

9.6 Contract Procedure Rules

Part 1 – Introduction, Scope and Responsibilities

1. Introduction

- 1.1 These Rules are part of the Council's Constitution and apply to all procurement activities (the purchase of goods, services and works) undertaken by the Council. They must be read in conjunction with any other relevant laws, regulations, policies and/or procedures, including the Financial Procedure Rules, Employee Code of Conduct, Scheme of Delegations to Officers, the Anti-Fraud and Corruption Policy, Guidance on Grants, the Council's Procurement Officer Handbook and the Council's Contract Management Officer Handbook (including contract register guidance, system instructions and protocol).
- 1.2 If there is any conflict between these Rules and relevant law, the legislation shall take precedence. The Council also reserves the right to consider the application of intervening government guidance when making decisions about the application of these Rules.

2. Basic Principles

- 2.1. Whether or not a procurement is subject to the UK Procurement Regulations, it must be conducted in accordance with the Agreement on Government Procurement (GPA). This means all procurements must be carried out in a fair, open and transparent way.
- 2.2. These Rules are designed to ensure that procurements:
- (a) achieve value for money for public money spent;
 - (b) are consistent with the highest standards of integrity;
 - (c) ensure fairness and transparency;
 - (d) ensure that the Council complies with all legal requirements and established government and commercial codes of conduct;
 - (e) comply with the Council's associated policies;
 - (f) manage the Council's risk effectively;
 - (g) are proportionate in regard to value and risk; and
 - (h) ensure that Non-Commercial Considerations e.g. prior knowledge of contractors do not influence any contracting decision.
- 2.3 Chief Officers are responsible for all procurement activity in their Directorates. They will maintain robust governance and oversight procedures to ensure the compliance of their staff with these Rules.

3 Amendments to these Rules

- 3.1 The Monitoring Officer in consultation with the Head of Procurement shall have the power to make incidental amendments from time to time to these Rules, to ensure that they remain consistent with legislation, the Council's organisational structure and generally with best practice.

4. Exceptions to the Rules

- 4.1 Please refer to the Scheme of Delegation for Officers for exceptions to these rules.

5 Requesting a Waiver from these Rules and in cases of Emergencies

- 5.1 Subject to the UK Procurement Regulations and any other relevant legislation, an officer may seek a waiver where they are unable to comply with these Rules.
- 5.2 The Scheme of Delegations to Officers (Exceptions – Contracting) sets out which officer(s) have the delegated authority to approve waivers depending on the value of the contract.
- 5.3 A waiver will only be granted in exceptional or unavoidable circumstances. Lack of appropriate planning will not be considered as sufficient justification to be granted a waiver.
- 5.4 Where a waiver is to be used, the waiver must be formally completed and signed prior to entering into any contract for goods, services and/or works.
- 5.5 In cases of emergency and where there is a significant risk of danger to life, or damage to property or a major impact on the Council or its service users, the Monitoring Officer or their nominee may choose to waive these Rules in accordance with the Council's Procurement Emergency process.

Part 2 – Pre-Procurement

1. Competition Requirements

- 1.1. Officers will establish the Total Value of the procurement for the life of the contract, including any potential extension periods which may be awarded.
- 1.2. Services, goods and/or works that could reasonably be treated as a single contract will not be sub-divided to avoid these Rules, thresholds, or any legal requirements.
- 1.3. Based on the Total Value, procurements will be conducted in line with the financial thresholds detailed in Appendix 2.

2. Pre-Tender Market Research and Consultation

- 2.1. The Officer responsible for the procurement may consult potential Suppliers in general terms about the nature, level and standard of the contract packaging and other relevant matters, provided this does not prejudice any potential Bidder.

- 2.2. The Officer will not adopt any technical advice in the preparation of an Invitation to Tender or Quotations from anyone where this may prejudice the equal treatment of all potential Bidders or otherwise distort competition.
- 2.3. Pre-tender consultation with service users on what is being procured is encouraged and is considered good practice to ensure the Specification correctly addresses what is required.

3. Public Services (Social Value) Act 2012

- 3.1. The Public Services (Social Value) Act 2012 requires the Council to consider at the pre-procurement stage:
 - (a) How the proposed procurement might improve the economic, social, and environmental well-being of the area;
 - (b) How the Council may act with a view to securing that improvement in conducting the process of the procurement; and
 - (c) Whether it should undertake any community consultation on the above.

4. Corporate Contracts, Corporate Frameworks and Dynamic Purchasing Systems

- 4.1. The Council has created a selection of Corporate Contracts, Corporate Frameworks and Dynamic Purchasing Systems (DPSs) for goods, services and works where the prices and terms have been negotiated to achieve value for money for the Council as a whole.
- 4.2. Before undertaking a procurement exercise, Officers will check if a relevant Corporate Contract, Framework or DPS exists and, where it does, this will be used.
- 4.3. Where a collaborative procurement is being conducted, the Council's financial value alone will be the amount used to determine the Key Decision threshold.

5. Concession Contracts

- 5.1. The Council may wish to enter into contracts where the Supplier receives payment from a third party, or where the Supplier receives non-monetary benefits. Such contracts will be let in accordance with these Rules and where relevant the Concession Contracts Regulations 2016.

Part 3 – Procurement Thresholds

1. General Requirements

- 1.1. Please see Appendix 2 for the procurement thresholds and the process to be followed.

2. Purchases at or over the Regulation Threshold

- 2.1. All goods, services and/or works at or over the Regulation Threshold are covered by the UK Procurement Regulations. These Regulations govern the processes for advertising, timetabling and Supplier selection.
- 2.2. The latest thresholds and regulations can be found at the following site:

[*The Public Procurement \(Agreement on Government Procurement\) \(Thresholds\) \(Amendment\) Regulations 2023 \(legislation.gov.uk\)*](#)

Part 4 – Procurement Documents

1. Invitations to Tender, Quotations, Call-offs from Frameworks and Dynamic Purchasing Systems.

1.1. All Invitations and call-offs will:

- (a) Clearly specify the goods, services or works that are required. The specification must describe the requirements in sufficient detail to ensure the submission of competitive bids which may easily be compared;
- (b) Include evaluation methodology, such as the selection and award criteria which details the cost and quality split;
- (c) Clearly and unambiguously specify the award procedure on which Tenders, Quotations or Call-Offs will be evaluated, such as on the most economically advantageous tender;
- (d) Attach a copy of the contract terms and conditions that will apply.

2. Submission of Tenders or Quotations

- 2.1 Bidders must be given sufficient time to prepare and submit a proper Tender or Quotation, consistent with the urgency and complexity of the contract requirements.

3. Late Tenders

- 3.1. Late Tenders or Tenders above the Regulation threshold that are not submitted in accordance with these Rules will be disqualified unless approved by the Monitoring Officer in consultation with the Head of Procurement.

4. Evaluation

- 4.1. Tenders and Quotations will be evaluated in accordance with the pre-determined evaluation criteria set out in the procurement documents.
- 4.2. The evaluation will be carried out by a panel consisting of the Officer and at least one other officer of appropriate seniority, supported and moderated by the Head of Procurement or their nominee(s).

- 4.3. If, despite all reasonable efforts having been made to obtain the required minimum number of responses, fewer respond to the Council's requirement, then the procurement may progress with the Bidders who have provided a valid response.

5. Clarification Procedures

- 5.1. Officers may ask Bidders for clarifications to any of the details submitted as part of their bid. However, such clarifications must not result in a significant change to the bid or related documentation.

6. Notification of Award

- 6.1. The Officer in conjunction with the Head of Procurement or their delegate will inform successful and unsuccessful Bidders simultaneously in writing whether or not their bid was successful for contracts at or over the regulation threshold.
- 6.2. Where the value of the contract is at or over £25,000, the Officer will publish an award notice on Contracts Finder.
- 6.3. Where a Tender is subject to the UK Procurement Regulations, the Council will adhere to the relevant standstill period.
- 6.4. If a Bidder requests in writing a further debrief in relation to the award, the Officer in consultation with the Head of Procurement or his/her delegate will provide the appropriate response.
- 6.5. Any complaints from unsuccessful Bidders must be provided in writing.

Part 5 – Contract Formalities

1. Principles relevant to contracts at all values

- 1.1. Every contract must be in writing and must clearly state:
 - (a) The goods, services and/or works to be provided;
 - (b) The start and end date or the means by which these are to be ascertained;
 - (c) The agreed programme of delivery;
 - (d) The price and terms of payment;
 - (e) All other terms that are agreed, e.g. insurance;
 - (f) Exit procedures, for when the contract comes to its natural end; and
 - (g) Termination procedures for early termination of the contract, including when the Supplier has not fulfilled its contractual obligations.

2. Execution of Contracts

- 2.1. Contracts let under the UK Procurement Regulations may only be signed/sealed after the mandatory standstill period has elapsed without any challenge being received.
- 2.2. Reference to signing contracts includes by electronic signature of documents where this improves the efficiency of the Council and removes the requirement for hard copy printing.
- 2.3. If, after acceptance of its Tender or Quotation, a Supplier fails within a reasonable period of time and without reasonable justification to sign or otherwise enter into a formal written contract, the Council shall reserve the right to withdraw the contract from the Supplier.

3. Commencement of Contracts

- 3.1. No supply of goods, services or works shall commence until all contract documents have been completed.

4. Contract Register

- 4.1. Contracts valued at or over £5,000 must be recorded on the Contract Register.
- 4.2. The Contract Register will be published on the Council's website in accordance with Local Government Transparency Code 2015.

5. Letters of Intent

- 5.1. Letters of Intent shall only be used in exceptional circumstances and where approved by the appropriate Chief Officer in consultation with Legal Services.

6. Bonds, Parent Company Guarantees and Insurance

- 6.1. Performance bonds or parent company guarantees may be required:
 - (a) Where the total value of the contract exceeds £500,000; and
 - (b) Where it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the Contract; or
 - (c) Where there is concern about the stability of the Supplier, regardless of value.
- 6.2. Where a performance bond or parent company guarantee is required, this must be clearly stated in the Invitation to tender or quotation and must be in place before the contract is completed by the Council or simultaneously with completion.
- 6.3. Where a Bidder or Bidders appeal the Council's request for a performance bond or parent company guarantee, an exception can be made.
- 6.4. Officers will ensure that suppliers maintain adequate insurance for the duration of the contract period and shall verify this at appropriate intervals throughout the term.

7. Variations

- 7.1. Where a variation means that the value of a contract would exceed the relevant regulation threshold, or where there is any material change to the contract, advice must be sought from Head of Legal (Corporate) and Head of Procurement.
- 7.2. Variations on contracts with a total value of £5,000 or more must be noted on the Contract Register.
- 7.3. Officers must be satisfied that they have sufficient budget to cover any variation and that the variation will achieve value for money and be reasonable in all the relevant circumstances.

Appendix 1 – Definitions, Abbreviations and Glossary

Term	Definition
Bidder	A potential Supplier, vendor or organisation who responds to an invitation to Tender or Quote or any person who asks or is invited to submit a Quotation or Tender.
Contracts Finder	A service provided by the government that enables Suppliers to search for information about public sector contracts.
Chief Officer	An Officer(s) as defined in the Constitution.
Contract Management Officer Handbook	Document produced by the Procurement team stipulating the process that Officers must adhere to when managing a contract.
Contract Register	A register managed by the Procurement Team that stores details of the Council's Contracts such as duration and expiry dates. The register is published on the Council's intranet.
Corporate Contract and/or Corporate Framework	Contract let by a central team in the Council (such as Procurement) for Officers to use rather than procure separate.
Dynamic Purchasing Systems (DPSs)	Are a type of agreement available through the Crown Commercial Service that can be used to filter suitable suppliers, who have passed pre-arranged checks, based on a range of criteria and create a shortlist to invite to their further competition. DPSs differ from frameworks in that suppliers can join at any time.
Financial Regulations	The financial regulations outlining Officer responsibilities for financial matters issued by the Chief Finance Officer in accordance with the Constitution.
Framework Agreement	A formal tendered arrangement which sets out terms and conditions under which specific purchases can be made from the successful Bidders in unpredicted quantities at different times during the term of the Framework Agreement.
Invitation	Invitation to Tender or Quote in the form required by these Rules.
Local	Areas within the West Northamptonshire boundary.
Non-Commercial Considerations	Those that are listed in section 17(5) of the Local Government Act 1988.
Officer	An officer of the Council designated by the Chief Officer to be responsible for undertaking the procurement exercise and for the administration of the contract to include ensuring compliance with its terms and conditions and implementation of any required variations.
Parent Company Guarantee	A Contract which binds the parent of a subsidiary company as follows: If the subsidiary company fails to do what it has promised under a Contract with the Council, they can require the parent company to do so instead.
Performance Bond	An agreement that if the Supplier does not do what it has promised under a contract with the Council, the Council can claim from the Bondsman the sum of money specified in the Bond (usually 10% of the contract sum). It is intended to protect the Council against a level of

	cost arising from the Suppliers failure to comply with the terms of the contract.
Procurement Officers Handbook	Document produced by the Procurement team for Officers stipulating the process that Officers must adhere to when undertaking a procurement
UK Procurement Regulations	The Public Contracts Regulations 2015 and any successor public regulations which specify in detail the procedures by which public authorities shall undertake their procurements.
Purchasing Gateway Group (PGG)	An identified group of Officers, comprising the Head of Procurement, the Monitoring Officer and Chief Finance Officer or their duly appointed representatives, that is responsible for reviewing, approving and advising on proposed procurements and procurement issues.
Quotation	A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
Regulation Threshold	The Total Value threshold at which PCR2015 public procurement directives must be applied. The current procurement thresholds and regulations can be found at the following site The Public Procurement (Agreement on Government Procurement) (Thresholds) (Amendment) Regulations 2023 (legislation.gov.uk)
Request for Quotation	A formal quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
Rules	These Contract Procedure Rules.
Supplier	Any person or organisation, including companies or other bodies of persons providing, or seeking to provide, goods, services or works to the Council.
Tender	A Bidder's proposal submitted in response to an Invitation to Tender.
Total Value	<p>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.</p> <p>The Total Value shall be calculated as follows:</p> <ol style="list-style-type: none"> 1. 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 proposed contract period; 2. Where the contract is for an uncertain duration, by multiplying the monthly payment by forty-eight or the maximum permitted duration in months if less; 3. For nominated Suppliers and sub-contractors, the Total Value shall be the value of that part of the main contract to be fulfilled by the nominated Supplier or sub-contractor; 4. Where an in-house service provider is involved, by taking into account redundancy and similar/associated costs; and/or 5. In the case of a Framework Agreement, the estimated call off during the period of the contract.
TUPE	The Transfer of Undertaking (Protection of Employment) Regulations 2006.
Value for Money (VfM)	The most advantageous combination of cost, quality and sustainability to meet customer requirements, in accordance with the principles of the National Audit Office; Economy, Efficiency and Effectiveness.

Appendix 2 – Summary of Procurement Thresholds

Value of Contract	Pre-Procurement Authorisation	Advertising	Procurement Process	Contract Execution	Contract Register and Contracts Finder
Up to £5,000	If Key Decision, Cabinet approval.	Advertising optional.	At least one written quotation required. Officers should ensure they achieve value for money (at least one from a Local Provider)	Contract terms issued via purchase order.	No requirement to publish.
£5,000 up to £25,000	If Key Decision, Cabinet approval.	Advertising optional.	Seek to obtain at least three written Quotations (at least one from a Local provider).	Contract terms issued via purchase order.	Contract must be published on the Contract Register.
	If Key Decision, relevant Officer and Cabinet/ approval.	Advertising optional. Award Notice on Contracts Finder is Mandatory	Seek to obtain at least three formal quotations from the Council's RFQ process (at least one from a Local provider).	Written contract signed by one Chief Officer or Officer with appropriate authority to enter into a Contract. Standard terms approved by Legal Services.	Contract must be published on the Contract Register and Award Notice on Contracts Finder
£100,000 up to Regulation Threshold	If Key Decision, Cabinet. Requirement to present proposed procurement to PGG.	Advertising on Contracts Finder is mandatory.	Seek to obtain at least three formal quotations from the Council's RFQ process.	Written contract signed/sealed. Standard terms approved and contract prepared by Legal Services	Contract must be published on the Contract Register and Award Notice on Contracts Finder.
Regulation Threshold and above	Head of Procurement. Officer in Consultation with Head of Procurement If Key Decision, Cabinet approval.	Advertising Mandatory in accordance with UK Procurement Regulations	Procurement must be run in accordance with UK Procurement Regulations	Written contract signed/sealed. Standard terms approved and contract prepared by Legal Services.	Contract must be published on the Contract Register and Award Notice on Contracts Finder.

	Requirement to present proposed procurement to PGG.				
Framework Agreements	Must follow the above approvals in accordance with the "Value of the Contract" If Key Decision, Cabinet approval.	Not applicable Award notice on Contracts Finder is mandatory for £25,000 and above	Follow call-off procedure within Framework Agreement.	Written Contract created from Framework Agreement. Sign-off as per above thresholds.	Contract must be published on the Contract Register and Award Notice on Contracts Finder