

I3 CODE OF PROCUREMENT GOVERNANCE

1. Introduction

1.1 The Council's Code of Procurement Governance, which is given operational effect by the Council's Procurement Procedures that set out the detailed provisions relating to procurement, applies to all its procurement activity except for employment contracts. Officers and members involved in procurement, contracting and asset disposal (including land and property) are required to observe the rules, and it is a disciplinary offence not to do so. The Procurement Procedures specify the minimum procedural requirements, but more exacting procedures may be appropriate in high-risk projects. The Code of Procurement Governance and Procurement Procedures are managed by the Council's Procurement Team which provides training, advice and support. Any amendments to the Code of Procurement Governance shall be considered by the General Purposes Committee and recommended for Full Council approval.

2. Strategic Principles

- 2.1 **Compliance with Legislation:** The Procurement Procedures are intended to ensure that in all its dealings the Council complies with European Union (EU) and United Kingdom (UK) law as well as with its own Code of Financial Governance and supporting Financial Procedures.
- 2.2 **Competition and Best Value:** The Procurement Procedures are based upon the principle that competition is a key driver of value for money and is to be encouraged at all times.
- 2.3 **Procurement Efficiency:** The Council intends to maximise the use of e-procurement, and wherever possible Requests for Quotations, Proposals and Invitations to Tender should be issued and received electronically. The Council will use e-auctions whenever possible.
- 2.4 **Continuous Improvement:** All contracts of more than one year duration must provide for continuous improvement throughout their lifetime.
- 2.5 **Openness, Integrity, Transparency and Fairness:** Any procurement or disposal process must demonstrate the highest standards of integrity, ensuring openness, fairness and transparency at all times. Non-commercial considerations must not be allowed to influence contractual decisions.

3. Responsibilities of Directors

- 3.1 Directors have a duty to ensure that officers dealing with contracts have written authority to do so, and comply with all appropriate rules.

4. Responsibilities of Officers

- 4.1 Officers dealing with contracts must have written authority to do so. Officers must ensure that procurement projects have policy approval and budgetary provision, and the sources of funding must be agreed and stated.

5. Key Elements of the Procurement Procedures

- 5.1 **Thresholds:** All procurement is subject to the financial thresholds in Table 1 below. Proper authorisation must be obtained prior to commencement of any procurement activity. **Section C2** of the Constitution sets out criteria to identify key decision. In all cases best value should be determined with regard to the whole-life cost of the works, supplies and services to be procured. If after the Tender evaluation the recommended contractor's tender exceeds the approved sum, or where there are exceptional circumstances. Then the appropriate approval (in line with the original approval process) needs to be revisited.

Note: It is never acceptable to split contracts in order to avoid threshold requirements.

Table 1

| Total Contract /Order Value: | Procurement procedure: |
|---------------------------------------|--|
| Up to £2,000 | For contracts/orders up to £2,000 the principles of best value apply and the selection process should be documented. (Best value here means that the onus is on the officer to prove they have best value, via an enquiry or knowledge of that market). Wherever possible at least 2 competitive quotations should be obtained. If the contract is awarded to any other than the lowest bidder, then the reasons for doing so should be justified and documented |
| £2,001 - £20,000 | A minimum of three written quotations on the suppliers' headed notepaper or from the suppliers' email domain to the originating officer. Use the "superlite" quotation and evaluation documents found in the Procurement Toolkit. If the contract is awarded to any other than the lowest bidder, then the reasons for doing so should be justified and documented. |
| £20,001 - £59,999 | All quotations and tenders over £20,000 in value must use the Council's electronic tendering system (In-Tend). Use the "Quotation Lite" and "Evaluation Lite" documents found in the Procurement Toolkit. At least three tenders should be invited; five or more is best practice where possible. |
| £60,000 – EU Threshold (see footnote) | A formal tender with advertisement and the inclusion of contract conditions is required. Five or more tenders should be invited where possible; a minimum of three. Guidance and templates for PQQs, tenders and evaluations should be sought from the Procurement Team. |
| Above EU Threshold (see footnote) | As above, but with a minimum of 5 suppliers wherever possible. Note, EU thresholds are set by the European Union generally on a 2 year basis for supplies, services and works. These are changed according to EU & UK Legislation and the Council is bound by this legislation which sets out the levels, processes and procedures which must be adhered to. Details of the levels can be found in the Procurement Procedure Rules. |
| £500,000+ | As above. Note the potential lead-in times for the Executive Decision making process |

Footnote: As at 1 January 2014 the EU thresholds are £172,514 for goods/services and £4,332,012 for works

5.2 Requirements for Tendering:

5.2.1 Invitations to Tender and Requests for Quotation must include a clear specification of requirements.

5.2.2 All candidates invited to bid must be issued with the same information at the same time, subject to the same terms and conditions. Candidates invited to bid must have adequate and equal time in which to submit a quotation or tender.

5.2.3 Where the contract value exceeds £60,000 the need for wide competition is paramount, so contracts must be advertised.

5.2.4 Invitations to Tender must require candidates to provide sufficient detail to enable checking of their financial stability, technical ability and performance and capability in the areas of health and safety, environmental management, and equality and diversity.

5.2.5 All candidates must be notified in writing, simultaneously and promptly, as to the outcome of any tender exercise.

5.3 **Form of Contracts:** All contracts must be in writing and must clearly specify the goods, works or services to be provided, including a programme of delivery, price, terms of payment, and any other terms agreed, together with exit procedures for when the contract either comes to its natural end or is terminated early, perhaps because the contractor has not fulfilled his contractual obligations.

5.4 **Register of Contracts:** The Council is required to keep records of its contracting activity. Every contract over £20,000 must be recorded on the Council's Register of Contracts, which is the threshold level at which the Council's electronic tendering system must be used.

5.5 **Equal Opportunities:** The Procurement Procedures recognise the Council's duties under Race, Disability and Gender Equality legislation, including the requirement to target services on the most vulnerable sections of the community and increase inclusion and participation amongst these groups.

5.6 **Risk Management:** The Procurement Procedures require appropriate risk management and contingency planning arrangements for all contracts exceeding £60,000 in value.

- 5.7 **Financial Protection:** The Procurement Procedures require officers to take appropriate advice regarding bonds or parent company guarantees.
- 5.8 **Probity and Record Keeping:**
- 5.8.1 The criteria for awarding contracts must always be designed to give best value for money. Award criteria must always be appropriate to the contract, must be subject to strict change control processes, and must not be changed after tender proposals have been opened.
 - 5.8.2 In the event of a marked or late tender the Section 151 Officer must decide whether or not the tender should be accepted.
 - 5.8.3 Officers must ensure the confidentiality of all tender/quotation submissions.
 - 5.8.4 The policy regarding the prevention and detection of corruption is set out in the Council's Code of Conduct for officers.
- 5.9 **Post Contract Management:**
- 5.9.1 All contracts must have a nominated officer to act as contract manager for the whole contract.
 - 5.9.2 All contracts which exceed the EU threshold values, or which are high-risk, must be subject to regular, formal review with the contractor.
 - 5.9.3 Officers must not terminate a contract over £60,000 prior to its expiry date without obtaining legal advice. Early termination requires the approval of the Chief Finance Officer.
 - 5.9.4 If payments to a contractor are to be withheld or if there is a problem with a contract which may result in early termination, then legal advice must be sought.
 - 5.9.5 Value for money reviews must take place as a minimum on an annual basis and before any contract extension.

- 5.10 **Professional Advice:** The Council uses the expertise of specialist consultants to undertake a range of procurement exercises on its behalf. The Procurement Procedures set out the way in which consultants must be commissioned and the appropriate Inland Revenue checks to be undertaken.
- 5.11 **Waivers:** Any provision of the Procurement Procedures, except those relating to the EU Directives, may be exempted or waived in certain circumstances. Before any action is taken, waivers must be authorised in writing by the Director or Assistant Directors, The Chief Procurement Officer and the Section 151 Officer, who must be satisfied that a range of criteria are met.