

**CONTRACT STANDING ORDERS**

(April 2022)

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## GENERAL

### 1. Introduction

- 1.1. The purpose of these Contract Standing Orders (**CSOs**) is to establish clear rules for the procurement of all the Council's goods, works and services as required by section 135 of the Local Government Act 1972. They apply to all Council staff and external consultants ("Officers") with responsibility for letting Contracts.
- 1.2. The CSOs are put in place to ensure that the Council gets value for money for residents, complies with all legal requirements, minimises the risk of challenge/undue criticism, supports social value and sustainability and provides transparency as to how it spends public money.
- 1.3. All procurement and resulting Contracts made by or on behalf of the Council must comply with these rules as well as:
  - all applicable statutory provisions;
  - the UK Regulations 2015 and as of January 2021 the 'Public Contracts Regulations 2015 as amended by the Public Procurement (Amendment etc.) (EU Exit) Regulations 2019 and Public Procurement (Amendment etc. (EU Exit) (No.2) Regulations 2019 ('Withdrawal Regulations')
  - the Council's constitution, including the Financial Regulations and the Scheme of Delegation to Officers.
- 1.4. These CSOs have been written to reflect the current legislative requirements; however, in the event of any inconsistencies between these CSOs and the requirements of the UK Regulations the latter will take precedence.
- 4.4-1.5. The Thresholds referred to in these CSOs and the appropriate process to follow are set out in **Table 1**.
- 4.5-1.6. These CSOs are supported by the Procurement Toolkit which provides practical and more detailed advice about how to undertake a procurement exercise, including access to a suite of template documentation.
- 4.6-1.7. The Procurement Specialist is responsible for ensuring the CSOs are up to date and reflect current legislation.
- 4.7-1.8. Any query regarding the application or interpretation of these CSOs must be referred in the first instance to the Procurement Specialist.
- 1.9. For the purposes of these CSOs, where there is a requirement for communication to be in writing, this shall be deemed to include e-mail as well as hard-copy.
- 4.8-1.10. Words or phrases that begin with an initial capital letter, initialisms and acronyms are defined in the CSOs.

## 2. Scope

2.1. A Contract for the purposes of these CSOs is any arrangement made by, or on behalf of the Council ~~for~~ regardless of value including Concession Contracts):

- 2.1.1. The supply of goods
- 2.1.2. Execution of works
- 2.1.3. The delivery of services
- 2.1.4. The hire, rental, repair, maintenance or lease of goods or equipment.

2.2. Sections 12-30 of Tthese CSOs do not apply to:

- 2.2.1. Contracts of employment for members of staff including members of staff sourced through employment agencies.
- 2.2.2. Contracts for the purchase or sale of land (including leasehold interest)
- 2.2.3. Grants given by the Council either where the Council is giving or receiving a grant
- 2.2.4. Loans to or from banks or other financial institutions
- 2.2.5. Provision of emergency accommodation as required by the Homeless Act 2002
- 2.2.6. Subscriptions to magazines/publications/online resources/professional journals/professional memberships
- 2.2.7. Call-offs from Contracts procured in compliance with these CSOs
- 2.2.8. Where there is a joint procurement with one or more public sector authority or where the Council is part of a public-sector consortium where the Council is not the lead authority and the Contract complies with the lead authority's CSOs
- 2.2.9. Collaborative proposals for joint working or shared services with other public authorities which the CPB has approved as meeting the conditions set out below, where the principal activity of the collaborative arrangement is the provision of services back to the participating authorities:
  - The collaborating public authorities when acting together exercise the same kind of control over the service provision as they would over inhouse service provision and
  - There is no independent or private sector partner involved in the collaborative arrangement
- 2.2.10. ~~Requests for Counsel's opinion (up to £10k) without the need to advertise or seek alternative quotes where the Head of Legal Services is satisfied that the appropriate specialism is not obtainable elsewhere and that value for money is achieved. External legal advice. The Head of Legal Services and Monitoring Officer commissions all external solicitors, counsel, experts within Legal Proceedings (actual or contemplated) and arbitrators /adjudicators. The engagement of barristers, experts and adjudicators/arbitrators in construction disputes shall be subject to completion of a formal letter, contract of appointment or brief. The barrister, expert or arbitrator /adjudicator or chambers must either be named in the relevant Contract or be on an approved list maintained by the Head of Legal Services and Monitoring Officer for this purpose and the appointment shall be approved by the Head of Legal Services and Monitoring Officer. Where there is no approved list, then the Head of Legal Services and Monitoring Officer will determine the method of selection, likely to be appointed from a list maintained by a third party. The engagement of external solicitors shall be made via the Surrey Legal Alliance Solicitors Framework. In appropriate cases the Head of Legal Services and Monitoring Officer may dispense with the requirement to appoint from the Surrey Legal Alliance Solicitors Framework. Appointment shall be made by formal letter or appointment contract, once approved by the Head of Legal Services and Monitoring Officer. In exceptional cases the Head of Legal Services and Monitoring Officer may authorise the use of external solicitors not on the Surrey Legal Alliance Solicitors Framework. Requests for such advice (up to £10k) can be obtained without the need to advertise or seek alternative quotes subject to the Head of Legal Services and Monitoring Officer being satisfied that the appropriate specialism is not obtainable elsewhere and that value for money is achieved.~~

2.3. All other Contracts made by or on behalf of the Council must comply with these CSOs unless there is an Exception (CSO 4).

2.4. All contracts are subject to the provisions of clause 301 – 35.

2.5. Under the Local Government (Contracts) Act 1997, local authorities can enter into contracts with third parties in connection with any of their functions. However, first the Chief Officer must be able to demonstrate there is a business need for the proposed Contract.

2.3-2.6.

### 3. Compliance

- 3.1. All ~~members of staff~~Officers procuring goods or services on behalf of the Council must comply with these CSOs (except where Exceptions are obtained in advance) and the requirements of all relevant and applicable legislation.
- 3.2. Failing to comply with these CSOs when letting Contracts could result in legal challenge. Therefore, ~~employees~~Officers have a duty to remain familiar with these CSOs and to adhere to them at all times.
- 3.3. Breach of the CSOs will be taken very seriously as they are intended to both protect public money and demonstrate that the Council takes its role as a guardian of public money extremely seriously. Should an ~~officer~~Officer be found to be in breach of these rules then it may be treated as gross misconduct and could result ultimately in the dismissal of the ~~employee~~Officer. Similarly, anyone having knowledge of a failure to follow these rules must report a breach of these rules to the relevant ~~Chief Officer~~Management Team as soon as possible afterwards. Any failure to report a breach by ~~a member of staff~~an Officer may also be treated as gross misconduct and could result in the ~~officer~~Officer being dismissed. Concerns can also be raised via the procedures set out in the Council's Whistleblowing Policy or the ~~Anti Money Laundering Guidelines~~ Money Laundering Policy set out ~~in in~~ the Council's ~~Conditions of Services~~sharepoint page – Policies and Protocol and the Hub.
- 3.4. Procuring Officers must comply with all staff policies and must not invite or accept any gift or reward in respect of the award or performance of any Contract. It will be for the Officer to prove that anything received was not received corruptly. High standards of conduct are mandatory. Corrupt behaviour may lead to dismissal.
- 3.5. Staff must not deliberately break down a Contract with the intention of disaggregating spend for the purpose of avoiding the appropriate governance.

3.5-3.6. Any ~~staff member~~Officer who is unclear as to the requirements of these CSOs should contact the Procurement Officer or the Legal Team to discuss.

### 4. Exceptions and Waivers

- 4.1. The following circumstances represent permitted exceptions from all or part of CSOs provided that the CPB has given prior approval by means of a CSO waiver, where:
  - 4.1.1. only one supplier is able to carry out the works or services and where no satisfactory alternative is available because of:
    - technical or artistic reasons or because of exclusive rights
    - statutory undertakers that have a monopoly
    - the specialised nature of the work or service
  - 4.1.2. there is a variation (additional work) to an existing Contract where the variation is outside the scope of the Contract, but it would be inappropriate to offer the additional work to competition.
  - 4.1.3. there is an extension to the duration of an existing Contract provided that it is on the same terms and adequate budget provision has been made.
  - 4.1.4. there is a demonstrable and justifiable need to waive or vary one or more of the CSOs on the grounds of urgency, when, for example it is likely that not making the proposed exception to CSOs will lead to personal injury, damage to property or to the Council incurring additional liability or missing an opportunity to secure best value.
- 4.2. Lack of forward procurement planning does not represent a permitted exception.

- 4.3. Where a proposed Contract is likely to exceed the UK Find a Tender Threshold (previously OJEU), the Council has no authority to waive these CSOs.
- 4.4. For all waivers from CSOs written approval must be obtained by use of the CSO Waiver Form (Appendix A).
- 4.5. The named supplier on the exemption must be invited to submit their quotation through the Council's e-tendering portal.
- 4.6. All exemptions and waivers and the reasons for them, must be recorded in a register and reported annually to the S&R Committee.

## 5. e-Procurement

- 5.1. Electronic tendering is the mandated method of carrying out a Tender or Request for Quote (RFQ) exercise for procurements with an Estimated Total Contract Value exceeding £5,000.
- 5.2. The South East Shared Services portal on the In-tend platform is the Council's approved e-procurement platform.
- 5.3. A full user guide is provided in the Procurement Toolkit, a link can be found [in the Council's sharepoint page on the hub](#).

## 6. Transparency

- 6.1. In accordance with the Local Government Transparency Code 2015 local authorities must publish details of any Contract, commissioned activity, purchase order, framework agreement and any other legally enforceable agreement with a value that exceeds £5,000.

- 6.2. This information is held in the Contracts Register, and an export is uploaded to the Council's public website quarterly.

- 6.3. In order to capture contract information in the Contracts Register all Contracts over £5,000 must be published on In-tend.

- 6.3-6.4. All Contracts valued over £25,000 must also be advertised on Contracts Finder unless a Closed group is used (Closed group –refers to the use of a selected shortlist of suppliers e.g. a Constructionline shortlist).

- 6.4.6.5. All Contract awards over £25,000 must also be published on Contracts Finder, whether advertised or not.

- 6.5-6.6. Contracts over the current UK Find a Tender Threshold (previously OJEU) additionally must be advertised via the Find a Tender Service (FTS).

## 7. Freedom of Information

- 7.1. In accordance with the Freedom of Information Act (FOIA) 2000 and Environmental Information Regulations (EIR) 2004, we have an obligation to publish specific information and to provide information to members of the public upon request.

- 7.2. By exception confidential or commercially sensitive information may be withheld. Suppliers should be given the opportunity to identify areas of their tender submission they do not wish to be disclosed.

## 8. Conflict of Interest

- 8.1. Officers must avoid any conflict between their own interests and the interests of the Council. This is a requirement of the Council's Code of Conduct for Staff and includes:

- 8.1.1. not accepting gifts or hospitality from organisations or suppliers that the Council has dealings with;
- 8.1.2. not working for organisations or suppliers that the Council has dealings with;

- 8.1.3. notifying the CPB in writing if an ~~Officer~~ has links with an organisation or supplier who is tendering or quoting for a Contract with the Council or already has a Contract with the Council. (For example, a family member or close friend works for the organisation).
- 8.2. Token gifts of a very small value like pens marked with a company name, or calendars, which might be seen as advertisements, are acceptable.
- 8.3. Officers and Councillors should notify the Head of HR and the Head of Legal Services and Monitoring Officer of any gifts received 'out of the blue' other than the token gifts outlined in CSO 8.2. The Head of Legal Services and Monitoring Officer and the Head of HR respectively will record receipt of the gift and decide whether the gift should be returned or forwarded to a local charity.
- 8.4. An ~~officer's-Officer's~~ and ~~councillor's-Councillor's~~ interests shall not conflict with their public duty. An official position or information acquired in the course of employment or public office should not be used to further personal interests or for the interests of others.
- 8.5. All contract conditions need to contain robust terms that will allow the Council to terminate a contract where there have been acts relating to fraud, bribery, or corruption as defined under the Bribery Act 2010, and/or section 117(2) of the Local Government Act 1972; and/or the contractor/supplier has committed an act which is an offence under the Enterprise Act 2002. More information about the Bribery Act is available in the Council's Anti-Fraud and Corruption Policy.
- ~~8.5. The following clause (or suitable alternative drafted by the Council's Legal department/Team) shall be put in every written Council contract:~~
- ~~"The Council may terminate this contract and recover all its loss if the Contractor, its employees or anyone on the Contractor's behalf does any of the following:~~
- ~~i. Offer, give or agree to give to anyone, any inducement or reward in respect of this or any other Council contract (even if the Contractor does not know what has been done);~~  
~~or~~  
~~ii. Commit an offence under the Bribery Act 2010 or Section 117 (2) of the Local Government Act 1972;~~  
~~iii. Commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors or employees~~  
~~iv. Any clause limiting the Contractor's liability shall not apply to this clause."~~
- 8.6. If a ~~councillor-Councillor~~ or an ~~officer-Officer~~ has an interest, financial ~~or~~, otherwise, in a Contract, or proposed Contract, he/she must declare it in writing immediately to the Head of Legal Services and Monitoring Officer and Head of HR as soon as he/she becomes aware of the interest. A ~~councillor-Councillor~~ or ~~officer-Officer~~ who has an interest in a Contract must not take part in the procurement or management of that Contract.
- 8.7. Failure to comply with CSOs 8.3 is a breach of Council's Code of Conduct for Staff and Councillors and an offence in accordance with section 117 of the Local Government Act 1972.
- 8.8. The Head of Legal Services and Monitoring Officer must maintain a record of all declarations of interest notified by ~~councillors-Councillors~~ and HR team of ~~officers-Officers~~.
- 8.9. All Consultants engaged to act on behalf of the Council must declare that they will avoid any conflict between their own interests or those of any of their other clients and the interests of the Council.
- 8.10. If a Member or an Officer of the Council or a Consultant working on the Council's behalf becomes aware that a Contract in which they have an interest is being re-tendered, they shall immediately give written notice to the Head of Legal Services and Monitoring Officer. Such written notice is required, irrespective of whether the pecuniary interest is direct or indirect. Consideration will then be given as to the appropriate action.
- ~~8.9.~~

## 9. Social Value

- 9.1. Social value is the term used to describe the additional value created in the delivery of a Contract which has a wider community or public benefit. This extends beyond the social value delivered as part of the primary Contract activity.
- 9.2. Social Value is the means by which the Council aims to meet its Climate Change objectives detailed in the Procurement Strategy.
- 9.3. Under the terms of the Social Value Act 2012 contracting authorities are obliged to consider wider social and environmental objectives alongside price and cost when evaluating tenders for services which are valued over the FTS Procurement Thresholds
- 9.4. The Council has extended this obligation to all Contracts valued over £100k.
- 9.5. The Council's procurement approach covers the following areas:
  - 9.5.1. Economic - boost to local economy including use of local suppliers, and creation of apprenticeships
  - 9.5.2. Environmental - including carbon reduction, recycling of materials, and use of sustainable materials
  - 9.5.3. Social and Well-Being - Engagement with local Voluntary, Community and Faith (VCFS) partners
- 9.6. The Procurement Activity Request Form identifies where Social Value criteria should apply to a proposed procurement.
- 9.7. Where the inclusion of Social Value opportunities has been identified, the relevant key performance indicators (KPIs) must be included within specifications and evaluation criteria, and monitoring and reporting of performance and achievements against the KPIs must be undertaken.

## 10. TUPE

- 10.1. When an employee of the authority or of a supplier providing a service may be affected by any transfer arrangement, Officers must ensure that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) issues are considered and obtain advice from HR before proceeding with Tenders or Quotations.

## 11. Information Governance and Data Protection

- 11.1. Procuring Officers must consider the information governance requirements of the Contract if they anticipate any Personal Data is to be processed as part of the Contract e.g. data protection, security of information, records management.
- 11.2. Where Personal Data may be processed as part of the Contract Procuring Officers must seek further advice from their [Legal Support Team](#).
- 11.3. Where Personal Data may be processed as part of the Contract, a Data Protection Impact Assessment tool must be completed. This will help the Council identify the most effective way to comply with its data protection obligations.
- 11.4. Where requirements are identified by the Data Protection Assessment, Procuring Officers must ensure that any requirements are considered and built into the Contract, and assessed where appropriate as part of the evaluation.

## PREPARING FOR PROCUREMENT

### 12. Pre-Procurement

- 12.1. Before commencing a procurement process, officers must first check with the Procurement Specialist if there is an existing Contract in place for the goods, works or services required. If a Contract exists it must be used and no further quotations or tenders are required.

12.2. Where no such Contract exists Procuring Officers must ensure that:

12.2.1. They have approval from their Head of Service in principle for the proposed procurement exercise and that Finance have been consulted to confirm there are no financial matters which may impact the procurement proceeding in principle

~~12.2.1.~~ 12.2.2. They have conducted an options appraisal and identified that a procurement is required

~~12.2.2.~~ 12.2.3. There is adequate budgetary provision for the goods, services or works that they are procuring

~~12.2.3.~~ 12.2.4. a specification is prepared

~~12.2.4.~~ 12.2.5. An assessment, appropriate to the scale and scope of the Contract, of associated risks shall be undertaken by competent officers or Consultants to include, but not limited to, technical, commercial, health and safety and reputational risks posed to the Council.

12.3. Procuring Officers may consult potential suppliers prior to the issue of a Request for Quote or Invitation to Tender in general terms about the nature, level and standard of the supply, Contract packaging and other relevant matters. Records must be kept of this consultation.

12.4. Procuring Officers may seek or accept technical advice on the preparation of a specification from anyone who may have a commercial interest in bidding for the Contract provided that it does not prejudice the equal treatment of all potential Tenderers and distort competition.

### **13. Identification of potential suppliers**

13.1. All procurement opportunities are advertised on the Council's tendering portal, and Contracts Finder if over £25,000.

13.2. All suppliers providing a Quote or Tender must be registered on the Council's tendering portal.

13.3. Constructionline should be used to identify suppliers for Works related Contracts.

13.4. Where a Closed Group of suppliers is to be invited to bid the CPB must be satisfied that only suitably qualified and capable suppliers are chosen.

### **14. Calculating Contract Value**

14.1. Prior to commencing a procurement exercise Procuring Officers must estimate the aggregate value of the Contract. This will determine which Threshold the procurement falls under.

14.2. The total value of the Contract should be calculated by reference to the following (where one or more apply use the higher value):-

14.2.1. for fixed term Contracts the total price expected to be paid during the whole of the Contract period, including possible extensions.

14.2.2. where the Contract period is uncertain, multiply the price expected to be paid each month by 48 (where the value exceeds the FTS Threshold, other rules apply and you should seek advice from Legal Services);

14.2.3. if the Contract involves a series of separate transactions for the same type of item, the total value of the Contract is the expected aggregate value of all those transactions in the coming 12 months.

14.2.4. for feasibility studies, when the Contractor may potentially also carry out the work, it is the value of the scheme or Contract which may be awarded as a result.

14.3. Contracts must not be artificially separated so as to circumvent the application of any part of CSOs or UK Regulations.

14.4. Subject to CSO 14.5 the estimated total Contract value must exclude Value Added Tax (VAT) but must include all other taxes and duties.

14.5. The estimated total Contract value for Contracts at threshold 5 and above must include Value Added Tax (VAT) and all other taxes and duties.

~~14.4.~~ 14.6. The suggested, but not prescriptive, default for calculating VAT is to add an equal amount to the standard rate of VAT (currently 20%) to the contract estimation net amount. This would remove any problems of underestimating the contract value.



## **15. Approval**

- 15.1. Before commencing on a formal procurement process at Threshold 2 or above, approval must be sought from the Corporate Procurement Board ('CPB').
- 15.2. To seek approval a Procurement Activity Request (Appendix B) form must be completed and submitted to the CPB for approval to proceed.
- 15.3. Where the Contract value is above the FTS Threshold for goods and services (Threshold 5) approval must also be obtained from the relevant Committee.
- 15.4. Where the final contract award is greater than the value approved by the CPB, the award must be approved by the CPB.

## FINANCIAL THRESHOLDS

### 16. Financial Thresholds and Minimum Procurement Requirements

There are 5 financial Thresholds that determine the minimum procurement process to be followed, detailed below and summarised in **Table 1**.

#### 16.1. Threshold 1 – Below £5,000

- 16.1.1. A minimum of 1 written quote must be sought, this is only a required minimum and best practices dictates that multiple quotes be sought to prove value for money.
- 16.1.2. Quotes can be sourced via In-tend or e-mail.
- 16.1.3. Local suppliers should be asked to quote where appropriate.
- 16.1.4. Approval required from relevant SLT member
- 16.1.5. An official purchase order may constitute the Contract [if appropriate](#)

#### 16.2. Threshold 2 – From £5,000 - £24,999

- 16.2.1. A minimum of 3 quotes must be sought.
- 16.2.2. All quotes must be obtained via In-tend.
- 16.2.3. CPB must approve the route to market.
- 16.2.4. An official purchase order may constitute the Contract
- 16.2.5. A Contract must be signed by an approved Contract signatory

#### 16.3. Threshold 3 - £25,000 - £99,999

- 16.3.1. A minimum of 3 quotes or tenders must be sought.
- 16.3.2. The decision whether to use Request for Quote or a Tender is dependent on the complexity of the requirement. As a rule, a RFQ is to be used for Goods and a Tender for Services.
- 16.3.3. All opportunities must be published on In-tend and Contracts Finder.
- 16.3.4. For Works related Contracts Constructionline can be used to select a closed shortlist of suitable Contractors. If selecting from a Closed Group of suppliers there is no requirement to advertise on Contracts Finder
- 16.3.5. CPB must approve the route to market.
- 16.3.6. The Contract must be signed by an approved Contract signatory

#### 16.4. Threshold 4 - £100,000 – FTS Threshold (previously EU)

- 16.4.1. A minimum of 4 tenders must be sought.
- 16.4.2. The Invitation to Tender process must be followed.
- 16.4.3. All opportunities must be published on In-tend and Contracts Finder.
- 16.4.4. For Works related Contracts Constructionline can be used to select a closed shortlist of suitable Contractors. If selecting from a 'Closed' group of suppliers there is no requirement to advertise on Contracts Finder.
- 16.4.5. CPB must approve the route to market
- 16.4.6. The Contract must be signed by an approved Contract signatory

#### 16.5. Threshold 5 - Over FTS Threshold (currently [£189,330,213,477](#) and [£4,733,2525,336,937](#) for Works)

- 16.5.1. A minimum of 5 suppliers must be invited to tender
- 16.5.2. All tenders must be advertised on In-tend and Contracts Finder.
- 16.5.3. The opportunity must also be published on FTS.
- 16.5.4. One of the four prescribed routes (Open, Restricted, Competitive Dialogue or Competitive Procedure with Negotiation) must be used.
- 16.5.5. Relevant Committee and CPB must approve the route to market.
- 16.5.6. The Contract must be signed by an approved Contract signatory

#### 16.6. Contracts Sourced via a Framework

- 16.6.1. The above Thresholds also apply where a Contract is sourced via a Framework or Dynamic Purchasing System, but there are key differences relating to the minimum number of quotes/tenders that must be sought. Refer to **CSO 18**.

**TABLE 1.**  
**Procurement Thresholds and Contract Award Procedure Summary**

The table sets out the general rules applying to the choice of procedure for Contracts at the stated financial values:

Aggregate Value	£0 - £4,999	£5,000 - £24,999	£25,000 - £99,999	£100,000 - FTS Threshold*	Above FTS Threshold	Additional / Different Requirement if Procured via a Framework	
						Below FTS Threshold	Above FTS Threshold
Threshold	1	2	3	4	5	2-4	5
Procedure	Quote	Quote	Open (or Closed*)	Open (or Closed*)	Open, Restricted, CD, CPN,	Framework	Framework
Process	RFQ or email	RFQ	RFQ or Tender	Tender	Tender	Direct Award or Mini Competition or Direct Award	Direct Award or Mini Competition or Direct Award
Minimum No. of quotes / tenders that must be sought	1	3	3	4	5	As per specific Framework rules	As per specific Framework rules
In-tend - Advert	No	Yes	Yes	Yes	Yes	No	No
Contracts Finder - Advert	No	No	Yes	Yes	Yes	No	No
Contracts Finder - Award Notice	No	No	Yes	Yes	Yes	Yes	Yes
FTS	No	No	No	No	Yes	No	No
Approval	SLT Member	CPB	CPB	CPB	Relevant Committee	CPB	Relevant Committee
Required Contract Type (unless otherwise advised by the Legal Team)	PO with standard TDC T&C	PO with standard TDC T&C	TDC contract (Works = JCT*)	TDC contract (Works = JCT*)	TDC contract (Works = JCT*)	Framework Call off	Framework Call off
Contract Award	Delegated Officer	Head of Service	Head of Service	Head of Service	Committee	Head of Service	Committee
Contract signed by	Approved Signatory	Approved signatory	Approved signatory	Approved signatory	Approved signatory	Approved signatory	Approved signatory

Aggregate Value	Additional / Different Requirement if Procured via a Framework						
	£0 - £4,999	£5,000 - £24,999	£25,000 - £99,999	£100,000 - FTS Threshold*	Above FTS Threshold	Below FTS Threshold	Above FTS Threshold
Threshold	1	2	3	4	5	2-4	5
Procedure	Quote	Quote	Open (or Closed*)	Open (or Closed*)	Open, Restricted, CD, CPN,	Framework	Framework
Process	RFQ or email	RFQ	RFQ or Tender	Tender	Tender	Direct Award or Mini Competition or Direct Award	Direct Award or Mini Competition or Direct Award
Minimum No. of quotes / tenders that must be sought	1	3	3	4	5	As per specific Framework rules	As per specific Framework rules
In-tend - Advert	No	Yes	Yes	Yes	Yes	No	No
Contracts Finder - Advert	No	No	Yes	Yes	Yes	No	No
Contracts Finder - Award Notice	No	No	Yes	Yes	Yes	Yes	Yes
FTS	No	No	No	No	Yes	No	No
Approval	SLT Member	CPB	CPB	CPB	Relevant Committee	CPB	Relevant Committee
Required Contract Type	PO with standard TDC T&C	PO with standard TDC T&C	TDC contract (Works = JCT*)	TDC contract (Works = JCT*)	TDC contract (Works = JCT*)	Framework Call off	Framework Call off
Contract Award	Delegated Officer	Head of Service	Head of Service	Head of Service	Committee	Head of Service	Committee
Contract signed by	PO	Approved signatory	Approved signatory	Approved signatory	Approved signatory	Approved signatory	Approved signatory

#### For below FTS (previously EU) Threshold procurements (£5k - £213,477,489k)

- Minimum of three quotes or tenders sought (can be Closed, Restricted or Open)
- For Works related projects Constructionline can be used to select shortlist of suitable Contractors
- If selecting from a 'Closed' group of suppliers (whether on Framework or not) there is no requirement to advertise on Contracts Finder
- An Open tender (above £25k) must be advertised on Contracts finder.
- All Contract awards above £25k must be published on Contracts Finder regardless of whether the opportunity was advertised\*or not.

\*FTS – refers to the FTS Thresholds detailed in 16.7 below.

\*JCT – refers to the Joint Contracts Tribunal suite of construction related Contracts

\*Closed – refers to the use of a selected shortlist of suppliers e.g. a Constructionline shortlist

#### 16.7. FTS Thresholds as of January 2021

Table 2

Supplies	Services	Works	Concession Contracts	Light Touch Regime
£189,330,213,477	£189,330,213,477	£4,733,255,336,937	£4,733,252,336,937	£663,540

FTS thresholds are inclusive of VAT.

The financial Thresholds are updated every 2 years.

## PROCEDURAL STEPS OF PROCUREMENT

### 17. Procurement Procedures Overview

#### 17.1. General

- 17.1.1. The Council may apply any procedure that conforms to the UK Regulations in its procurement process.
- 17.1.2. Subject to CSO 4 (Exceptions and Waivers) the appropriate process set out in Table 1 must be followed for each procurement determined by the estimated value of that Contract.
- 17.1.3. Invitations to Tender or Requests for Quotations must be issued electronically (via email for Threshold 1 and via the Council's e-tendering portal for Threshold 2 and over).
- 17.1.4. All tenders or quotations must be returned to the Council electronically (via email for Threshold 1 and via the Council's e-tendering portal for all procurements at Threshold 2 or over).
- 17.1.5. A **Procurement Activity Request** must be completed and stored on e-tendering portal for each tender or quotation within or exceeding Threshold 2

#### 17.2. Below FTS Threshold (Thresholds 1-4) - There are 3 available procurement routes:

- Framework; Invitation to Mini Competition or Direct Award (CSO 18)
- Request for Quote – (CSO 19) -£5k - £100k
- Open Procedure (CSO20) -over £25k

#### 17.3. Above FTS Threshold (Threshold 5) - There are 5 available Procurement Procedures

- Framework; Invitation to Mini Competition or Direct Award (CSO 15)
- Open (CSO20)
- Restricted (CSO21)
- Competitive Dialogue (CSO22)
- Competitive Procedure with Negotiation (CSO23)
- Light Touch Regime (CSO 24)

### 18. Frameworks and Dynamic Purchasing Systems (DPS)

18.1. A Framework Agreement is a Contract that has been officially tendered for by another local authority, public sector organisation, Purchasing Consortium, or central Government.

18.2. A Dynamic Purchasing System is a fully electronic open Framework.

18.3. The Council encourages the use of Framework Agreements as it obviates the need for the Council to undertake a full tender process reducing timescales and the resource burden of procurement activity.

18.4. Contracts based on Framework Agreements must always be awarded in accordance with the rules set out within the Framework Agreement documentation. This may be either by:

- 18.4.1. undertaking a 'direct call-off' from the Framework Agreement, where the terms are sufficiently precise to cover the particular call-off requirements without re-opening competition and a Contract can be award directly to a Framework Supplier; or
- 18.4.2. By holding a 'further competition' in accordance with the rules set out in the framework, where the requirements are provided to the Framework Suppliers in the relevant lot of the framework, and the Framework Suppliers provide their responses and price in return.
- 18.4.3. If both options are available 'further competition' should be used.

18.5. In-tend must be used to run a Mini-Competitions.

18.6. Procuring Officers must ensure they are fully conversant with the rules, stipulations and eligibility of the Council to use the framework, as stated within the Framework Agreement. Failure to comply with the rules of a Framework Agreement could result in the Council being found in breach of the Regulations. If these rules are not sufficiently detailed for the Procuring Officer to be assured of the eligibility and requisite process, the Procuring Officer must engage with [the Procurement Specialist](#) to seek advice on the validity of the Framework Agreement.

~~18.6-~~18.7. [Utility procurement: Due to the volatility of the energy market, prices of water, diesel, electricity, gas, oil and petroleum fluctuate on a daily basis and the sums quoted by central purchasing bodies in this sector require immediate acceptance. In order to achieve the Best Value for the Council all decisions relating to energy procurement including award and/or the variation of contracts may be approved jointly by the Head of Finance and Executive Head of Communities. All decisions relating to the award of or variation of energy related contracts will be reported to the CPB for information purposes only.](#)

## **19. Request for Quotation (RFQ)**

- 19.1. This procedure only applies for procurement ~~below~~ at Threshold 4 or below, where suppliers are requested to submit a quote for the requirements.
- 19.2. This process is simpler and shorter than the Invitation to Tender process reflecting a less complex requirement.
- 19.3. The decision whether to use Request for Quote or a Tender is dependent on the complexity of the requirement. As a rule, a RFQ is to be used:
  - for the procurement of Goods or Works rather than Services
  - Where Price is the only evaluation criteria
- 19.4. The RFQ must include;
  - A description of the works, goods or services being procured
  - A specification indicating the outcome required
  - Standard TDC Terms and Conditions
  - The evaluation criteria including any weightings
  - The Cost (pricing) mechanism and instructions for completing the tender sum response
  - The Quality and Service requirements and associated response form if applicable
  - The form and content of any method statements to be provided of applicable
- 19.5. RFQs may be published to a Closed Group of suppliers where it can be established that the Open Procedure will attract too many responses to be adequately evaluated and responded to.
- 19.6. A minimum of 3 suppliers must be asked to provide a quotation.
- 19.7. Suppliers should be selected in line with CSO13.
- 19.8. Quotations must be submitted via in-tend if over £5k.

## **20. Open Procedure (ITT)**

- 20.1. This is a single stage process where all suppliers expressing an interest are invited to respond to an ITT. A pre-qualification stage is not permitted where the Contract value is below the FTS Threshold for Goods or Services. This procedure shall apply where:
  - the value of the Contract award will be below the FTS Threshold;
  - the value of the Contract award will be above the FTS Threshold and the Council has decided that a single stage tender is appropriate.
- 20.2. The ITT must include:
  - A description of the works, goods or services being procured
  - A specification indicating the outcome required
  - Terms and conditions of Contract
  - The evaluation criteria including any weightings
  - The Cost (pricing) mechanism and instructions for completing the tender sum response
  - The Quality and Service requirements and associated response form
  - Where there is a potential transfer of employees, the Council's view on whether TUPE will apply
  - The form and content of any method statements to be provided
- 20.3. For Works related Contracts where it can be demonstrated that the response to an open advertisement would generate such a large number of responses that the time spent in evaluating such tenders would be disproportionate to the value of the Contract Constructionline can be used to select a Closed Group of suppliers to be invited to submit tenders for below FTS Threshold Contracts.

## 21. Restricted Procedure (PQQ and ITT)

- 21.1. This procedure can only apply where the value of the Contract award will be above the FTS Threshold.
- 21.2. **Stage 1 – Pre-qualification**
  - 21.2.1. Suppliers respond to a Contract opportunity by submitting a Selection Questionnaire (“SQ”). This is used to establish their capability, experience and suitability.
  - 21.2.2. For any Works Contracts the national standard PQQ [PAS91 2013] must be used if you are following a restricted procedure. There is limited scope to amend this PQQ template. The PQQ can be found in the procurement toolkit.
  - 21.2.3. Upon receipt of the completed SQ the information will be evaluated.
  - 21.2.4. A minimum of 5 qualifying suppliers to be shortlisted for the next stage.
- 21.3. **Stage 2 – Invitation to Tender**
  - 21.3.1. Invitation to Tender documents published to the shortlisted suppliers from stage 1.
  - 21.3.2. If fewer than the required minimum number of suppliers either meet the minimum qualification requirements or express an interest, the CPB must be consulted to agree whether to seek additional tenderers.

## 22. Competitive Dialogue (Multi stage)

- 22.1. This procedure can only apply where the value of the Contract award will be above the FTS Threshold.
- 22.2. This method is used usually where the requirement is very complex and where specifications or outcomes of a solution have not yet been clearly defined. This will usually involve an initial shortlisting followed by an Invitation to Participate in Dialogue whereby initial proposals are made proceeding to various stages of dialogue to determine the final solution.
- 22.3. This is an extremely complex process and should not be undertaken without the prior approval of the CPB.

## 23. Competitive Procedure with Negotiation (Multi stage)

- 23.1. This procedure can only apply where the value of the Contract award will be above the FTS Threshold
- 23.2. This is a method which is used where the requirement requires design or innovation solutions which cannot be readily identified through market engagement, or dialogue is required to determine with sufficient precision the final legal and financial make up, but that minimum requirements and objectives can be identified prior to procurement. The process normally involves shortlisting of bidders who respond most robustly to the minimum requirements and objectives and then final negotiations are held on certain elements;
- 23.3. The competitive with negotiation procedure allows award following the initial ITT stage before negotiations have commenced providing this is stipulated in the tender documentation.
- 23.4. This is an extremely complex process and should not be undertaken without the prior approval of the CPB.

## 24. Light Touch Regime

- 24.1. This procedure can only apply where the value of the Contract award will be above the FTS Threshold
- 24.2. The Light Touch Regime (LTR) covers Health, Education and Social Care Contracts. As with all procurements, the process undertaken to award the Contract must be fair, open and provide for equal treatment.
- 24.3. This process should not be undertaken without the prior approval of the CPB.

## 25. Concession Contracts

- 25.1. Concession Contracts are governed by the Concession Contracts Regulations 2016 and not Contract UK Regulations.
- 25.2. They relate to the granting of a right to a third party to provide a service or an asset and transferring the opportunity to that third party to exploit the market and retain any profit it makes.
- 25.3. The granting of such Contracts should not be undertaken without the prior approval of the CPB.

## General

### 26. Opening of Quotations and Tenders

- 26.1. All quotes and tenders (over Threshold 1) must be submitted electronically via the SE Shared Services portal.
- 26.2. All quotes and tenders must remain locked until the specified return date.
- 26.3. Any quotation or tender received after the specified date and time will be rejected.
- 26.4. In-Tend allows for all bids to be opened and recorded within the system alleviating the need to employ a bid opening committee to sign and witness the opening of bids. For the avoidance of doubt, the Procuring Officer running the procurement exercise can proceed to open the bids using the electronic opening ceremony independently.
- 26.5. The confidentiality of quotations, tenders and the identity of contractors must be preserved at all times and the information about one contractor's response must not be given to another contractor.

### 27. Supplier Assessment

- 27.1. No assessment of a suppliers financial standing is needed for Contracts estimated to be within Thresholds 1 or 2 unless the goods being purchased are a proprietary item, in which case a financial assessment must be conducted.
- 27.2. A financial assessment of potential suppliers must be undertaken for all Contracts estimated to be within or above Threshold 3
- 27.3. An assessment will be made of a Supplier's:
  - 27.3.1. financial stability and resources;
  - 27.3.2. insurances;
  - 27.3.3. technical and other relevant references;
  - 27.3.4. business continuity plans;
  - 27.3.5. qualifications and experience;
  - 27.3.6. environmental, ethical and employment policies;
  - 27.3.7. previous experiences.
- 27.4. A supplier that does not meet the Council's minimum requirements will not be accepted.

### 28. Evaluation of Quotations and Tenders

- 28.1. Quotations or Tenders will be evaluated strictly in accordance with the evaluation criteria published in advance. The available options are:
  - 28.1.1. Price only - accept the offer from the Contractor who, having satisfied the council's minimum requirements, has offered the lowest price.
  - 28.1.2. Price / Quality – where a price quality split is stipulated, the supplier who ranks highest over-all shall be awarded the Contract, this is otherwise known as the Most Economically Advantageous Tender (M.E.A.T).
  - 28.1.3. Where the most economically advantageous tender is to be sought, an assessment criteria and associated weightings will be specified in the ITT.
  - 28.1.4. The Procuring Officer must ensure that evaluation of tenders takes place involving suitably experienced officers to form "the evaluation panel". The results of the evaluation must reflect the consensus of the panel and be approved by the CPB.

#### 28.2. Abnormally low Tenders (ALTs)

There is no definition in the Regulations of an abnormally low tender, but in practice, it will be identified where the tenderer's price is significantly lower than other tenderers. Where such a tendered price is received an explanation from the tenderer must first be sought. Where the evidence does not provide a satisfactory explanation, the tender can be rejected.



## 29. Contract Award Notice

- 29.1. Award notification letters must include the following debriefing information, and no additional details should be given without taking the advice of Procurement:
- How the award criteria were applied;
  - The name of the successful Tenderer(s);
  - The score/price of the Tenderer, together with the score/price of the successful Tenderer;
  - Details of the reason for the decision, including the characteristics and relative advantages of the successful Tender; and
  - Confirmation of the date before which the Council will not enter into the Contract (i.e. the date after the end of the 'standstill period')
- 29.2. For all Contracts with a value exceeding the FTS Threshold a 10 stand-still period will apply, in compliance with PCR 2015 regulations.
- 29.3. If a decision is challenged by an unsuccessful Tenderer, after the issue of an award notification letter, the Procuring Officer must not award the Contract but immediately inform the relevant Chief Officer and the Procurement Officer and seek the advice of the Head of Legal [Services and Monitoring Officer](#).

## 30. Commencement of Work

- 30.1. No supply of work, supplies or services is to commence until a Contract is in place.
- 30.2. Proposed payment arrangements under a Contract must be discussed and agreed by the Chief Finance Officer in advance of any Contract being entered into. However, the Chief Finance Officer may issue guidance on approved payment arrangements.

## CONTRACTS

### 31. Contract Sign Off and Sealing

31.1. A Contract can only be signed by one of the following:

- Chief Executive
- ~~Strategic Director of Resources~~
- Section 151 Officer
- Head of Legal [Services](#) and Monitoring Officer
- Legal Specialist

31.2. A Contract should normally be sealed where:

- the Council may wish to enforce the Contract more than six years after its end;
- the price paid or received under the Contract is a nominal price and does not reflect the value of the goods or services;
- where there is any doubt about the authority of the person signing for the other Contracting party;
- some Contracts with a value at or below Threshold 3;
- all Contracts above Threshold 3

Legal advice should be sought as to whether a Contract should be sealed. [Contracts may be sealed electronically where advised accordingly by the Legal Team.](#)

31.2 ~~All contracts must be signed by the Council before the contract provisions begin. Where there is the~~ hard copy contract documentation, along with confirmation of authority to enter into the contract (including any delegated urgent decision record, where appropriate) ~~this~~ must ~~therefore~~ be passed to the legal team for signing as soon as possible.

31.3 Where a Contract is to be signed underhand, electronic signatures may not be used where statute imposes a requirement for the document to be in writing with an original signature. Advice should be sought from the Head of Legal [Services and Monitoring Officer](#) where there is uncertainty. Examples include property transactions, transfer of securities, assignments of copyright etc.

31.4 Once the ~~hard copy~~ contract documentation has been signed and dated (completed), the officer must pass the documentation to the [Legal Team](#) and to the Procurement Specialist. The [Legal Team](#) will arrange for ~~the hard copy~~ documentation to be stored in the Council's strong room, in accordance with the Council's document retention policy. [Soft copy contracts will be stored in the Legal Team's document management system and a copy will be provided to the eOfficer.](#)

31.5 [The Legal team should be consulted on all proposed contractual arrangements. A simple contract that on the face of it appears to have no financial cost to the Council may still have financial implications or need careful consideration as to the risks involved in entering into it.](#)

31.6 [Every contract that the Council enters into must have a demonstrable governance audit trail. No contract may be entered into without it first being established that there is appropriate governance in place. Please contact Legal Team for guidance if required.](#)

31.7 [Except in exceptional circumstances with the prior written approval of the CPB all Contracts must be signed or sealed before their commencement.](#)

### 32. Contract Conditions / Form of Contract

All Contracts should be in writing ~~Contract~~ and on terms and conditions (including any provision for liquidated damages) as may be determined by the Head of Legal [Services and Monitoring Officer](#). [Standard contract clauses as detailed in this section 32 shall be used in all contracts, except where Officers consider that such clauses are not appropriate for the contract being considered. In these circumstances, Officers shall seek legal advice on appropriate contract clauses from the Legal Team.](#)

32.1. [The following clause \(or suitable alternative drafted by the Council's Legal Team\) shall be put in every written Council contract:](#)

“The Council may terminate this contract and recover all its loss if the Contractor, its employees or anyone on the Contractor’s behalf (whether with or without the knowledge of the Contractor) does any of the following:

- i. Offers, gives or agrees to give to anyone, any inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the Contract or any other Contract with the Council or for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other Contract with the Council (even if the Contractor does not know what has been done); or
- ii. Commit an offence under the Bribery Act 2010 or Section 117 (2) of the Local Government Act 1972 and/or the Contractor has committed an act which is an offence under the Enterprise Act 2002;
- iii. Commit any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, contractors or employees
- iv. Any clause limiting the Contractor’s liability shall not apply to this clause.”

~~32.1. There shall be inserted in every such written Contract a clause empowering the Council to terminate the Contract and to recover from the Contractor the amount of any loss resulting from such termination, if:~~

- ~~32.1.1. the Contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the Contract or any other Contract with the Council or for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other Contract with the Council; or~~
- ~~32.1.2. the like acts shall have been done by any person employed by them or acting on their behalf (whether with or without the knowledge of the Contractor), or~~
- ~~32.1.3. in relation to any Contract with the Council, the Contractor or any person employed by them or acting on their behalf shall have committed any offence under the Bribery Act 2010 or shall have given any fee or reward, the receipt of which is an offence under Section 117 (2) of the Local Government Act 1972.~~

32.2. All Contracts shall:

- 32.2.1. specify the goods, materials or services to be supplied and/or works to be undertaken, price to be paid, payment terms and conditions, details of any discounts or penalties, the period of the Contract and any other terms and conditions that may be agreed;
- 32.2.2. provide for the payment of liquidated damages where they are appropriate;
- 32.2.3. contain details of any security that is required by the council; and
- 32.2.4. prohibit the Contractor from sub-Contracting or assigning all or any part of the Contract without the express consent of the council.
- ~~32.2.5. Except in exceptional circumstances with the prior written approval of the CPB all Contracts must be signed or sealed before their commencement.~~
- ~~32.2.5. Every Contract shall~~ require compliance with current legislation with respect to health and safety at work and with all statutory requirements under the Equality Act 2010.
- 32.2.6. ~~S~~shall make provision for the Council’s obligations under Freedom of Information and Data Protection legislation.

### **32.3. Bonds and Parent Company Guarantees**

32.4.1 Procurement Officers must consult with Procurement Specialist about whether a Parent Company Guarantee or Bond is necessary when a company is:

- a subsidiary of a parent company; and
- the Total Value exceeds £50,000, or
- award is based on evaluation of the parent company, or
- there is concern about the financial stability of the Candidate.

32.4.2 Where the Contract value exceeds £1,000,000 CPB will consider whether it is appropriate to provide for performance bonds. The amount for each performance bond will be approved by the Chief Finance Officer. The bond will be in a form that is acceptable to the Chief Finance Officer and the Head of Legal Services and Monitoring Officer.

### 32.5 **Corruption, bankruptcy and cancellation**

- 32.5.1 Every Contract must state that the Council may cancel the Contract and recover any resulting losses if the supplier, his employees or anyone acting on his behalf, with or without his knowledge, does anything improper to influence the Council or commits an offence under Bribery Act 2010.
- 32.5.2 Every Contract must state that if the supplier enters into liquidation or administration, the Council is entitled to cancel the Contract and recover any resulting losses.
- 32.5.3 A non-collusive tendering certificate is to be included with all tender documentation which must be signed by Tenderers and included with their Tender.

### 32.6 **Consultants**

- 32.6.1 Any Consultant employed by the Council to let or manage Contracts must comply with these CSOs. The Contract with any Consultant must provide that all records maintained by the Consultant in relation to a Contract must be made available to the Council on request and handed over to the Council on completion of the procurement.

### 32.7 **Insurance**

- 32.7.1 The Procuring Officer must consider the Council's need for appropriate indemnities backed by insurance. In the case of a Contract for works or services, the Contract must require the supplier to carry Public Liability insurance to a minimum of £10m unless otherwise agreed by the Chief Finance Officer.
- 32.7.2 In the case of a Contract for professional services, the Contract must require the supplier to carry Professional Indemnity insurance to a minimum of £5m unless otherwise agreed by the Chief Finance Officer.
- 32.7.3 For all Contracts there must be a requirement for the supplier to carry Employers Liability insurance to a minimum of £10m [unless otherwise agreed by the Chief Finance Officer](#).

**Table 3  
Insurance Requirements**

Type of Insurance	Minimum Value
Public Liability	£10m
Professional Indemnity	£5m
Employers Liability	£10m

## 33. Contract Management

33.1. For all Contracts with a value at Threshold 4 or above a Contract Manager must be appointed. Where reasonably practicable, the Contract Manager should be part of the initial procurement process. The Procuring Officer must notify the name of the Contract Manager to the supplier prior to letting of the Contract.

33.2. The role of the Contract Manager will be to manage the Contract throughout its duration, as well as enforce duties owed to the Council under Contract and to be responsible on behalf of the Council for those duties owed to the Contractor.

33.2-33.3. [The Contract Manager must check that services, goods and works have been delivered to the required standard before goods are 'receipted' and invoices approved. Officers checking and approving invoices must ensure invoices are in line with agreed Contracts and should challenge suppliers and contractors where necessary before any payments are made and ensure that any penalties or rebates are claimed.](#)

33.3-33.4. The responsibilities of the Contract Manager will include:

- [undertake appropriate risk assessments that have considered service continuity, health and safety, fraud and information management risks](#)

- maintain a risk register during the contract period
- ensure appropriate contingency measures are in place for identified risks
- formally review monthly and regularly monitor and report to the Procurement Specialist on: a Contractor's performance against the agreed level of service; the regularity of meetings held with the contractor; compliance with specification and contract costs and identifying as early as possible any potential over-spends and any Best Value requirements
- ~~monitoring performance of the supplier against the agreed level of service~~
- monitoring the continuing level of operational and financial risk to which the Council is exposed and to institute controls as appropriate
- ~~ensuring the supplier's compliance with all appropriate health and safety obligations~~
- facilitating the resolution of issues between the supplier and users of the service
- ensuring prompt payment of invoices and compliance with all financial regulations and CSOs during the lifetime of the Contract
- ensuring that appropriate arrangements are made for the termination or re-letting of the Contract at the appropriate time.

### **33.4.33.5. Variations.**

33.4.1.33.5.1. Where the relevant Contract Manager considers an existing Contract needs to be varied (i.e. practical changes which do not alter the essential nature of the original Contract as opposed to additional works or supplies not originally envisaged) he or she may approve these subject to the proposed variation being contained within the total budget approved for the Contract. The reasons for and details of any such variation must be recorded and stored with the Contract.

33.4.2.33.5.2. Where the approved budget would be exceeded because of the variation, approval for any such variation must be sought from the CPB.

### **33.5.33.6. Contract Termination**

33.5.1.33.6.1. Contracts may be terminated, by the relevant Head of Service, by agreement prior to the expiry date or in accordance with the Termination Provisions set out in the Contract. Advice must be sought from the Head of Legal Services and Monitoring Officer.

### **33.6.33.7. Contract Extension**

33.6.1.33.7.1. Any Contract that expressly provides for extension may be extended in accordance with its terms provided that the CPB are satisfied that Value For Money will be achieved, and the extension is reasonable in all the relevant circumstances.

33.6.2.33.7.2. Where the Contract does not make provision for the extension of the Contract, the CPB shall not extend the Contract, unless legal advice has been sought from the Head of Legal Services and Monitoring Officer at the earliest opportunity.

33.6.3.33.7.3. For the purposes of CSO 33.67.1 an extension of a Contract includes the option to increase the amount of supplies, services or works as well as the option to lengthen the duration of the Contract.

## **34. Contracts Register**

- 34.1. Under Government Transparency Law the Council must publish and maintain details of all "live" Contracts over £5,000. In order to achieve this requirement, Procurement will add details of all Contracts to the e-procurement systems Contract Register.
- 34.2. The e-procurement systems Contract Register allows for private documents to be stored. Procurement will add an electronic copy of the final signed / sealed Contract and any relevant documents. This will be accessible to Council officers linked to the procurement.
- 34.3. All original sealed deed Contract documents must be held centrally by Legal Services Team for the term of the Contract (including any agreed extension periods), plus the statutory limitation period (12 years for sealed deeds). They must be referenced back to the Central Register.
- 34.4. Contract Managers are responsible for ensuring that:

- the original signed/sealed copies of the Contract and any subsequent signed variations, have been stored as set out in 34.2 and 34.3;
- summary details of any Contract that has been entered into, that binds the Council to the terms and conditions of the Contract plus a pdf copy of the signed / sealed Contract is provided to Procurement to be entered on the Contracts Register administered by Procurement;
- Procurement will maintain the online Contracts Register (via the electronic procurement system) to ensure the Council complies with the obligations of the Local Government Transparency Code (2015).

34.5 The Contract information that shall be entered into the register is as follows:

- the date of the award of Contract;
- the name and address of the Contractor;
- a description of the purpose of the Contract;
- the duration of the Contract;
- the estimated value of the Contract including any extensions available;
- the start date;
- the end date for the Contract, or the circumstances in which the Contract will end;
- the duration of the potential extension periods to the Contract; and
- any other information relating to the Contract which Procurement considers to be material.

### **35. Purchasing Cards**

- 35.1. The Council operates a purchase card facility; these are available, with the approval of the Head of Service and finance.
- 35.2. Purchase cards are to be used for low value or one-off incidental spend where it is not efficient to add the suppliers to the finance management system
- 35.3. Purchase cards must not be used to bypass corporate Contracts without the express permission of Procurement.
- 35.4. The principle of disaggregation applies to spend on purchase cards both in relation to the individual and the Council as a whole.

## DEFINITIONS

<b>Authorised Signatory List</b>	The list of officers authorised to make financial transactions. Head of Service approval is required before an officer may be included in the list.
<b>Award Criteria</b>	The criteria on which the award of a Contract is based following an evaluation of Contract tenders in a procurement procedure. Award criteria must be focused on the tender and not the tenderer (which will already have been assessed at the pre-qualification stage against the relevant Selection Criteria).
<b>Closed Group</b>	Refers to the use of a selected shortlist of suppliers eg a Constructionline shortlist. PCR 2015 Regulation 110 states 'a contracting authority does not advertise an opportunity where it makes the opportunity available only to a number of particular economic operators who have been selected for that purpose (whether ad hoc or by virtue of their membership of some closed category such as a framework agreement), regardless of how it draws the opportunity to the attention of those economic operators'
<b>Call-off Contracts</b>	This term is used to describe a Contract that is entered into for a specified period but where the total value and quantity of items ordered cannot be quantified at the outset. An example might be a Contract for the supply of office stationery. Prices are specified for the duration of the Contract, subject as necessary to fluctuation according to agreed formulae.
<b>Chief Officer(s)</b>	The Officers defined as such in the Constitution.
<b>Concession Contracts</b>	As defined by the Concession Contracts Regulations 2016; Contracts for pecuniary interest concluded in writing between a Contracting authority/utility) and an economic operator/(s) Where the consideration (or "payment") is either: <ul style="list-style-type: none"> <li>• Simply that the Contractor has the right to exploit (that is, to profit from) the works/services that are the subject of the Contract.</li> <li>• Where the Contractor has that right together with some payment from the Contracting authority/utility.</li> </ul>
<b>Constructionline</b>	A national register of pre-qualified local and national construction and construction related Contractors and Consultants. The Council uses this register as its selection method for construction related Contracts.
<b>Consultant(s)</b>	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, and where the Council has no ready access to employees with skills, experience or capacity to undertake the work
<b>Contract</b>	In this context, means <ul style="list-style-type: none"> <li>(i) an agreement between parties for the supply of goods or services or the execution of works.</li> <li>(ii) any Framework Agreement;</li> <li>(iii) any agreement where no payment is made by the Council, but which is of financial value to the Contractor (e.g. a concession); but does not include (without exception): <ul style="list-style-type: none"> <li>• an employment Contract; or</li> <li>• a Grant Agreement.</li> </ul> </li> </ul>
<b>Contract Value</b>	All references to Contract values refer to the estimated value unless otherwise specified. The estimated value is calculated over the entire period of the Contract, including the period of any possible extensions to the term of the Contract. Where the term of the Contract is not known, a term of 4 years must be assumed and applied when calculating the Contract value. The calculation of the value must be assessed exclusive of Value Added Tax.
<b>Contracts Finder</b>	A central website maintained by Government on which public

	sector tender opportunities above advertised by the Council are required to be advertised.
<b>Contracts Manager</b>	Those Officers authorised to carry out the day to day activities required to manage a Contract.
<b>Contracts Register</b>	The electronic register hosted on In-tend that must be populated, with key information about Contracts, for all Contracts awarded as required by these procedures
<b>Corporate Management Team</b>	The Corporate Management Team is the meeting of the Executive Director and Directors, which is advised by Heads of Service and other Officers as appropriate.
<b>Corporate Procurement Board / CPB</b>	This is a board made up of members of the Corporate Management Team and acts as the governance board for the Council's procurement activity. Their role is: <ul style="list-style-type: none"> <li>• To challenge all spend and procurement activity</li> <li>• To ensure compliance with CSOs</li> <li>• To support the development of a consistent and coherent approach to procurement</li> <li>• Develop and sponsor a procurement strategy and procurement work plan</li> <li>• To take collective responsibility for driving forward best practice for procurement.</li> <li>• Ultimately to approve all procurement expenditure over £5k</li> </ul>
<b>Council</b>	For the purposes of these CSOs, "Council" refers to Tandridge District Council
<b>Deed</b>	A signed and sealed Contract document.
<b>Disaggregation</b>	Deliberately splitting down purchases or Contracts to avoid having to undertake a full competitive exercise.
<b>Dynamic Purchasing System (DPS)</b>	A fully electronic compliant 'Approved List', which in effect operates as an open framework where economic operators can join at any point while the DPS is open, and they meet the Suitability Criteria
<b>Electronic Tendering</b>	A secure means to store and transmit all Procurement Documentation via a secure electronic vault.
<b>Estimated Total Contract Value</b>	The estimated value of a procurement as defined in CSO 14
<b>EU Directives</b>	As of January 2021 no longer applicable. Replaced by to 'PCR 2015 (as amended)'
<b>EU Threshold / OJEU Threshold(s)</b>	As of January 2021 no longer applicable.  Thresholds are contained in to 'PCR 2015 (as amended)' The Estimated Total Contract Value at which 'PCR 2015 (as amended)' apply for the category of spend, i.e. Goods, Services and Works.
<b>Evaluation Criteria</b>	Detailed assessment and comparisons of each Bid against the Evaluation Criteria verifying how Bidders will meet the requirements of the Contract; measured against quality and/or price criteria
<b>Financial Regulations</b>	This refers to the set of rules that govern the way the council's finances are administered and controlled. They are maintained by the Section 151 Officer.
<b>Find a Tender Service (FTS)</b>	A new UK e-notification service "Find a Tender" (FTS) replaces OJEU as the means of publication of official procurement notices under the UK Procurement Regulations from 1 January 2021.
<b>Framework Agreement</b>	An agreement with Supplier Contract, to establish terms governing individual Contracts that may be awarded during a given period,
<b>Framework Supplier(s)</b>	An economic operator who has successfully secured a place on a public framework Contract.
<b>Goods/Works/Services</b>	A Contract will be in connection with the acquisition of one or more of these categories of procurements. The use of one of these terms should be taken to mean all the terms unless expressly stated to the contrary.



<b>In-Tend</b>	The Councils e-tendering system which must be used for all procurement exercises exceeding £5,000.
<b>Invitation to Tender / ITT</b>	A key document within the Procurement Toolkit which must contain or reference, the instructions for Bidders, specification, evaluation model and other relevant materials to allow the procurement activity to be concluded successfully.
<b>JCT</b>	The Joint Contracts Tribunal suite of construction related Contracts. The Council's preferred form of Contract for construction Contracts.
<b>Most Economically Advantageous Tender (MEAT)</b>	is a method of assessment used as the selection procedure for publicly-procured contracts, allowing the contracting party to award the contract based on aspects of the tender submission other than just price. Regulation 67 of the Public Contract Regulations 2015 states that: (1) Contracting authorities shall base the award of public contracts on the 'most economically advantageous tender' assessed from the point of view of the contracting authority. (2) That tender shall be identified on the basis of the price or cost, using a cost-effectiveness approach, and may include the best price-quality ratio, which shall be assessed on the basis of criteria, such as qualitative, environmental and/or social aspects, linked to the subject-matter of the public contract in question.
<b>OJEU</b>	The Official Journal of the European Union. As of January 2021 no longer applicable, replaced by 'FTS' or 'Find a Tender, the UK's e-notification service'
<b>Open Procedure</b>	A one-stage procurement where there is an open advert and any potential supplier can access and submit a tender to be evaluated
<b>PAS 91 PQQ</b>	Prequalification questionnaire to be used for all procurements for Works that are between the Service and Supplies Threshold and the Works Threshold where the Restricted Process is used. A template is available in the Procurement Toolkit.
<b>Public Contract Regulations</b>	Refer to Public Contract Regulations or PCR 2015 and from January 2021 is amended to 'PCR 2015 (as amended)' and, the first time PCR 2015 is defined, expand the definition so it reads 'Public Contracts Regulations 2015 as amended by the Public Procurement (Amendment etc.) (EU Exit) Regulations 2019 and Public Procurement (Amendment etc. (EU Exit) (No.2) Regulations 2019 ('Withdrawal Regulations)'
<b>Procurement Toolkit</b>	A guide to procurement providing help and advice in the procurement processes along with supplying template documents, useful forms and sample documents to assist Officers in running their own procurement projects.
<b>Procuring Officer</b>	Any Officer procuring a Contract on behalf of the Council.
<b>Quotation</b>	A quotation of price given by a supplier for a specified piece of work, goods or service (without the formal issue of an Invitation to Tender).
<b>Relevant Director</b>	This term is used to denote the Executive Director, Director of Finance and Resources (Section 151 Officer) or the Director of Operations in person. Where an officer from one service is working in circumstances where they are responsible to another service for the purposes of a procurement exercise, then it is that other director who is the responsible director. In some CSOs the Executive Director and the Section 151 Officer are mentioned by title; where this is done, they are not acting as the relevant director.
<b>Relevant Head of Service</b>	This term is used to denote the head of the service responsible for procuring a Contract.
<b>Request for Quote / RFQ</b>	A key document within the Procurement Toolkit which must contain or reference, the instructions for Bidders, specification, evaluation model and other relevant materials. Only to be used for procurements with a value below Threshold 4.

<b>Restricted Procedure</b>	A two-stage procurement, where the advert invites potential suppliers to submit a Pre-Qualification Questionnaire and only those that meet the selection criteria are then shortlisted and permitted to submit a tender for evaluation. The Regulations only permit this procedure for above FTS Threshold procurements.
<b>Section 151 Officer</b>	This refers to the council's Chief Finance Officer, being the officer responsible for the council's financial administration as defined by the Local Government Act 1972.
<b>Scheme of Delegation</b>	This term refers to the council's Scheme of Delegation, which specifies the extent to which the conduct of the council's affairs is delegated to council officers. If at any time there appears to be a conflict between the Scheme of Delegation and Contract Procurement Rules, the former shall take precedence.
<b>Selection Criteria</b>	The criteria by which Tenderers are chosen to be invited to submit Quotations or Tenders, where a Restricted Procedure is adopted.
<b>Shortlisting</b>	The process of selecting Tenderers who are to be invited to submit Quotations or Tenders or to proceed to final evaluation.
<b>Social Value</b>	Social value is the term used to describe the additional value created in the delivery of a Contract which has a wider community or public benefit. This extends beyond the social value delivered as part of the primary Contract activity. Under the terms of the Social Value Act 2012 contracting authorities are obliged to consider wider social and environmental objectives alongside price and cost when evaluating tenders for services which are valued over the FTS Procurement Thresholds
<b>Specification</b>	The use of the word 'specification' refers to a statement of the council's minimum purchase requirements. For illustrative purposes, it includes as appropriate such matters as: a) Technical drawings b) Recognised international standards c) Method of delivery d) Terms and conditions of supply and delivery e) Responsible purchasing requirements.
<b>Standard Form of Contract</b>	Forms of agreement to be used without variation for certain agreed areas of work with values [    ]
<b>Standard Selection Questionnaire</b>	This is the questionnaire which has been developed to simplify the supplier selection process for businesses using the Restricted Procedure to procure goods or services. It has replaced the Pre-Qualification Questionnaire.
<b>Standstill Period</b>	Contracts over the FTS Threshold must include a 10 calendar day standstill period between the notice of intention to Award and the actual award of Contract. This allows unsuccessful Bidders to be notified of the outcome of the Evaluation provides unsuccessful Bidders with an opportunity to appeal if they believe there is a justified reason to appeal against the Award.
<b>Supplier/Contractor</b>	Both these terms are used to refer to a provider or potential provider of goods, works or services. Once a Contract has been placed with a supplier, that supplier may be more precisely referred to as a Contractor.
<b>Tender</b>	A Tenderer's proposal on price and quality submitted in response to an Invitation to Tender.
<b>Tenderer</b>	Any person who asks or is invited to submit a Quotation or Tender.
<b>TUPE Transfer of Undertakings (Protection of Employment) Regulations</b>	TUPE refers to the Transfer of Undertaking (Protection of Employment) Regulations, 1981. These regulations were introduced to ensure the protection of employees when, for example, a business is taken over by another organisation. Broadly, TUPE regulations ensure that the rights of employees are transferred along with the business.
<b>UK Regulations</b>	Refers to The Public Contracts Regulations 2015.

	<p>From January 2021 is amended to 'PCR 2015 (as amended)' and, the first time PCR 2015 is defined, expand the definition so it reads 'Public Contracts Regulations 2015 as amended by the Public Procurement (Amendment etc.) (EU Exit) Regulations 2019 and Public Procurement (Amendment etc. (EU Exit) (No.2) Regulations 2019 ('Withdrawal Regulations')</p>
<p><b>Value For Money</b></p>	<p>Value for Money (VfM) is not the lowest possible price; it combines goods or services that fully meet the needs, with the level of quality required, delivery at the time it is needed and at an appropriate price. (Refer to Most Economically Advantageous Tender).</p>