

Contracts Procedure Rules

CONTENTS

SECTION 1: COMPLIANCE, PURPOSE AND SCOPE OF RULES

1. Compliance
2. Guidance
3. Purpose
4. When the Rules Apply
5. Exemptions
6. Exceptions
7. Definitions/Interpretation

SECTION 2: REQUIREMENT TO OBTAIN QUOTES OR TENDERS

8. Competition Requirements

SECTION 3: OFFICERS' CLT MEMBERS' AND AGENTS' ROLES AND RESPONSIBILITIES

9. Cabinet
10. Cabinet Members
11. Lead Officers
12. Project Teams
13. Directors
14. Solicitor to the Council
15. The Procurement Officer
16. Agents/Consultants

SECTION 4: ALTERNATIVES TO TENDERING

17. Alternative Procurement Methods: General
18. Corporate Contracts

19. Framework Agreements
20. Collaborative procurement

SECTION 5: E.U. PROCUREMENT

21. Requirements and Thresholds

SECTION 6: STEPS PRIOR TO SEEKING QUOTES OR INVITING TENDERS

22. Contract Value, Funding and Approval
23. Soft Market Testing and Consideration of Social Values
24. Choice of Tendering Procedure
25. Advertising Contracts
26. Award Criteria

SECTION 7: PRE-QUALIFICATION QUESTIONNAIRE : SELECTION OF TENDERERS

27. Pre-Qualification Questionnaire

SECTION 8: QUOTATION AND TENDER DOCUMENTS

28. Quotation Documents
29. Tender Documents
30. Specification

SECTION 9: SUBMISSION, RECEIPT, CUSTODY AND OPENING OF TENDERS/QUOTES

31. Period for Submission of Tenders
32. Receipt, Custody & Opening of Tenders/Quotes

SECTION 10: ALTERATION, CLARIFICATION AND EVALUATION OF TENDERS

33. Alteration and Clarification of Tenders/Quotations
34. Abnormal Tender : Clarification
35. Post Tender Negotiations

36. Evaluation of Quotations/Tenders

SECTION 11: CONTRACT AWARD

37. Award procedure
38. Funding/Approval and Register
39. Informing Tenderers of Contract Award
40. Form and Preparation of Contracts
41. Contractors Own Terms and Conditions
42. Signing/Sealing of Contracts

SECTION 12: CONTRACT REGISTERS/RECORDS

43. Contract Register/Records
44. Contract File Records
45. Retention of Contracts and Tenders

SECTION 13: LENGTH OF CONTRACTS AND EXTENSIONS

46. Duration of Contracts
47. Contract Extensions

SECTION 14: SPECIAL CASES

48. Consultants
49. Information Technology
50. Outsourcing and Transferring Service Contracts (TUPE)
51. Providing Works/Services to other organisations
52. Assets for Disposal
53. Finance Operating Leases

SECTION 15: AVOIDANCE OF CORRUPTION

54. Conflicts of Interest
55. Declarations of Interest by Officers

56. Gifts and Rewards

57. Failure to Comply

SECTION 16: VARIATIONS TO THE RULES

58. Variations to the Rules

APPENDICES

1. Flowcharts

2. Definitions and Interpretation

3. Non Commercial Matters

4. Standard Contract Condition Matters

5. Proof of funding from Capital or Revenue budgets

6. Procedures for the receipt, custody, opening and recording of Tenders/Quotes over £10,000

7. Timetable requirements

SECTION 1

COMPLIANCE, PURPOSE AND SCOPE OF THE RULES

1. COMPLIANCE

- 1.1. Compliance with these Rules is a requirement not a discretion. Every officer involved in buying supplies, services or building and engineering works must be aware of the Rules and comply with them. Failure to do so could result in disciplinary action.

2. GUIDANCE

- 2.1. These Rules are designed to comprehensively guide officers through all types of purchasing.
- 2.2. Advice on specific procurement issues and how to apply the Rules can be obtained by contacting the Procurement Officer or a member of the Legal Team.
- 2.3. A Flow Chart has also been included at [Appendix 1](#) to help identify the major issues that need considering in a procurement exercise.

3. PURPOSE

- 3.1 The purpose of the Rules is to:
- achieve Value for Money
 - be consistent with the highest standards of integrity
 - ensure fairness in allocating public contracts
 - comply with all legal requirements
 - support the Council's Procurement Strategy
 - prevent fraud and corruption
 - protect the interests of Council employees

4. WHEN THESE RULES APPLY

- 4.1 The Rules apply to the following types of procurement on behalf of the Council:
- purchasing any goods or materials
 - purchasing of any services, including consultancy services
 - hiring, renting or leasing of any goods or equipment
 - ordering the carrying out of building or engineering works
- 4.2 **Partnership Arrangements:** These Rules will apply where the Council is part of a partnership and it is the lead body or accountable body and/or supplies, services or works are being ordered in its name. Where the Council is not the lead body or accountable body the Lead Officer shall ensure the procedure rules of the lead authority and the EU Rules have been adhered to.

5 EXEMPTIONS

The Rules do **NOT** apply to:

- contracts of employment with individual employees
- land transactions (sales, purchases, leases, licences, easements etc)
- performing artists contracts
- the provision of services to other Local Authorities (except for paragraph 51)

6 EXCEPTIONS

6.1 Exceptions to the Rules may be granted by the Solicitor to the Council (up to and including the value of £50,000) and by the Relevant Cabinet Member (above the value of £50,000) . An exception will only be granted if an Exception Request Form is completed and the following criteria are satisfied (every effort should be made to proactively plan for procurement in advance. Urgency exceptions due to the lack of/poor planning may not be approved):

- 6.1.1 there is no genuine competition;
- 6.1.2 the contract is a matter of genuine urgency (not due to poor planning);
- 6.1.3 where emergency repairs are required; or
- 6.1.4 the request complies with paragraph 6.2; and
- 6.1.5 the Total Value is below the EU threshold or the contract is outside of, or exempt from, the Regulations.

6.2 An exception may be granted where it is in the Council's interest to engage a particular company or individual due to:

- 6.2.1 their previous involvement in a matter (or a related matter) where this previous knowledge brings added value either through savings or knowledge; or
- 6.2.2 their particular knowledge and expertise (for example a consultant or a barrister) where such knowledge or expertise is not readily available.

This exception will only be given if it has been evidenced that the Lead Officer has considered the added value brought by the particular contractor and that this outweighs any benefit which may be achieved by competition.

6.3 If an emergency has been declared under the Council's emergency planning or business continuity procedures and it is not possible or practicable for the exception procedure to be followed, then the Officer who is designated to be in charge under those procedures may take such steps as appear appropriate at the time and shall keep the Solicitor to the Council, the Chief Finance Officer and the relevant Cabinet Member informed and shall issue the appropriate report or exception request form as soon as reasonably practicable.

- 6.4** A copy of all approved exceptions must be sent to the Procurement Officer and the Chief Finance Officer by the officers obtaining the exception.

7 DEFINITIONS/INTERPRETATION

- 7.1** A list giving definitions of the terms used in the Rules is included at [Appendix 2](#).
- 7.2** The Solicitor to the Council will advise on the implementation and interpretation of the Rules and her view will be binding.

SECTION 2
REQUIREMENT TO OBTAIN QUOTES OR TENDERS

8. COMPETITION REQUIREMENTS

8.1 The nature of the procurement process to be undertaken will depend on the estimated Total Value of the contract.

8.2 Where the estimated Total Value of the proposed contract is within the values the first column the award procedure in the second column must be followed unless an exception is obtained or one of the alternative methods to Tendering is chosen (detailed in [Section 4](#)).

TOTAL VALUE	AWARD PROCEDURE
Up to and including £3,000	<ul style="list-style-type: none"> • Must use existing Corporate Contract if there is one or an existing Framework Agreement provided costs are competitive • Must seek at least one Quote and raise a purchase order • Selection of Contractor can be on price alone. • Consider using the Electronic Portal Quick Quote process <p style="text-align: right;"><i>* Good practice to get three Quotes.</i></p>
Over £3,000 up to and including £10,000	<ul style="list-style-type: none"> • Must, before placing an order invite at least two written Quotes. • Should consider using an existing Corporate Contract if there is one or an existing Framework Agreement provided costs are competitive • Selection of Contractor can be on price alone. • Consider using the Electronic Portal Quick Quote process
Over £10,000 up to and including £160,000	<ul style="list-style-type: none"> • Must advertise contract in accordance with 25.1 and make documentation available on the

	<p>Electronic Portal</p> <ul style="list-style-type: none"> • Must use Council's formal Tender template • Must consider use of MEA evaluation criteria rather than price alone. • Should consider using an existing Framework Agreement
Over £160,000	In accordance with EU Procedures and advice from the Procurement Officer and Solicitor to the Council

8.3 Contracts must not be divided in order to avoid the application of these Standing Orders or compliance with Public Contract Regulations 2015 ('the Regulations')

SECTION 3 **ROLES AND RESPONSIBILITIES**

9. CABINET

Cabinet approval is required:

- To advertise a contract;
- To approve the evaluation model; and
- To award a contract

for purchases over £160,000. Cabinet may decide to delegate the award of contract to officers provided the approved evaluation model is followed.

References to Cabinet approval include decisions taken by the Strong Leader route

10. CABINET MEMBERS

The Lead Officer shall consult the Relevant Cabinet Member on any procurement over the value of £50,000 prior to advertisement.

Any exception request for a contract over the value of £50,000 (up to £160,000) shall be made to the Relevant Cabinet Member.

11. LEAD OFFICERS

Each Procurement exercise shall have a Lead Officer allocated to it. The Lead Officer shall be responsible for ensuring that these Rules are followed and that the purchase is made successfully. The Lead Officer shall liaise with the Procurement Officer at the outset of the exercise. The Lead Officer is responsible for ensuring that the specification is sufficiently detailed and accurate to cover all aspects of the supplies, works or services required. The Lead Officer, with the assistance of the Procurement Officer, is also responsible for evaluating the Quotations/Tenders received.

12. PROJECT TEAMS

Where the estimated Total Value is over the EU Threshold the Lead Officer shall consider whether a multi-discipline project team should be formed at the outset of the procurement exercise. A project team should include the Procurement Officer, a member of Legal Services and officers directly involved with the Supplies, Works or Services to be procured. It may also be appropriate for a member of accountancy to be part of the project team.

13. CLT MEMBERS

- 13.1** Each CLT Member is able to procure supplies, works and services up to a value of £160,000 provided that they are satisfied that the Lead Officer has consulted with the Relevant Cabinet Member on any procurement over the value of £50,000.
- 13.2** CLT Members, delegating as necessary, must take all reasonable measures to ensure that procurement carried out by their Department complies with these Rules and that adequate training in these Rules, provided or approved by the Procurement Officer is given to all potential Lead Officers.
- 13.3** The level of training to be given will depend on the officers' responsibility for and involvement in procurement.
- 13.4** At the first meeting of each financial year each Departmental Management Team shall consider contracts of over £50,000 that need letting or re-letting and who will be responsible for them. The Departmental Management Team shall also consider any issues raised by the Procurement Officer.

14. SOLICITOR TO THE COUNCIL.

The Solicitor to the Council:

- 14.1** shall assist the Procurement Officer in the maintenance and publication of the register of purchases in compliance with the Transparency Code 2014;
- 14.2** shall be responsible for approving the terms and conditions of all contracts and shall provide standard terms and conditions to apply where appropriate;
- 14.3** has the delegated authority to sign and to arrange to seal all contracts and
- 14.4** shall consider exception requests.

15. PROCUREMENT OFFICER

The Procurement Officer:

- 15.1** shall be a key advisor for high value procurements;
- 15.2** shall act in an advisory capacity for lower value purchases;
- 15.3** shall manage the Electronic Portal;
- 15.4** shall prepare and maintain standard Tender and evaluation documents and
- 15.5** shall receive copies of all exceptions granted.

15.6 shall, in conjunction with Legal Services, maintain a register of all purchases over the value of £5000 for publication in accordance with the Transparency Code 2014.

16. AGENTS/CONSULTANTS

16.1 Any Agent or Consultant appointed to act for the Council in a procurement exercise must be required to comply with these Rules.

SECTION 4 **ALTERNATIVES TO TENDERING**

17. ALTERNATIVE PROCUREMENT METHODS: GENERAL

Before approaching the market a Lead Officer must establish if there is a Corporate Contract or a Framework Agreement which he/she could use.

18. CORPORATE CONTRACTS

18.1 The Council has Corporate Contracts which cover many items required on a daily basis such as stationery, office furniture and desk top equipment.

18.2 The majority of details relating to the products and prices within Corporate Contracts are held within the Agresso system. Further details can be obtained from the Procurement Officer.

18.3 Corporate Contracts must be set up in accordance with these Rules but once established a product or service included in one can, subject to 18.4, be ordered from the approved supplier, using the Council's order system, without any need for Quotes or Tenders.

18.4 Where there are multiple suppliers of a product on a Corporate Contract, the officer ordering the product must compare prices and choose the cheapest unless there are compelling reasons why not and these are recorded.

19. FRAMEWORK AGREEMENTS

Setting up a Framework Agreement

19.1 A Framework Agreement may be set up for Supplies, Works or Services that are needed on a regular basis.

19.2 Before advertising the setting up of a Framework Agreement the Procurement Officer must be consulted and approval be obtained in accordance with the thresholds set out in paragraph 38.

19.3 Once approval has been given an advertisement for inclusion in the Framework must be advertised in accordance with Rule 25.

19.4 Selection of organisations onto the Framework Agreement must follow a Tender process and be in accordance with these Rules.

19.5 A Framework Agreement must not exceed four years except in exceptional circumstances (to be advised by the Procurement Officer).

Using an existing Framework Agreement

- 19.6** Framework Agreements procured by other local authorities, public bodies or purchasing consortiums, for example the Office of Government Commerce (OGC), Buying Solutions and ESPO, may be used if the Procurement Officer and the Solicitor to the Council have approved their use on being satisfied that the Council can lawfully use them and that it is in the Council's interest to do so.
- 19.7** Officers intending to use a Framework Agreement shall consult with the Procurement Officer prior to doing so.
- 19.8** Terms and conditions of any Framework Agreement must be approved by Solicitor to the Council prior to use.
- 19.9** The use of Framework Agreements is subject to the financial levels set out in these Rules and an order shall only be placed if the necessary authority exists. For example, use of a Framework Agreement for a purchase under £160,000 would need budget approval and CLT Member approval whereas purchases over £160,000 would require specific Cabinet approval.
- 19.10** Where purchasing Supplies, Works or Services on a price alone basis the call off procedure under the Framework Agreement shall be used.
- 19.11** Where quality criteria are to be applied or where it is not clear which supplier is the cheapest, a mini-competition shall be carried out and all participants in the Framework Agreement must be invited to Tender.

20. COLLABORATIVE PROCUREMENT AND PARTNERSHIPS

- 20.1** The Council are increasingly working in partnership with other Councils and Government bodies in order to secure Value for Money. Nothing in these Rules shall prevent the Council entering collaborative procurement arrangements provided the requirements of this [Rule 20](#) are met.
- 20.2** Before using collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium, the Lead Officer must consult the Procurement Officer.
- 20.3** Purchases made through a local authority purchasing consortium which have a value of less than the EU Threshold are deemed to comply with [Rule 8](#) and associated Rules. If the value of the contract is over the EU Threshold the Procurement Officer and the Solicitor to the Council must be satisfied that the consortium has complied with the EU Procedure and that the contract has been let on behalf of the Council and other consortium members.
- 20.4** Where a competitive process has been followed by the lead authority to a collaborative procurement arrangement that complies with the contract procedure

rules of that lead authority, that process will be deemed to have complied with [Rule 8](#) and associated Rules and no exception is required.

- 20.5 The use of collaborative procurement arrangements is subject to the financial levels set out in these Rules and an order shall only be placed if the necessary approval exists.

SECTION 5
E.U. PROCUREMENT

21 REQUIREMENTS AND THRESHOLDS

- 21.1** Contracts for Supplies, Works or Services (with the exception of Light Touch Regime Services (LTR Services) which are estimated to be over the EU Threshold must be Tendered in accordance with the Public Contract Regulations 2015 and the Procurement Officer must be consulted and her advice taken on how to comply with the Regulations.
- 21.2** The EU Thresholds change every two years and are Quoted in European Currency units (ECU's). The sterling equivalent is recalculated on 31 December every other year.
- 21.3** The EU Thresholds until 31st December 2017 are:
- supplies: £164,176
 - services: £164,176
 - works: £4,104,394
- 21.4** The thresholds relate to the estimated Total Value of the contract net of VAT, not the annual value. If funding from elsewhere makes up part of the contract it is the value of the contract to the contractor which applies not the cost to the Council.
- 21.4** Where they apply the Regulations impose requirement on such matters as:
- where the notice seeking Tenders must be placed and its format;
 - timetable requirements ([Appendix 7](#)); and
 - award criteria and procedures
- 21.6** If the estimated Total Value exceeds the threshold and there is conflict between the Regulations and these Rules the Regulations apply.
- 21.7** All procurement exercises despite the value, shall treat contractors equally and without discrimination and shall act in a transparent and proportionate way in accordance with the fundamental EU Treaty principles of no-discrimination and transparency.
- 21.8** Specific advice should be sought from the Procurement Officer regarding the procurement of any LTR Services.

SECTION 6 **STEPS PRIOR TO SEEKING QUOTATIONS OR INVITING TENDERS**

22. CONTRACT VALUE, FUNDING AND APPROVAL

Estimated Contract Value

- 22.1** Before seeking Quotes or Tenders for any Supplies, Works or Services the Lead Officer must estimate the Total Value (*see definition*) of the contract. This estimate will determine what competition requirements apply under these Rules.
- 22.2** A written record of the Total Value estimate should be kept on the file for all contracts estimated to be over £10,000.
- 22.3** Contracts must not be artificially divided into two or more to avoid the application of the requirements under these Rules. However for all above threshold contracts the Lead Officer should consider whether the contract should be divided into lots. If it is decided not to divide the service /supply into lots then a record of why a contract is not let in lots must be made.

Funding

- 22.4** A Lead Officer must not place an order or start a formal process for letting a contract unless he/she is satisfied that expenditure for it has been included in an approved capital or revenue budgets.
- 22.5** Inclusion of approved capital or revenue budgets can be demonstrated by any of the means listed in [Appendix 5](#).

Cabinet Approval

- 22.6** Approval must be obtained in accordance with paragraph 9 before procuring any contract which has an estimated Total Value of over £160,000.

23. SOFT MARKET TESTING AND CONSIDERATION OF SOCIAL VALUES

- 23.1** Prior to the issue of the Invitation to Tender or advert asking for expressions of interest the Lead Officer may wish to know the views of potential Tenderers about the nature, level, standard and packaging of the Supplies, Services or Works to be supplied so as to best ensure competition and Value for Money: this is called “Soft Market Testing”.
- 23.2** When carrying out Soft Market Testing the Lead Officer must:
- make it clear to participating organisations that they will receive no preferential treatment in the Tender process and

- keep a written record in the contract file of all enquiries, responses and any related meetings.

Lead Officers must ensure that any soft market testing or consultation does not distort competition or violate non-discrimination and transparency. If there is any concern that competition may have been distorted (either by soft market testing or the prior involvement of a contractor) legal advice must be sought to determine if the contractor can continue in the process.

23.3 The preparation stage of any procurement exercise is crucial for determine if improvements to the economic, social and environmental well-being of the area can be achieved. The Public Section (Social Value) Act 2012 requires that in making arrangements to procure the provision of services, **(for an EU governed services contract)** the authority must consider:

23.3.1 how, what is proposed to be procured might improve the economic, social and environmental well-being of the relevant area, and

23.3.2 how in conducting the process of procurement, it might act with a view to securing that improvement.

It is therefore essential that these factors are considered at the preparation stage of the process.

23.4 The Lead Officer must consider whether to undertake any consultation regarding potential economic, social or environmental improvements which could be made through the procurement process. A record of any consultation or the reasons for not consulting must be kept by the Lead Officer.

23.5 Consideration of the economic, social and environmental improvements have to be within the scope of permitted EU principles. It is therefore essential that these are relevant and proportionate to what is proposed to be procured.

23.6 The Public Services (Social Value) Act 2012 provides that the requirements of 23.3 and 23.4 may be disregarded where the procurement needs to be arranged urgently provided the urgency is not caused by undue delay by the Council.

23.7 Examples of economic, social and environmental considerations which may be relevant are:

- workforce matters, e.g. targeted recruitment, training, apprenticeships;
- supporting Small and Medium Enterprise and Social enterprises;
- protecting the environment.

Lead Officers will need to identify the core requirements of the contract as opposed to the secondary requirements. Core requirements are those which are linked to the subject matter of the contract and as such may form part of the evaluation and award of contract whereas secondary requirements (not closely linked to the contract) may only form part of contract conditions (provided they relate to the performance of the contract, have been included in the contract

documents and are non-discriminatory).

- 23.8 For more information on social values, Lead Officers are referred to the paper published by the European Commission entitled 'Buying Social – A Guide to Taking Account of Social Considerations in Public Procurement'.

24. CHOICE OF TENDERING PROCEDURE

- 24.1. Where there is a requirement in the Rules for a contract to be Tendered the following options are available;

24.2 Open Procedure: This is a one stage procedure where the contract is advertised and any interested organisation can obtain further information and submit a Tender.

24.3 Restricted Procedure: This is a two stage procedure which can only be used in above EU threshold procurement. Firstly the contract is advertised and anyone who expresses an interest must complete a Pre Qualification Questionnaire. These are then evaluated and a number of selected organisations will be short listed and invited to Tender. Below EU threshold procurement exercises may include minimum suitability standards but these must be relevant to the contract and in accordance with any Cabinet Office guidance.

24.4 Competitive Procedure with Negotiations: This procedure allows initial tenders to be submitted and then negotiated between the contractor and the Council to improve the content of the initial tender. Once negotiations are concluded final tenders are sought and evaluated.

24.5 Innovation Partnership: This procedure allows the development and purchase of an innovative product, service or work that cannot be met by purchasing from the market. It is unlikely that this procedure will be required for purchases by the Council.

24.6 Negotiated Procedure: This procedure can be used in very limited circumstances where the nature of the service is such that specifications cannot be drawn up with sufficient precision to permit the award of the contract using any of the above method. **It can only be used with the written consent of the Procurement Officer.**

24.7 Competitive Dialogue: This procedure is available where the Council is unable to define the financial, legal or technical elements of the project. It is really intended for complex procurement exercises such as Private Finance Initiatives (PFI). **It can only be used with the written consent of the Procurement Officer.**

25. ADVERTISING CONTRACTS

- 25.1 Where a contracts estimated Total Value is over £10,000 an advert must be

placed on Contracts Finder using the Electronic Portal. An advert may also be placed on the Council's website; Find it in Worcestershire for a minimum period of one week. An advert shall:

- refer contractors to the Electronic Portal;
- describe the scope of the contract;
- invite Tenders;
- state what Contractors have to do to Tender; and
- state the closing date and time for Tenders.

25.2 Depending on the nature, size or likely interest in the contract, consideration should also be given to placing the advert in:

- national trade/official journals;
- local media and/or
- the Official Journal of the European Union (OJEU) even if there is no requirement to do so

E.U. Adverts

25.3 Any contract above the E.U. Threshold must, be advertised in OJEU and this must be done through the Procurement Officer. An OJEU advert must state whether or not a Pre-Qualification Questionnaire will be required and whether there are any key social criteria.

Retention of Advert

25.4 Copies of adverts must be kept on the contract file together with details of when and where they were published.

26. AWARD CRITERIA

26.1 Before issuing Invitations to Tender the Lead Officer must define the Award Criteria for the contract which is best suited to the procurement exercise and is designed to identify the most economically advantageous tender.

26.2 Criteria can be based on price / cost, using a cost effectiveness approach such as lifecycle testing and may include a price quality ratio. Award criteria must be linked to the subject matter of the contract.

26.3 Examples of considerations which may be linked to subject matter of contract are:

- quality of goods
- service
- running costs
- technical merit
- safety
- after sales service

- technical assistance
 - delivery date
 - social/criteria environmental
- 26.4** An evaluation model must be drawn up stating the weighting to be given to each relevant consideration, including price, and this or the weighting to be given to each Award Criteria must be notified to Tenderers in the Tender Invitation to Tender. The Lead Officer should be aware that Tenders cannot be evaluated on any criteria that Tenderers have not been previously informed of. It is essential that full consideration is given to the Award Criteria at the outset.
- 26.5** The Award Criteria must be relevant to the subject matter of the contract and comply with the requirements of the Regulations. Award Criteria shall not include any non-commercial matters as listed in [Appendix 3](#) unless it is considered necessary to do so to enable or facilitate compliance with the S1 of the Public Services (Social Value) Act 2012 as referred to in clause 23.3. The Award Criteria should also not include anti-competitive requirements such as the use of brand names. There should not be any preference for British standards over equivalent European standards.

SECTION 7
PRE QUALIFICATION QUESTIONNAIRE: SELECTION OF TENDERERS

27. PRE – QUALIFICATION QUESTIONNAIRE

- 27.1** Where the estimated value is over the EU threshold the Lead Officer may consider issuing a Pre-Qualification Questionnaire (PQQ) to reduce the number of Tenders and limit resources required to evaluate them. A PQQ will allow the Council to assess the financial and technical ability of organisations and must be in the format provided by the Procurement Officer:

SECTION 8

QUOTATION AND TENDER DOCUMENTS

28. QUOTATION DOCUMENTS

28.1 For quotations with an estimated Total Value over £3000 up to and including £10,000 quotations must be sought in accordance with Rule 8. The Lead Officer must ensure that the potential contractors are provided with a sufficiently clear and detailed specification setting out the Council's requirements.

29. TENDER DOCUMENTS

29.1 All invitations to Tender must include:

- Instructions to Tenderers;
- Form of Tender for signature;
- Specification of the Supplies, Works or Services required, and
- Contract conditions (refer to Rule 40 for more detail).

29.2 The standard format Instructions to Tender should be used where appropriate. All Instructions to Tenderers must include:

- 29.2.1 the procurement timetable including the Tender return date and time, which shall allow a reasonable period for the applicants to prepare their Tenders;
- 29.2.2 the evaluation criteria and model including any associated weightings;
- 29.2.3 pricing mechanism and instructions for completion;
- 29.2.4 the form and content of method statements to be provided where appropriate;
- 29.2.5 the rules for submitting Tenders
- 29.2.6 the requirement that Tenders shall be kept open for a period of no less than 60 days;
- 29.2.7 that the Tenderer will not disclose any information appertaining to the Tender to any other party both prior to submitting in and during the period it is held open for acceptance;
- 29.2.8 that the Council does not bind itself to accept the lowest or any Tender and will not be responsible for, or pay any costs, expenses or other liabilities incurred by the Tenderer in the preparation of the Tender;
- 29.2.9 a statement that no Tender received after the closing date and time will be accepted and
- 29.2.10 a statement that the Council is subject to the requirements of the

Freedom of Information Act 2000, the Council cannot guarantee the confidentiality of information provided and that it is the Council's decision to determine whether or not an exemption applies to information provided in the event of an information request.

29.2.10 a notification to the Tenderer that details of public contracts are subject to publication by the Transparency Code 2014.

29.3 the invitation to tender shall be made available for Tenderers to download from the Electronic Portal.

29.3 Whenever the Council needs to make alterations to Tender documents sent to Tenderers, all Tenderers shall be informed of the same change and a full explanation of the change shall be recorded; similarly any answers given to questions raised by any Tenderer shall be notified to all other Tenderers and a record kept.

29.6 All tender exercises shall be carried out using the Electronic Portal.

30. SPECIFICATION

30.1 The Lead Officer must make sure that the Tender documents include a specification giving details of the type and quality of supplies or nature and standard of Service or Works to be supplied. It is vital that this is drawn up by or with the help of the officer who is directly involved in the delivery of the service or the works.

30.2 The length and detail of the specification will vary depending on the size, complexity and nature of the contract but it should be clear and include all the material details that the Contractor is obliged to comply with.

30.3 Technical specifications must be defined by reference to relevant European Standards. Where European standards do not exist international or British standards may be used but where they are the words "or equivalent" must be added.

30.4 The specification must not refer to a particular make or brand names unless it is identified as a permissible exemption under the Regulations and the Procurement Officer has been advised.

30.5 The specification must not include any requirement which unjustifiably discriminates against other E.U. member states.

30.6 The specification should be closely linked to the evaluation criteria and should include all requirements which shall be evaluated. In addition, if there are any secondary social requirements which are to be included in the contract (but not part of the evaluation), these should be specified. In preparing the specification the Lead Officer should have regard to any consultations carried out in

accordance with Rule 23.4.

Pre-Tender Enquiries Regarding the Specification

30.7 Sometimes it may be necessary for the Lead Officer when preparing a complex specification to consult potential Contractors about the detailed requirements of the Specification but before doing so the Officer should seek the advice of the Procurement Officer and then act in accordance with the requirements in Rule 30.8.

30.8 When making such Pre–Tender Enquiries the Lead Officer must;

30.8.1 Not draw up the specification wholly by reference to one Contractor or if they do, that organisation must be excluded from the Tender process.

30.8.2 Keep a written record of all enquiries, responses and related meetings on the contract file.

30.8.3 Take care not to distort completion.

Failure to comply with this clause could lead to the contractor being excluded from the process.

SECTION 9
SUBMISSION, RECEIPT, CUSTODY AND OPENING OF TENDERS/QUOTES

31. PERIOD FOR SUBMISSION OF TENDERS

Tenderers must be given a reasonable period in which to prepare and submit a Tender having regard to the amount of detail that they have to prepare and the complexity of the contract requirements. Normally at least four weeks should be allowed. The EU Procedure lays down specific timetables for return of Tenders. These, along with suggested timescales for other contracts are detailed in [Appendix 7](#).

32. RECEIPT, CUSTODY AND OPENING OF TENDERS/QUOTES

Tenders for all contracts with an estimated value of £10,000 or over must be received, opened and recorded in accordance with the requirements in [Appendix 6](#).

SECTION 10
ALTERATION, CLARIFICATION AND EVALUATION OF TENDERS

33. ALTERATION AND CLARIFICATION OF TENDERS

- 33.1** No Tenderer will be permitted to alter its Tender after it has been received by the Council except with the Procurement Officer's consent to correct an arithmetical or typographical error .
- 33.2** Should the Tender have been accepted before the error is identified, then it can only remain so if in the opinion of the Procurement Officer it is still the most favourable to the Council following the correction.

34. ABNORMAL TENDER: CLARIFICATION

If the Lead Officer considers the Most Economically Advantageous Tender to be abnormal given the nature of the contract, the estimated contract value, and value for other Tenders he/she must ask the Tenderer to clarify in writing its Tender or parts of it and can take such explanation into account in deciding which Tender to accept.

35. POST TENDER NEGOTIATIONS

- 35.1** Discussions with Tenderers after submission of a Tender and before the award of a contract with a view to obtaining adjustments in price, delivery or content must, other than under the Negotiated, Competitive Dialogue, or Competitive Procedure with Negotiations, only take place in exceptional circumstances and in consultation with Legal Services and the Procurement Officer.
- 35.2** Where post-Tender negotiation result in a fundamental change to the specification (or contract terms) the contract must not be awarded but re-Tendered.
- 35.3** If negotiations approved by the Procurement Officer in accordance with 35.1, they must be conducted by at least two officers, one of whom must be a Senior Officer of Principal Officer grade or above.
- 35.4** During negotiations Tendered rates and prices must only be adjusted in respect of a corresponding adjustment in the scope or quantity included in the Tender documents.
- 35.5** Officers who carry out Post Tender Negotiations must ensure that there are recorded minutes of the negotiation meetings.
- 35.6** Any change in specification or price arising from Post Tender Negotiations must be recorded in writing and signed by the Tenderer.

36. EVALUATION OF QUOTATIONS / TENDERS

- 36.1** For Quotations with a Total Value of over £3000 up to and including £10,000 price alone evaluation may be used where appropriate. If the Lead Officer wishes to accept a Quote other than the lowest he shall record the reasons why.
- 36.2** Tenders (over £10,000) must be evaluated in accordance with the stated MEA Award Criteria; where the criteria is other than the lowest price a written record must be kept of the evaluation with scores for each Tenderer on each of the stated Award Criteria.
- 36.3** Evaluation may include presentations where this has been included in the evaluation model and where all tenderers are invited to give a presentation.
- 36.4** If following the evaluation the Lead Officer wishes to clarify elements of one or more tender, those tenderers may be invited to a clarification meeting. The clarification meeting will only impact on the evaluation scoring if the clarification corrects a misunderstanding of the Tender.

SECTION 11
CONTRACT AWARD

37. AWARD PROCEDURE

Contracts must be awarded in accordance with the stated Award Criteria.

38. APPROVAL

Over £10,000 up to £160,000

- 38.1** No contract over £10,000 up to and including £160,000 can be awarded unless the expenditure for that contract has been included in the approved capital or revenue budgets and has been authorised by the Relevant CLT Member.

Over 160,000

- 38.3** No contract worth over £160,000 can be awarded without Cabinet approval unless previous Cabinet approval has been given, or delegation under 38.4, and it has been included in the capital programme or revenue budget.
- 38.4** The Cabinet may delegate the decision to accept a Tender above £160,000 to the Relevant CLT Member where a previously reported and agreed evaluation model is followed.
- 38.5** If the Cabinet decides not to delegate the acceptance of a Tender, then it shall consider advice from the Relevant Director, relevant officer, the Solicitor to the Council and the S151 Officer regarding the scoring under the evaluation model and the Tenderers ability to provide the supplies or services required before accepting the Tender.
- 38.6** If the value of the highest scoring Tender (or lowest price in a price alone evaluation) is higher than the budget allocation the Relevant CLT Member shall report to Cabinet requesting an increase in the allocated budget or report to the Cabinet requesting authority to revise the specification and seek new Tenders. If it is decided to re-Tender, all previous Tenderers shall be asked to Tender again, and no Tenderers shall be given any information about any of the first Tenders.
- 38.7** For the avoidance of doubt reference to authority from the Cabinet shall include authority by the Leader under the Strong Leader model.
- 38.8** The procurement officer and relevant account must be notified of all contract awards over £10K in a timely manner.

39. INFORMING TENDERERS OF CONTRACT AWARD

Contracts under EU Threshold

- 39.1** Where a Contract's Total Value is over £10,000 but under the EU Threshold the Lead Officer must notify all Tenderers simultaneously within 21 days of the award of the contract telling them the name of the successful Tenderer their score, the successful Tenderers score, their position in the scoring and the Award Criteria and weightings.
- 39.2** If requested by an unsuccessful Tenderer the Lead Officer must debrief them about their Tender concentrating on areas of possible improvement rather than the successful Tenderers bid but must not disclose any additional information without the consent of the Procurement Officer or Solicitor to the Council.

Contracts above the EU Thresholds

- 39.3** Once a Preferred Tenderer has been identified the Lead Officer must as soon as reasonably possible notify all Tenderers simultaneously of the intention to award the contract to the Preferred Tenderer but such information should be restricted to:
- the Award Criteria applied;
 - The recipient Tenderers score;
 - the name of the Preferred Tenderer;
 - the Preferred Tenderers score;
 - the position of the recipient Tenderer and
 - a brief reason why the recipient Tenderer was not successful.
- 39.4** The Lead Officer's notice under 39.3 to unsuccessful Tenderers must provide them with a period of at least ten calendar days in which to challenge the decision before the contract is awarded to the Preferred Tenderer.
- 39.5** The ten calendar day ("Standstill") period referred to in Rule 39.4 must:
- be extended if a public holiday comes within it;
 - be started the day after the award notification is sent and
 - end on a working day.
- 39.6** If the decision is challenged by an unsuccessful Tenderer within the ten day standstill period then the Lead Officer must not award the contract but must instead immediately seek the advice of the Solicitor to the Council or Procurement Officer.
- 39.7** If a Tenderer requests debriefing information within the first two days of the standstill period, the Lead Officer must provide it before the end of the seventh day of the period.
- 39.8** Following the expiry of the standstill period the award of all contracts over £25,000 must be advertised in Contracts Finder and OJEU where appropriate.

40. FORM AND PREPARATION OF CONTRACTS

CONTRACT CONDITIONS

40.1 All Contracts, irrespective of value, shall clearly specify:

- what is to be supplied (ie the Works, Supplies, Services);
- the provisions for payment (ie the price to be paid and when) and
- the time, or times, within which the contract is to be performed.

40.2 An official Purchase Order must be placed for any contract irrespective of value.

Contracts up to £10,000

40.3 Where the value of a contract is up to and including £10,000 as a minimum the Council's standard terms attached to the Purchase Order shall apply. Alternatively where specification and quotation documents provide details of the supplies or services, the Council's standard terms for Goods and Services should be used.

Contracts over £10,000

40.4 For contracts over £10,000 Legal Services must approve the contract terms and conditions. The Lead Officer should ensure that Legal Services are consulted early in the process to ensure the terms sent to Tenderers with the Invitation to Tender are applicable to the Supplies, Works or Services to be purchased.

40.5 The contract conditions should include the provisions listed in [Appendix 4](#).

40.6 No significant variation to the contract conditions sent out with invitations to Tender can be agreed without the approval of Legal Services.

41. CONTRACTOR'S OWN TERMS AND CONDITIONS

No contract shall be entered into on the contractor's own terms and conditions without the approval of Legal Services.

42. SIGNING AND SEALING OF CONTRACTS

42.1 With the exception of 42.3 Contracts must be signed by the Solicitor to the Council.

42.2 Contracts under seal must be signed by the Solicitor to the Council and the Chairman.

42.3 Provided a purchase is on the Council's standard terms and the necessary authority and budget is in place, where purchases are made through the Procure To Pay electronic system Rule 42.1 shall not apply.

SECTION 12

CONTRACT REGISTER/RECORDS

43.1 The Solicitor to the Council shall in conjunction with the Procurement Officer maintain a spreadsheet of all contracts over £10,000 to comply with the Transparency Code 2014..

44. CONTRACT FILE RECORDS

44.1 Where the Total Value is up to and including £10,000, the following records must be kept by the Lead Officer on the Contract File:

- invitation to Tender;
- any quotations received;
- a record of any waiver, exemption from these Rules and the reasons for it;
- if the lowest price is not accepted the reason why and
- records of written communications with the successful contractor or an electronic record if a written record of the transaction would normally be produced.

44.2 Where the Total Value is over £10,000 the key documents and correspondence with the Contractors will be stored by the Electronic Portal, the Lead Officer must ensure that any documents / correspondence not stored on the Electronic Portal are stored including:

- any waiver under [Rule 6](#) together with the reasons for it;
- the Award Criteria applied;
- how the shortlist of Tenderers was drawn up;
- any details of Soft Market Testing;
- details of post-Tender negotiation (to include minutes of meetings);
- evaluation documentation;
- notification to Tenderers and
- all relevant correspondence with all Tenderers.

44.3 For contracts above the EU threshold a report must be produced about the process followed and reason for decisions made to comply with regulation 84 of the Public Contract Regulations.

45. RETENTION OF CONTRACTS AND TENDERS

45.1 All signed contracts should be stored by Legal Services.

45.2 Records required by [Rule 44](#) must be kept for six years after the end of the contract. However, written documents which relate to unsuccessful Tenderers may be destroyed after a year from award of contract, provided there is no dispute about the award.

SECTION 13
LENGTH OF CONTRACTS AND EXTENSIONS

46. DURATION OF CONTRACTS

No contract can be for longer than five years (including options to extend) unless they are:

- tied to the completion of a specific job;
- tied to the supply contracts to a fixed quantity of goods or
- express approval from the Solicitor to the Council has been given for a longer period.

47. CONTRACT EXTENSIONS

Exercising Options to Extend

47.1 Where a contract has been advertised with an option to extend beyond the original contract period and the contract includes such an option it may only be exercised if:

47.1.1 the Lead Officer is satisfied that such an extension is in the best interests of the Council in the light of the contractor's performance;

47.1.2 the extension is for no longer than two years in total and

47.1.3 there is sufficient budget provision

47.2 Where the conditions of 47.1.1, 47.1.2 and 47.1.3 are not met the written consent of the Solicitor to the Council must be given before an option to extend is exercised.

No Option to Extend

47.3 Contracts, other than those above EU Thresholds, which contain no option to extend in the original contract may be extended by up to six months by the Solicitor to the Council in consultation with the Procurement Officer to allow the contract to be re-Tendered.

47.4 Contracts above the E.U. Threshold which contain no option to extend in the original notice cannot be extended without the written consent of the Solicitor to the Council.

SECTION 14 **SPECIAL CASES**

48. CONSULTANTS

Consultancy contracts must either be based on the Council's Standard Consultancy Contract or be approved by the Solicitor to the Council and must include the matters identified for consultancy contracts specified in [Appendix 4](#).

49. INFORMATION TECHNOLOGY

49.1 The procurement of information technology should, subject to Rule 49.4 follow all other Rules but in addition the following requirements apply.

49.2 For all information technology purchases, approval must be sought from the ICT Manager.

49.3 The purchase of any computer hardware or software (excluding standard desktop items), whatever the value, which is to be linked to the Council's network must have the prior written approval of the ICT Manager.

49.4 Any extension or additional modules to software may be procured without a Tendering process if:

- 49.4.1 the original system was procured through a full Tendering exercise;
- 49.4.2 the contracts for the system and any support and maintenance contracts are still in term;
- 49.4.3 the cost of the additional modules does not exceed 25% of the original purchase price;
- 49.4.4 the total cumulative price does not exceed the OJEU Threshold; and
- 49.4.5 the proposed purchase has had technical assurance sign off by the ICT Manager.

50. OUTSOURCING AND TRANSFERRING SERVICE CONTRACTS (TUPE)

Where the proposed contract is outsourcing work currently done "in house" or may involve the transfer of a service contract from one contractor to another the Lead Officer must as soon as possible consult the Solicitor to the Council regarding TUPE implications and in particular to the need to:

- 50.1 compile and send out with the Invitation to Tender detailed information about the current workforce (Workforce Information);
- 50.2 include specific reference to the possible TUPE transfer in the Invitation to Tender and
- 50.3 include TUPE clauses in the contract conditions.

51. PROVIDING WORKS/SERVICES TO OTHER ORGANISATIONS

Where it is proposed to provide services or do works for other organisations which may impact on resources, the Lead Officer proposing the arrangement should consult Financial Services and Legal Services as appropriate. The Lead Officer must ensure compliance with the Financial Regulations.

52. ASSETS FOR DISPOSAL

Assets for disposal other than relating to land must be advertised for Quotes on the Council's website or a recognised disposal or auction website. The assets shall be sold to the person who submitted the highest Quote by the closing date specified in the advert.

53. FINANCE OPERATING LEASES

No operating/finance lease including those for equipment and vehicles must be entered into without the prior written consent of the S151 Officer.

SECTION 15
AVOIDANCE OF CORRUPTION

54. CONFLICTS OF INTEREST

Conflicts of interest can lead to allegations of corruption. Therefore when an officer is directly involved in the award or management of a contract to a particular organisation he/she must, whenever possible avoid any personal dealings with that organisation. Where that is not possible the officer must act in accordance with Rule 55.

55. DECLARATIONS OF INTEREST BY OFFICER

55.1 Any officer who has a material interest, financial or otherwise, which may affect the Contract process at any stage must immediately he/she becomes aware of it declare it in writing to the Solicitor to the Council and take no further part in the procurement process unless the Solicitor to the Council gives her written approval to the officer's continued involvement in the procurement exercise.

55.2 The Solicitor to the Council shall maintain a register of Interests, declared by Officers under Rule 55.1 which must include:

- the name and grade of the officer
- the nature of the declaration

56. GIFTS AND REWARDS

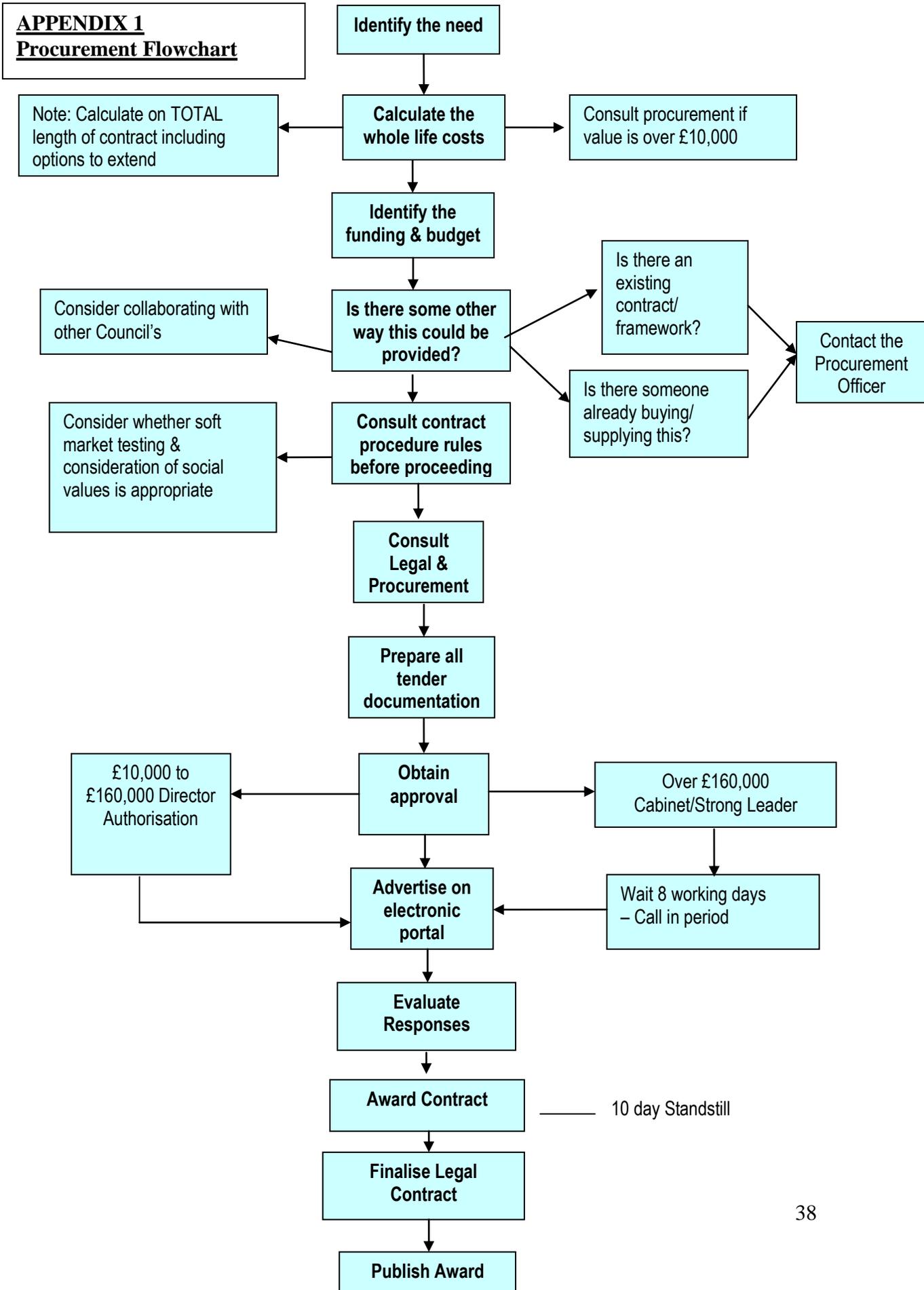
No officer must accept any gift, fee or other material reward from any organisation in return for giving them more favourable treatment in a procurement exercise.

57. FAILURE TO COMPLY

A failure to comply with Rules 54, 55 and 56 could be a criminal offence as well as being a disciplinary matter.

SECTION 16
VARIATIONS TO THE RULES

- 58.1** Delegated authority is given to the Solicitor to the Council in consultation with the Cabinet Member for Resources and the S151 Officer to update these Rules as appropriate to meet future legislative and operational requirements to ensure that the aims and principles of these Rules are given full effect.
- 58.2** Any significant amendment to these Rules must be approved by Full Council.
- 58.3** Anyone with suggested amendments to the Rules should contact the Solicitor to the Council



APPENDIX 2**DEFINITIONS AND INTERPRETATION**

Agent	A person or organisation acting on behalf of the Council or on behalf of another organisation.
ICT Manager	The ICT Manager in the Resources Directorate or any other person authorised to carry out the functions of that post by the S151 Officer.
Award Criteria	The criteria by which the successful Quote or Tender is to be selected
Award Procedure	The procedure for awarding a contract
Cabinet	The Council's Cabinet as defined in the Constitution. References to the Cabinet shall include the where decisions are to be made under the Strong Leader Model.
CLT Member	A member of the Corporate Leadership Team
Competitive Dialogue	One of the procedures available under the E.C. Procurement Regulations for selecting a Contractor but which can only be used in limited circumstances
Consultant	Someone employed for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role
Contract File	A file on which all relevant matters relating to a contract are kept.
Contractor	An organisation which is bidding for or which has been awarded a Council contract and includes an individual, a partnership, a firm, a limited company and a charity.
Corporate Contract	A contract let by the Procurement Unit and to support the Council's aim of achieving Value for Money

Corporate Questionnaire	The standard questionnaire used by the Council to vet organisations interested in Tendering for Council contracts
Electronic Portal	The Due North Electronic Procurement System managed by the Procurement Officer
EU Procedure	The procedure required by the European Union (EU) where the estimated Total Value exceeds the EU Threshold.
EU Threshold	The contract value at which the Public Contract Regulations 2015 apply.
Framework Agreement	An agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
Invitation to Tender	An Invitation to Tender in the form required by these Rules (ITT)
Leader	The Leader of the Council
Legal Services Lead Officer	The Legal Services section of the Council The officer within the Council who is responsible for and responsible for and leading a procurement exercise
Light Touch Regime Services	Services listed in Schedule 3 of the Regulations
Most Economically Advantageous [MEA]	The criteria for selecting a contractor being equivalent to “best value for money”
Negotiated Procedure	A procedure for awarding contracts under the Public Contract -Regulations but which can only be used in limited circumstances
Non Commercial Matter	A matter listed in Appendix 4 which by law cannot be taken into account in selecting Tenderers or awarding contracts
OJEU	The Official Journal of the European Union or any replacement publication.
“Open Procedure”	A procedure for awarding contracts under the E.C. Procurement Regulations.

Post Tender Negotiations	Discussions with a Tenderer after the submission of its Tender
Preferred Tenderer	The Tenderer who has been provisionally identified as the successful contractor
Pre-Qualification Questionnaire	A questionnaire used to select organisations to invite to Tender (PQQ).
Pre-Tender Enquiries	Enquiries to help draw up a Contract Specification
Priority Services	Those services required to be Tendered in full compliance with the EU Procurement Regulations as defined by those Regulations sometimes called Schedule A Services.
Procurement Officer	The Procurement Officer of the Council in the Resources Directorate or any other person authorised to carry out the functions of that post by the S151 Officer
Quote	A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
Regulations	EU Procurement Public Contract Regulations 2006.
Relevant Director	the Director of the Directorate making the purchase
Relevant Cabinet Member	The Cabinet Member who holds the portfolio for the service area making the purchase or the Leader.
S151 Officer	The Council's S151 Officer or such other officer as may be designated chief finance officer by the Council as being responsible for the Council's finances or any other officer delegated by him/her to carry out the functions allocated to that post by these Rules.
Solicitor to the Council	The Chief Legal Officer of the Council or in her absence the Principal Solicitor of the Council.
Tenderer	An organisation who submits a Tender to the Council.
Tender Receipt Officer	The Officer designated as being responsible for the receipt, custody, opening and recording of Tenders

Total Value

The whole of the value or estimated value (in money or equivalent value) for a single purchase or disposal calculated as follows:-

(a) where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period

(b) where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months.

(c) where the contract is for an uncertain duration, by multiplying the monthly payment by 48.

(d) for feasibility studies, the value of the scheme or contracts which may be awarded as a result

TUPE

Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended -

Value for Money

Value for Money is not the lowest possible price; it combines supplies or services that fully meet your needs, with the level of quality required, delivery at the time you need it, and at an appropriate price.

APPENDIX 3

NON COMMERCIAL MATTERS

a) The terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces ('workforce matters').

(b) Whether the terms on which contractors contract with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self-employed persons of their services only.

(c) Any involvement of the business activities or interests of contractors with irrelevant fields of government policy.

(d) The conduct of contractors or workers in industrial disputes between them or any involvement of the business activities of contractors in industrial disputes between other persons ('industrial disputes').

(e) The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, contractors.

(f) Any political, industrial or sectarian affiliations or interests of contractors or their Directors, partners or employees.

(g) Financial support or lack of financial support by contractors for any institution to or from which the authority gives or withholds support.

(h) Use or non-use by contractors of technical or professional services provided by the authority under the Building Act 1984 or the Building (Scotland) Act 1959.

Workforce matters and industrial disputes, as defined in paragraphs (a) and (d), cease to be non-commercial considerations to the extent necessary or expedient to comply with Best Value; or where there is a transfer of staff to which the transfer of undertakings (Protection of Employment) Regulations 2006 (TUPE) may apply.

APPENDIX 4

STANDARD CONTRACT CONDITIONS

Every contract over £3,000 shall be in writing and must clearly state as a minimum:

- specify the exact work that is to be done or the description of the supplies or services to be supplied including specifications where appropriate;
- specify the price to be paid for the work or for the supplies or services and any circumstances in which it may vary;
- specify the date by which the work will be completed or the supplies or services be supplied, or the contract period;
- specify any discounts or deductions offered and the circumstances in which they will apply;
- include a clause whereby the Council may cancel the Contract and recover any resulting costs if the contractor or their employees or agents with or without the contractor's knowledge does anything improper in order to influence the decision as to the awarding of the Contract or commits an offence under the Bribery Act 2010 of the Local Government Act 1972 or any other such legislation in force at the time or commits any fraud in connection with this or any other Council contract whether alone or in conjunction with Council Members or Officers;
- in appropriate cases where a contract exceeds £50,000 provide for the payment of liquidated damages by the contractor where he fails to complete within the time specified. The amount of such damages shall be determined by the Solicitor to the Council and the S151 Officer in consultation with the Relevant Director;
- where a contract is estimated to exceed £100,000 the appropriate technical officer should decide whether the conditions of Tender may require a contractor to give sufficient security for the due performance of any contract. For example, a Performance bond with a body certified or approved by the Council or deposit cash in lieu thereof with the Council in a sum equal to 10% of the Tender figure;
- All Contracts shall require the contractor to provide to the satisfaction of the Relevant Director and S151 Officer an appropriate indemnity against any risk which might attach to the Council as a result of work undertaken by the contractor. Unless otherwise approved by the S151 Officer contractors shall be required to maintain as a minimum the following insurance cover: £10 million employer's liability; £5 million public liability; and £1 million professional indemnity;
- Unless otherwise approved by the Solicitor to the Council that the Contractor may not assign or sub- contract without prior written consent;

- where Agents are used to let contracts, that Agents must comply with these rules;
- a right of access to relevant documentation and records of the Contractor for monitoring and audit purposes if relevant and
- compliance with legislative requirements (e.g. Data Protection, health and safety requirements, Freedom of Information Act).

CONSULTANCY AGREEMENTS: Additional Requirements

- Name of Project
- Description of Service (ideally attach brief)
- Timetable
- Schedule of Payments related to Timetable and other project documents.
- Expenses Entitlement
- Copyright in Report (if relevant)
- Indemnity and Professional Indemnity Insurance Cover
- Identify Consultants' Project Team
- Media Relations and Publications (where relevant)
- Liaison Requirements
- Conflict of Interests
- Presentation of Project Results (if relevant)

APPENDIX 5

APPROVED BUDGETS

Inclusion in approved capital or revenue budgets can be demonstrated by:

- a scheme cost in the approved capital programme
- where expenditure is within a block scheme in the approved capital programme, a budget plan showing proposed individual projects and commitments against the total, to indicate that there is sufficient funding remaining
- for revenue schemes, a budget heading against which only the contract cost is charged or if this does not exist
- a budget plan showing commitments against a total budget for the cost centre, to indicate that there is sufficient funding remaining
- Cabinet approvals for virements, use of reserves or changes to the capital programme demonstrating specific earmarked capital or revenue funding to fund the contract cost with appropriate approvals in accordance with Financial Regulations (note amendment of the Capital Programme is a matter reserved for Council).

APPENDIX 6

PROCEDURES FOR THE RECEIPT, OPENING AND RECORDING OF TENDERS

All procurements over £10,000 (or that are procured via the Electronic Portal)

Receipt and safe custody of tenders

The Electronic Portal will receive, receipt and store (via a secure online portal) all the Authority's tenders.

Receipt of tenders will be logged electronically on the system and a full audit trail evidenced, including dates and times of receipt and opening.

Opening tenders and Register of tenders

- As soon as practical after the date and time stated as being the latest time for the receipt of tenders, bids shall be opened by the Procurement Officer and another authorised officer from Legal Services
- The e-tendering system shall be maintained by the Procurement Officer to show for each contract:
 - (i) The name of all suppliers who have viewed the Tender documents and who intend to respond;
 - (ii) The names of suppliers/ individuals from which tenders have been received;
 - (iii) The date the tenders were received and opened;
 - (iv) The person opening the seal of the locked 'Response Box'
- The Procurement officer and other authorised officer must at the time of opening Tenders record the following details:
 - (i) the date and time
 - (ii) the name of each Tenderer
 - (iii) the amount of each Tender

this record must be kept electronically to evidence who was present at the opening of the submitted tenders.

- All Tenders received and opened will be retained on the Electronic Portal,
- The Procurement Officer must consult with Legal Services if in any doubt as to whether to consider a Tender for any reason, including its late submission.

APPENDIX 7**TIMETABLE REQUIREMENTS**

The table below maps out the minimum timescales for OJEU procurement exercises under the Public Contracts Regulations 2015. All timescales begin from the date of dispatch of the notice to OJEU (first stage) or when the invitations to tender are sent (second stage).

Minimum OJEU time limits				
Normal minimum time	If electronic responses permitted	If urgent	Where PIN published	If sub central authority
Open procedure				
Minimum time limit for receipt of tenders				
35 days	30 days	15 days	15 days	-
Restricted procedure				
Stage 1 – Minimum time limit for request to participate				
30 days	-	15 days	30 days	30 days
Stage 2 – Minimum time limit for receipt of tenders				
30 days	25 days	10 days	10 days	Set by agreement with tenderers – else 10 days
Competitive procedure with negotiation				
Stage 1 – Minimum time limit for request to participate				
30 days	-	15 days	30 days	30 days
Stage 2 – Minimum time limit for receipt of tenders				
30 days	25 days	10 days	10 days	Set by agreement with tenderers – else 10 days
Innovation partnership				
Stage 1 – Minimum time limit for request to participate				
30 days	-	15 days	30 days	30 days
Stage 2 – Minimum time limit for receipt of tenders				
30 days	25 days	10 days	10 days	Set by agreement with tenderers – else 10 days
Competitive dialogue				
Stage 1 – Minimum time limit for request to participate				
30 days	-	-	-	-
Stage 2 – Minimum time limit for receipt of tenders				
No explicit time limits	-	-	-	-

The following table provides guidance of the timescales required for contracts not governed by the EU Procedure. The period of time for return of Tenders will depend on the complexity of the procurement exercise and the level of detail Tenderers are expected to provide.

VALUE	PROCEDURE	WORKING DAYS	WEEKS
Up to £3000	At least one quotation (best practice to obtain three quotations)	1	1
£3,000 - £10,000	At least 3 written quotations	1 - 5	1
£10,000 - £160,000	Advertised through the Electronic Portal Evaluation to include quality criteria where applicable The length of time required will depend on the value and complexity of services/goods/works being procured.	20 - 60	4 - 12

When project planning ensure that sufficient time is built into the timetable for scoping the requirements, obtaining approval (including the possibility of a call-in) evaluating the Tenders and preparing the contract.