Quote must be established before the written Quotes are invited.

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

- 3.1 The Officer must treat selection and award Criteria separately as required in the Public Contract Regulations 2015.

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

- 4.1 The Officer should not use presentations, interviews or site visits in his/her tender process except in exceptional circumstances where there must be a clear justification as to the Council benefit for such use.
- 4.2 Should the Officer justify the use he/she must record this in any documentation associated with the procurement process and it must be made clear in the tender documents to Bidders.
- 4.3 All Bidders must be invited to present or be included in site visits. Any questions should be sent to Bidders in advance of the date. The documentation must clearly state what weighting presentations/site visits carry as part of the award Criteria and cannot in any circumstances be disclosed after the date for submitting tenders has passed.

### **5 Electronic Tendering**

- 5.1 The Officer must conduct his/her Tender process using the Central Procurement Team's tender portal unless agreed by the Head of the Council's Central Procurement Team.
- 5.2 The Officer must advertise the procurement on the Council's Procurement Advertising Portal immediately after despatch of advert to OJEU and must contain no more information than the OJEU version.

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

- 6.1 If the Officer receives an Irregular Tender, the Officer shall immediately report this to his/her Chief Officer giving details of the Irregular Tender.
- 6.2 The Chief Officer, in agreement with 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.
- 6.3 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.
- 6.4 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.

- 6.5 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.

## **7 Tender Evaluation**

- 7.1 Tenders must be assessed in accordance with the pre-determined evaluation Criteria.
- 7.2 The results of the Tender evaluation must be recorded and retained on the Tender file.
- 7.3 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.
- 7.4 The arithmetic and formulas 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.
- 7.5 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.
- 7.6 For details of Tendering evaluation and award Officers must consult with the Council's Procurement Best Practice Guidance available on the intranet.

## **8 Seeking Clarification**

- 8.1 Providing clarification of an Invitation to Tender to potential or actual Bidders 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.
- 8.2 The Officer must not use clarifications as an opportunity to conduct major negotiations.
- 8.3 For all Tenders, Officers shall take into account the requirements of public procurement legislation and their regulations for any negotiations, clarifications or refinements to any Tender and related documentation.
- 8.4 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 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 change of the Invitation to Tender or related documentation.
- 8.5 Full written records of all clarification decisions must be made and retained by the relevant officer.

## **9 Post Tender Negotiations**

- 9.1 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 Public Contract Regulations 2015 and must not distort competition particularly with regard to price.
- 9.2 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 negotiation is to be with all Bidders.
- 9.3 Negotiations must be conducted by a team of at least two officers, one of whom must be from the Central Procurement Team.
- 9.4 Full written records of all decisions must be made and retained by the Officer.

## **10 Intention to Award a Contract**

- 10.1 The Officer must submit an award notice and brief unsuccessful and successful Bidders in accordance with the Public Contract Regulations 2015. 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.
- 10.2 The results of the Tender evaluation process must be recorded in writing.
- 10.3 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.
- 10.4 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.
- 10.5 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.
- 10.6 The Officer must ensure that in the award of any Contract they follow the formal award process described in the notice. The Officer must also advertise an award notice on the Council's Procurement Advertising Portal where the Officer has placed the advertisement .

## **11 Legal Challenge**

- 11.1 The Officer must notify immediately his/her Chief officer and the Central Legal Team and the Head of the Central Procurement Team if there is a likelihood of a formal legal challenge to the award of contract. This should be before a legal challenge is issued to the Council.

## Part 5 Contract Management

### 1 Award & Placing of Contract

- 1.1 The Officer must record his/her contracts on the Council's Central Contract Register immediately after award (in accordance of rule 2 of this Part 5).
- 1.2 All Contracts made on behalf of the Council must be in writing and cannot be made by an email. Chief Officers must ensure that a signed Contract is in place before the goods are ordered or works or services begin.
- 1.3 The Officer must ensure that all the necessary permissions are in place (e.g. funding commitments, licences, and leases) before the Contract is entered into.
- 1.4 The Officer must ensure that the the Contract remains appropriate for the purpose and if in any doubt must take advice from the Central Legal Team.
- 1.5 Records of all procurement activity must be retained in accordance with the Council's retention policy available on the Council's Information Management intranet pages.
- 1.6 Unless sealed (see rule 1.7 below) agreements must only be signed by Chief Officers and Officers with the delegated authority to do so. Please see the table in Appendix 2. The Officer responsible for securing signature must ensure that the person signing on behalf of the supplier has authority to bind it.
- 1.7 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 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 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.
- 1.8 The Officer is responsible for retaining a copy of the signed contract and any associated variations and updates he or she is contract manager of. Such documents must be retained in a shared filing system to ensure they are accessible by other staff, in the event of the Officer being unavailable. Should the contract change responsibility to a new contract manager, it is the responsibility of the previous contract manager to ensure that the contract document is passed to the new Officer who is contract managing, and details of the new contract manager must be updated on the contracts register.

## **2 Central Contracts Register**

- 2.1 The Procurement Team will provide access to a Central Contract Register of current contracts and framework agreements where the estimated total Value is £5,000 or over. The register should be published on the Council's website in accordance with Local Government Transparency Rules.
- 2.2 The Central Contract Register is accessible via the procurement pages of the intranet.
- 2.3 The Chief Officer must ensure all new and existing Contracts (including any waivers that have been approved) with a value equal to or exceeding £5,000 for his/her directorate are entered and updated on the register from the time of the Contract award in accordance with the Central Contract Register protocol and guidance available on the procurement pages of the intranet.
- 2.4 The Chief Officer must name a Contract Manager for each new Contract and for the entirety of the Contract and these names must be kept up to date on the Council's Central Contract Register.
- 2.5 The Central Procurement Team will enter any Contracts they have led the procurement process for. It is the Officer's responsibility to ensure these details are updated with any changes and/or extensions.

## **3 Contract Documentation**

- 3.1 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.
- 3.2 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.
- 3.3 Officers must ensure that they obtain a written Contract for all goods, services or works; and that such documentation is retained according to the Council's documents retention policy, and is accessible for audit purposes. Contract documentation must be retained in a shared filing location, which is accessible by multiple officers, and must not be retained solely in an officer's personal email or desktop filing structure.
- 3.4 A letter or an email exchange can constitute a Contract and therefore Officers should be careful to avoid accidental or premature contractual agreements occurring.
- 3.5 A verbal commitment can equally constitute a Contract therefore the Officer must use caution as to what he/she commits to.
- 3.6 Contracts comprised of e-mail conversation exchange are forbidden. There has to be a single document that is the definitive contract to the exclusion of all previous communications that may have taken place prior to that.

- 3.7 Having a contract and emailing it to the other party is acceptable.
- 3.8 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.
- 3.9 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.

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

- 4.1 Where a performance bond or guarantee is required to ensure Contract performance and/or to protect the Council, the requirement must be pre-notified and the bond or guarantee must be in place before Contract signature.
- 4.2 The Officer must consult the Chief Finance Officer and the Central Legal Team as to whether some sort of security such as a Bond or Parent Guarantee 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.
- 4.3 The Council must never give a Bond or other sureties.

#### **5 Social Impact Bonds (SIBs)**

- 5.1 Social impact bonds (SIBs) are a commissioning tool that can enable organisations to deliver outcome contracts and make funding for services conditional on achieving results. Social Investors pay for the project at the start, and then receive payments based on the results achieved by the project. The Officer should discuss with the Central Finance Team at the earliest possibility if they wish to use a SIB. A business case (Feasibility Study) would need to be conducted by the Officer (or a Social Intermediary), to ensure a SIB is a financially viable option.

#### **6 Risk Assessment & Contingency Planning**

- 6.1 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. Ineffective contracting represents a significant risk to the Councils both in terms of finance and enabling the Councils to function effectively.
- 6.2 Contract Managers are therefore required to consider before the commencement of the contract and then on an ongoing basis during the term if there are any significant risks to key Contracts which might adversely impact on Contract cost or delivery. Contract managers should ensure they understand how contract terms dictate that risk (particularly financial risk) is shared between the provider and the Council, and ensure that the Council is not adversely impacted by risks which should contractually be borne by the provider. Contract 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 the Council's Risk Management Policy.

6.3 Guidance on risk management can be obtained from the Audit pages of the intranet.

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

7.1 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 Contract Manager and the supplier.

7.2 Individuals who use the contract or service should be made aware of how to contact the supplier as well as the Contract Manager, and clear escalation routes for serious concerns should be in place.

7.3 During the life of the Contract the Officer must monitor in respect of:

- Performance, including ensuring that any money due back to the Council because of poor performance has been reclaimed, and considering whether the contract mechanisms to incentive good performance and disincentise poor performance are still fit for purpose.
- Supplier compliance with specification and Contract requirements.
- Council compliance with any requirements under the Contract (such as for the provision of information to the supplier).
- Cost, including the actual vs. expected cost of the Contract, and ensuring that expected increases (or decreases) in contract expenditure are reflected in the Council's budget-setting process.
- Any Value for Money requirements.
- User satisfaction and feedback.
- Risk management relating to the contract, including ensuring that contingency plans are in place to manage temporary or permanent supplier failure, and ongoing monitoring of the supplier's financial health and business performance.
- Operational issue resolution between the Council and the supplier.
- Any changes in requirements from the Council or contract users, which mean that the contract specification is no longer fit for purpose or change management is needed (in which case see Section 9, below).
- In accordance with any guidance in the Council's Procurement Best Practice Guidance available on the intranet.

7.4 The outcomes of contract monitoring should be used to inform any proposed contract extensions, and to inform future re-procurement exercises. Contracts with under-performing suppliers should not be extended.

7.5 In some cases it may be appropriate, and value for money, to appoint a third-party organisation to undertake some contract monitoring processes; for instance with very high value open-book actual-cost contracts where the Council stands to save money through particularly close monitoring of the contract costs. Procurement should be contacted for advice prior to any process to appoint such contractors.



## 8 Purchase Orders

- 8.1 Unless specially agreed by Finance and Procurement, the cost of every Contract must be entered as a requisition on the Council's Finance System. When entering a Purchase Order on the system, it is important to ensure that the correct 'account code' is selected, which identifies the type of expenditure being made.
- 8.2 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.
- 8.3 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.
- 8.4 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.
- 8.5 The Purchase order raised that relates to a Contract must not be sent to the supplier if the terms and conditions are agreed in a separate Contract or tender or RFQ. 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.

## 9. Variations

- 9.1 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.
- 9.2 The Officer will need to calculate how the total value of the contract will change as a result of the variation, in order to determine the authority the Officer needs to obtain including any option/extension periods in the calculation.
- 9.3 The Officer must always consider whether the Total Value is such that the Contract should be re-Tendered. Where variations may cause the original Contract Total Value to be exceeded by 50%, the Central Procurement Team must be consulted in writing.
- 9.4 A variation to a Contract does not need to be Tendered where it is permitted under Regulation 72 of the Public Contracts Regulations 2015. This includes where:
  - a Contract has been entered into for goods, services and or works on a particular project; and
  - additional goods, services and or works have become necessary on the same project and cannot be obtained from a third party for economic or technical means; or
  - the requirement could not have been foreseen, the modification does not alter the overall nature of the contract.

In such cases the existing supplier must provide the price in writing for the additional goods, services and/or works and it must not exceed 50% of the original contract value. In all cases, the Officer in consultation with the relevant Chief Officer must certify that it is in the interests of

the Council to agree the variation and that such a variation is compliant with Public Contract Regulations 2015.

- 9.5 The Variation to the Contract must state the period of notice for implementing variations.
- 9.6 The Variation may be varied, without the need to carry out a new procurement, where the change does not infringe the Treaty principles (of proportionality, mutual recognition, transparency, non-discrimination, and equal treatment).
- 9.7 All variations should be kept with the Contract Manager's signed copy of the Contract and once agreed, all variations on Contracts with a Total Value of £5,000 or more must be noted on the Central Contracts Register.
- 9.8 The Financial Procedure Rules and related regulations must be followed when agreeing Contract variations.
- 9.9 The Central Procurement team must be consulted for variations where;
- the variation will result in the contract value being over the EU threshold or likely to be subject to is likely to be subject to the Public Contracts Regulations 2015
  - the variation will increase the contract value to over £100,000.
  - If the variation is for a 'call off' contract which has been awarded under a framework agreement, then please contact the Central Legal Services team in the first instance.
- 9.10 The Officer must also consider whether such a variation constitutes a Key Decision. Further advice can be obtained from Democratic Services.
- 9.11 The Officer may seek assistance with the documentation required to vary the contract documents, and you should contact the Central Legal Services team to assist you with any variations (irrespective of contract value).

## **10. Extensions**

- 10.1 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 a extension; or
  - a Waiver request is made where no specific provision exists in the Contract.
- 10.2 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. It is not possible to extend the contract where doing so would take it over the threshold such that the original award should have been subject to EU Procedures.
- 10.3 All Contract extensions where the Total Value of the Contract as extended will be £5,000 or more must be included in the Council's Central Contract Register.

## **11. Assignments and Novations**

- 11.1 Assignment is the transfer of the benefit of contract to another party. The contract should detail the circumstances in which a contract can be assigned but if it does not you will need to consult Legal services on the process. Novation is the transfer of the rights, obligations and liabilities of an original party to an existing contract to a new party. You should contact the Central Legal Services Team on the form of document that should be used for the novation/assignment, which is usually in the form of a deed.
- 11.2 Where a contract is required to be assigned or novated the Officer must first calculate the total value of the contract to determine the correct process. In all cases, you should contact Legal Services to discuss your particular circumstances.
- 11.3 A contract or framework agreement, which the Council has with a contractor, which is over EU thresholds/was awarded following an OJEU process, may be novated, without the need to carry out a new procurement, where a new contractor is replacing the existing contractor and:
- There is reference to such a change within the tender documents (in clear, precise and unequivocal clauses which state the scope and nature of the change and the conditions when a change may occur); or
  - The change of contractor is as a result of a corporate restructure (takeover, merger, acquisition or insolvency), and as long as the new contractor fulfils the qualitative selection criteria upon which the existing contractor was selected (i.e. the pre-qualification criteria).
- 11.4 A contract which the Council has with a contractor, which is under EU thresholds, may be novated, without the need to carry out a new procurement, where the change of contractor does not infringe the Treaty principles (of proportionality, mutual recognition, transparency, non-discrimination, and equal treatment).
- 11.5 If you intend to novate a 'call off' contract which has been awarded under a framework agreement, to a new contractor, then please contact Legal Services in the first instance.
- 11.6 Where a contract or framework agreement has a total value of £500,000 or under, the assignment/novation will need to be approved by the Central Legal Services team and the relevant Chief officer
- 11.7 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.
- 11.8 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.

## **12. Receivership/Liquidation**

- 12.1 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 and must reject it if it does not meet the Council's selection criteria. If a suitable alternative is not identified the Contract must be re-Tendered.

- 12.2 The Care Act 2014 requires that Local Authorities have a responsibility to ensure continuity of service for a temporary period. Officers should check its statutory responsibilities with Legal Services as to whether the Council will be expected to either make arrangements or take over a failing service in-house.

### **13. Claims & Disputes**

- 13.1 The Officer must consult with the Central Legal Team immediately if he or she is making or in receipt of any Contract claims (e.g. for breach of Contract or disputes) and refer also to the Financial Procedure Rules.

### **14. Termination of Contract**

- 14.1 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 Committee approval.

### **15. Freedom of Information, Data Protection Act 2018**

- 15.1 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.
- 15.2 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 waivers provided in the FOI Act.
- 15.3 The Council has specific obligations under the Data Protection Act 2018 to ensure compliance with it where Personal Data is processed by a Third Party provider. The Council must be satisfied the third party provider can comply with its obligations under the data protection legislation and the contract with the provider must include specified provisions where personal data is being processed. The Officer has an obligation to record and maintain accurate records to ensure that the Council, the Provider and its Supply Chain are complying with this legislation.

### **16 Retention of Records**

- 16.1 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 expires, or a decision is made not to award a Contract or it is terminated early) in order to demonstrate the achievement of Value for Money, openness, probity and compliance with the Rules. Such records must be in a shared file location which is accessible to other officers in the event that the Officer is unavailable. Such records may not solely be stored in the Officer's private email or desktop.

- 16.2 For more information on specific retention dates please refer to the retention policy available on the Council's Information Management intranet pages.

## **17 Disposal of Goods**

- 17.1 Please refer to the Council's Records Retention & Disposal Policy & Guidance available on the Information Management team's pages of the intranet.

## **18 Amendments to these Rules**

- 18.1 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.

## Appendix 1 Definitions

Best Practice Guide	The Central Procurement Team's best practice document.
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.
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.
Council	means as defined in the Council's Constitution. The Rules refer to Cambridgeshire County Council depending on whom the Officer is employed by.
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, operating structure and is currently known as LGSS Procurement.
Central Legal Team	means the Central Legal Team as part of Cambridgeshire County Council's operating structure and is currently known as LGSS Law Ltd.
Committee	means the Council's Committee as defined in the Constitution.
Conflict of Interest	According to the Public Contract Regulations 2015 this is where relevant staff members have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure.
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 Committee, it's Members and Officers; and</li> <li>•regulates the behaviour of individuals and groups through rules of procedure, codes and protocols.</li> </ul>

Consultant	<p>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 includes Subject Matter Experts or specialist services offered on a traded basis such as Project managers</p> <p>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.</p>
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	means the organisation which is letting the Contract in question.
Contracting Decision	<p>means any of the following decisions:</p> <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>• short listing</li> <li>• award of Contract</li> <li>• any decision to terminate a Contract.</li> </ul>
Corporate Contract/ Corporate Framework	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 waiver has been granted.
Council	means for the purposes for these Rules, "Council" or Cambridgeshire County Council (CCC) as the case may be.
Dynamic Purchasing System (DPS)	The Dynamic Purchasing System (DPS) is a procedure available for contracts for works, services and goods commonly available on the market. As a procurement tool, it has some aspects that are similar to an electronic framework agreement, but where new suppliers can join at any time. However, it has its own specific set of requirements. It is to be run as a completely electronic process, and should be set up using the restricted procedure and some other conditions (as set out in Regulation 34 of the Public Contracts Regulations 2015).

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>
E-Procurement System	means a tool used to host and platform various procurement processes and related documentation electronically by the Council. Currently the Council's E-tender portal is ProContract.
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 procedures that come under the Light Touch Regime without distinction unless specifically stated in these 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.
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 Chief Finance Officer in accordance with the Constitution.
Finance System	means the Council's ERP system 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.
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.
Grant	A grant is an amount of money that a government or other institution gives to an individual or to an organization for a particular purpose such as education or home improvements. Grants are a type of funding offered by grant-making bodies, for specific, local projects. Grants are a form of 'restricted' funding. This means that the funding must be spent on a specified programme of activity or an agreed set of resources. Depending on the size of the grant, you may be required to provide a detailed budget to the funder, as well as evidence of expenditure, a programme evaluation, and regular progress updates. You may also have to sign a grant agreement or contract.
Irregular Tender	<p>Tenders that do not comply with the terms of the tender documents. For example, tenders whose technical envelopes contain variants, when this is not authorized in the tender documents, or tenders that fail to supply (either intentionally or not) key information required in the tender documents and thus cannot be evaluated by the Contracting Authority.</p> <p>Tenders made with reservations or tenders containing intentional or systematic errors. For example, if the financial offer of a tenderer contains reservations, such as conditions regarding currency exchange rates, inflation etc., when these are explicitly forbidden by the tender documents.</p> <p>Tenders whose prices are demonstrably the product of collusion between the tenderers and are sheltered from competitive forces, or if more generally there are serious indications of collusion between the tenderers with the purpose of circumventing genuine competition or if, in the opinion of the Contracting Authority, there was not sufficient competition during the tendering procedure.</p>
Key Decision	means decisions that are defined as Key Decisions in the Constitution. Refer Article 14 CCC.
Local	<p>areas covered by the Cambridgeshire LEP at <a href="http://www.yourlocalenterprisepartnership.co.uk/">http://www.yourlocalenterprisepartnership.co.uk/</a>.</p> <p>An organisation that is not local in it's address but can help Local economy/employment within the areas covered by the LEP may be included in this definition.</p>
Light Touch Regime	A new descriptor within the EU Procurement Contracts Regulations 2015 that identifies specific categories within the public sector for exemption from some of the Public Contract 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.
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 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.
Partner of CCC	Partners of CCC are defined by the Council of having a formal partnership working and delegation of activities such as LGSS and Joint Health Commission bodies.
Procurement Strategy	means the document 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.
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.
Rules	These Contract Procedure Rules
Section 75	<p>is an agreement made under section 75 of National Health Services Act 2006 between a local authority and an NHS body in England. Section 75 agreements can include arrangements for pooling resources and delegating certain NHS and local authority health-related functions to the other partner(s) if it would lead to an improvement in the way those functions are exercised.</p> <p>Pooled funding agreements where CCC holds the pooled funds under this arrangement would be governed by the procurement regulations and a tender process must be undertaken to secure an external supplier where CCC is expending the pooled funds.</p>

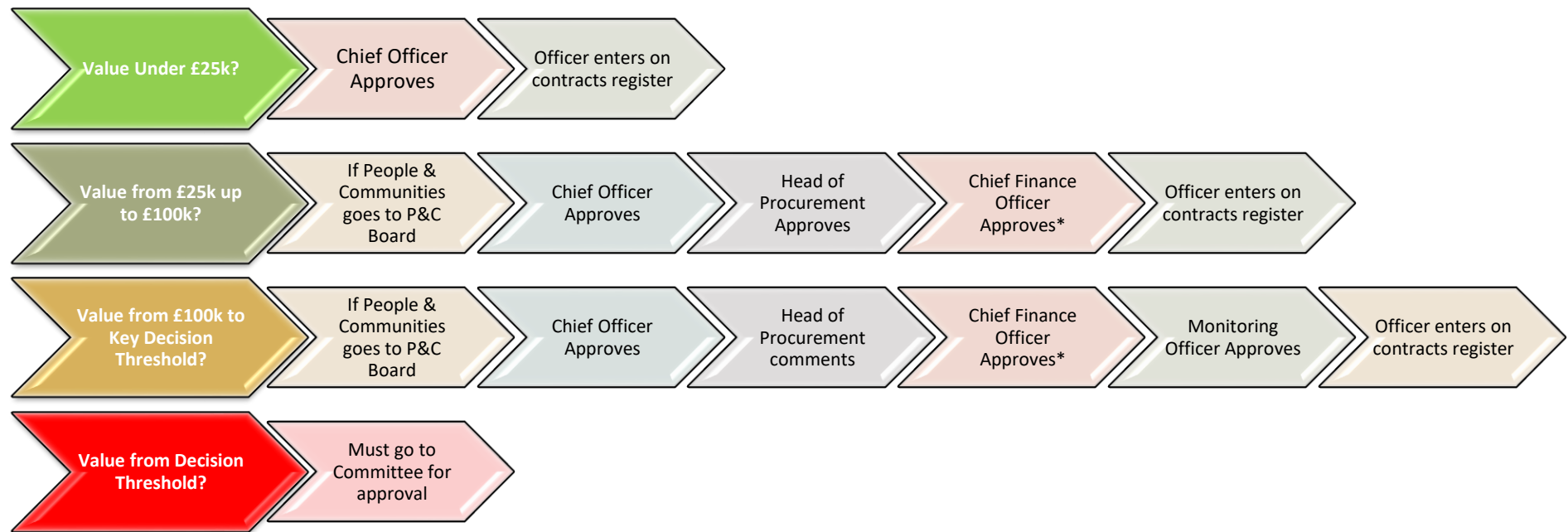
Chief Finance Officer	means as identified in the Council's Constitution.
Shortlisting	means where candidates are selected: <ul style="list-style-type: none"> <li>• to quote or bid or</li> <li>• to proceed to final evaluation.</li> </ul>
Tender	means a candidate's proposal submitted in response to an Invitation to Tender.
Tender Request Form	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.
Procurement 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 Contracts Finder.
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.
Waiver	A means of seeking exemption from one or more of these Rules. An act or instance of waiving a right to obey these Rules.
Waiver Request Form	means a standard form that must be used to request an waiver from these Rules. This form is currently an online form on the Council's intranet pages.

## Appendix 2 Summary of Procurement Thresholds

Value of Contract	Purchase Decision	Transparency	Procurement Process	Approval / Signature of Contract
Goods, services and works up to £5,000	Officer.  If “Key Decision” Relevant approval Committee approval.	Advertising desirable but not mandatory  Contract Register desirable not mandatory.	Obtain Best Value. Multiple Quotations not necessary.	Contract approved by Purchase Order.  Written Contract only required where complex requirements signed by Officer with appropriate authority Or Purchase Order issued.
Goods, services and works from £5,000 up to £25,000.	Officer.  If “Key Decision” Relevant approval Committee approval.	Advertising desirable but not mandatory  Must use Central Contracts Register	Obtain at least 3 Written Quotations (2 Local quotes)	Contract approved by Purchase Order.  Written Contract only required where complex requirements signed by Officer with appropriate authority or Purchase Order issued.
Goods, services and works from £25,000 up to £100,000.	Officer.  If “Key Decision” Relevant approval Committee approval	Must use the Council’s Procurement Advertising Portal for advert notice and award notice.  Must use Central Contracts Register	Obtain at least 3 Written Quotations (2 Local 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.

Goods, services and works from £100,000 up to EU Threshold.	Officer and The Central Procurement Team.  If “Key Decision” Relevant approval Committee approval.	Must use the Council’s Procurement Advertising Portal for advert notice and award notice.  Must use Central Contracts Register	Obtain at least 3 Written Quotations (2 Local quote) using formal RFQ 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.
Goods, services and works from EU Threshold and over	Officer and The Central Procurement Team.  If “Key Decision” Relevant approval Committee approval.	Must use The Council’s Procurement Advertising Portal for advert notice and award notice.  All EU Notices must be issued by Central Procurement Team.  Must use Central Contracts Register	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.
Goods, services and works using a Framework Agreement	Officer (and Central Procurement Team if over £100,000)  If “Key Decision” Relevant approval Committee approval.	Must advertise award notice using Council’s Procurement Advertising Portal.	Follow call-off procedure within Framework Agreement.  3 Quotes desirable	Purchase Order raised not issued.  Written contract created from Framework Agreement.  Signoff as per above thresholds.

## Appendix 3 - Procurement Waiver Process Flowchart



*\*Chief Finance Officer has the right to defer a waiver to Commercial Board or any other management boards he/she sees fit for approval.*