

Contracting and Tendering Rules

November 2019



Contracting and Tendering Rules

The Council's Contracting and Tendering Rules are laid out in the Council's Constitution and are derived from:

- Local Government Act 1972
- Public Contract Regulations 2015

EU procurement rules have been enshrined into UK legislation

The Contract and Tendering Rules apply, regardless of value and source of money to all:

- Contracts for the supply of works (construction, road and building maintenance);
 - Goods (or supplies) or services;
 - Service Level Agreements (SLAs), Memorandum of Understandings (MoUs), Grants.
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Contracting and Tendering Rules

The purpose of these Contract and Tendering Rules is to provide a structure within which purchasing decisions are made and implemented and which ensures that the Council:

- Furthers its corporate objectives
- Uses its resources efficiently and secures value for money
- Purchases quality goods, services and works
- Safeguards its reputation from any implication of dishonesty or corruption
- Is open, fair and transparent and fully compliant with legislation



Calculating the value of a contract

In order to determine the process the “contract value” needs to be calculated:

- The estimated value of a contract is the sum of its initial term, plus any extensions, plus any variations. Contracts must not be artificially split to avoid thresholds.

For example a contract for services worth £50,000 per year that is for an initial term of 3 years with an option to extend for a further 2 years is calculated as follows:

- $3 \times £50,000$ plus $2 \times £50,000 = £250,000$

In this example, the council would have to follow the rules for contracting and tendering a services contract to the value of £250,000



Seeking permission to go to the market

For supplies and services:

Activity	<£181k (Below threshold) (as at 01/18 £181k)	£181k+ (Above threshold) (as at 01/18 £181k)
Seek Approval to Proceed	Head of Service	Corporate Leadership Team and consultation with Lead Member

For works:

Activity	<£500k	£501k+
Seek Approval to Proceed	Head of Service	Corporate Leadership Team and consultation with Lead Member



Determining the procurement route

The council can either run its own tender or procure through a “framework”

Frameworks are contracts set up by central/ collaborative bodies which other parties can utilise. Use of a Framework can speed up the supplier selection process and leverage economies of scale. The Procurement Team can provide guidance on how to find out more about specific Frameworks. Responsible Officers must check that:

- the Council is legally entitled to use the Framework
- the purchases to be made legally fall within the coverage of the Framework
- the Framework meets the Council's own requirements in terms of quality and cost;
- any other pros and cons of using the Framework versus running a Council competition must be considered



Determining the procurement route

For supplies and services:

Activity	£0 - £50k	£51k – EU Supply/Services Threshold (as at 01/18 £181k)	> EU Supply/Services Threshold (as at 01/18 £181k)
Minimum Number of Suppliers	No minimum	Three Notices can be placed in Contracts Finder.	Official Journal of the European Union (OJEU) Notices must be placed in OJEU and Contracts Finder.
Minimum Time for Supplier Response	No minimum but must be reasonable	Not less than ten calendar days but must be reasonable.	As per rules governing Procurement Route selected.



Determining the procurement route

For works:

Activity	£0 - £50k	£50 - £500k	£501k - EU Works threshold (as at 01/18 £4.5M)	> EU Works Threshold (as at 01/18 £4.5M)
Minimum Number of Suppliers	No minimum	Three Notices can be placed in Contracts Finder. Constructionline may be used.	Five Notices can be placed in Contracts Finder. Constructionline may be used.	Official Journal of the European Union (OJEU) Notices must be placed in OJEU and Contracts Finder.
Minimum Time for Supplier Response	No minimum but must be reasonable.	Not less than ten calendar days but must be reasonable.	Not less than ten calendar days but must be reasonable.	As per rules governing Procurement Route selected.



Undertaking a procurement

Set the terms and conditions of the contract:

- Under £50k, purchase order or the council's standard terms and conditions
- Between £50k and £181k, the council's standard terms and conditions
- Over £181k, bespoke terms and conditions following the council's legal advice

Advertising:

- If required the opportunity must be advertised. Above threshold must be advertised by Procurement in OJEU and Contracts Finder. Below threshold need only be placed in Contracts Finder.

Receiving quotes or tenders:

- Above threshold submissions will be submitted on an online portal that ensures bids are not opened early and that late bids can be rejected. For below threshold exercises that are run via email, confidentiality and rigor of process should be no less.



Undertaking a procurement

Evaluation of Submissions

- Evaluators must be selected that have an appropriate level of knowledge of the subject, and be evaluated according to the instructions given to suppliers (i.e. in the quotation or tender documents). Notes of all scores and commentary must be kept.



Awarding a contract

For supplies and services:

Activity	<£181k	£181k - £500k	£500k+
Seek Approval to Contract	Head of Service	Senior Leadership Team and Lead Member	Cabinet/Cabinet Prioritisation Sub Committee

For works:

Activity	<£250k	£251k - £500k	£501k+
Seek Approval to Contract	Head of Service	Senior Leadership Team and Lead Member	Cabinet/Cabinet Prioritisation Sub Committee



Waiving the contract and tendering rules

A waiver to Contract and Tendering Rules can be requested, it is a permission to let a contract without complying with one or more of the Contract and Tendering Rules

Activity	Under £50k	£51k - £181k (EU Services Threshold)	>£181k (Above Threshold)
Waiver Approved	Head of Service	Director Relevant Lead Member to have been consulted	Director and Managing Director Relevant Lead Member to have been consulted

A waiver can be granted in the following circumstances:

- an unforeseeable emergency involving danger to life or health or serious damage to property, in which the work, goods or services are required more urgently than would be possible if the procedure were followed
- acquiring goods or services from a different supplier would result in incompatibility with existing goods or service or disproportionate technical difficulties
- when a grant from a public body includes a recommendation as to the supplier or is time limited

