

CITY OF
Lincoln
COUNCIL

CONTRACT
PROCEDURE
RULES

December 2016

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Section One - Introduction

- 1.1 Every year, the City of Lincoln council (the Council) procures goods, services and works totalling millions of pounds. These purchases can range from a number of transactions that are quite small (i.e. stationery) through to a single major project (i.e. the Transport Hub). However no matter what the size, they will be obtained on the basis of a contract between the Council and the supplier.
- 1.2 The Council has a duty to allow the market the opportunity to trade with it. If the Council fails to do this then a supplier may have a right to lodge a formal complaint or ultimately challenge.
- 1.3 The purpose of these Contract Procedure Rules (CPR's) is to set out the general principles to be followed when procuring goods, services and works from an external organisation.
- 1.4 Underpinning the general principles are the following main purposes:
- To provide a legal framework in which the Council should undertake its procurement activity
 - To help the Council obtain value for money
 - To comply with UK law in respect of both protecting the public purse and EU Procurement Directives
 - To protect staff and elected members from allegations of wrong doing
 - To provide an auditable framework for the Council's procurement activities
- 1.5 No deviation from these CPR's may be made by any Officer of the Council. Some of the rules set out in this document are required by law, others have been put in place to provide a complete, clear and coherent framework in which people can work.
- 1.6 The Council is a partner of the Procurement Lincolnshire Shared Service Agreement between Lincolnshire County Council and a number of the district councils within Lincolnshire. It is a strategic service focussing on activities that will lead to better public services.
- 1.7 Procurement Lincolnshire supports the Council by:
- Developing and delivering a Sustainable Procurement Strategy
 - Providing general and complex procurement support as required
 - Leading on potential collaborative procurement activities
- 1.8 In accordance with the Constitution, the City Solicitor shall have the power to make amendments from time to time to these CPR's.
- 1.9 Further advice and guidance on any aspect of these CPR's can be obtained from:
- Client Procurement Officer – Heather Carmichael ext. 3309 (heather.carmichael@lincoln.gov.uk)
 - City Solicitor – Carolyn Wheater ext. 3323 (carolyn.wheater@lincoln.gov.uk)
 - Legal Services Manager – Becky Scott ext. 3441 (becky.scott@lincoln.gov.uk)

Section Two - Scope of Contract Procedure Rules

- 2.1 All contracts must comply with CPR's. A contract is any arrangement made by, or on behalf of, the Council for the carrying out of works or for the supply of goods or services. Any leasing, hire purchase or funding arrangements should not be entered into without first obtaining the approval of the Chief Finance Officer.
- 2.2 Contracts do not include:
- Contracts of employment which make an individual a direct employee of the Council
 - Agreements regarding the acquisition, disposal or transfer of land (see Financial Procedure Rules)
 - Grant Award
- 2.3 The City Solicitor and the Client Procurement Officer are responsible for CPRs and keeping them under review. If the European Union (EU) Directives or any other law is changed (Public Contract Regulations) which affects these CPR's, then that change must be observed until it is possible to amend this document. If there is a conflict then the Directives or the other legislation will take precedence.
- 2.4 These CPR's will be reviewed as a minimum every three years.
- 2.5 Where the council works in partnership/engages the services of an external organisation to act as its agent in letting contracts on its behalf, it is a requirement of the terms of engagement of the external organisation that they comply with these CPR's.
- 2.6 Where the Council is working in partnership with another public body, which procures goods, services or works as a lead authority on behalf of the Council, then the CPR's of the lead authority maybe used. If the Council is acting as lead then these CPR's must be used.
- 2.7 Contract Officers/Lead Officers responsible for purchasing must comply with these CPR's.
- 2.8 Failure to follow these procedures may result in a legal challenge and also a breach of the employee code of conduct.

Section Three - How to Use Contract Procedure Rules

3.1 Defining the Requirement & deciding how to proceed

3.1.1 Prior to the commencement of any purchase/procurement the Officer responsible for it must appraise the purchase and consider the following:

- Consider the maturity of the market (local, regional and national) and whether the contracting approach is likely to yield enough competition
- Consider whether there is a suitable corporate contract, compliant framework agreement or other consortium arrangement in place which offers value for money
- Be satisfied that a full and reasonable estimate of the whole life cost of the contract, has been prepared and considered
- Ensure all necessary approvals are in place
- Ensure that the budget is available in line with the Council's Budget and Policy Framework

3.1.2 Contact should be made with the Client Procurement Officer in all cases but especially in those above £25,000, where it is not possible to make a direct approach.

3.2 Whole Life Costing

3.2.1 The "whole life costing" needs to be taken into account before commencing on a procurement exercise in order to establish the correct value of the contract/exercise. This means that the value of supplies, services or works over their lifetime from inception to disposal.

3.2.2 Whole life costings should be used when informing the business case for undertaking procurement as well as any other decisions around options appraisal

3.3 Who Can Buy and Authorise Payment

3.3.1 Strategic Directors and Assistant Directors are responsible for undertaking their duties and providing services within the annual budget delegated to them. Authority is delegated within the Council's Constitution to the Chief Executive, Strategic Directors and Assistant Directors to procure supplies, works and services in accordance with these CPR's.

3.3.2 It is the responsibility of the Chief Executive, Strategic Directors and Assistant Directors to ensure that all Council policies, strategies, procedures and good practice relating to procurement are understood and followed by staff. They are also responsible for ensuring that all staff within their area responsible for procurement have undertaken the necessary training in order to fulfil the requirements of the procurement exercise in line with the Council's CPR's.

3.4 Obtaining Authority to Proceed with Procurement

3.4.1 Where the budget provision has already been approved within the MTFs then Officers have delegated authority to undertake the relevant procurement exercise. However it should be noted that where the spend is deemed a

capital or strategic project then approval from SPIT will be required prior to commencing with any procurement activity.

- 3.4.2 In certain cases and in all cases where the budget is not already approved within the MTFs, Executive and Full Council approval may be required. Guidance on this is contained within the Financial Procedure Rules of the Authority.

Section Four - Establishing A Procurement Route

4.1 Procurement Options

4.1.1 Consideration should be given to the most appropriate procurement routes to take in order to purchase the required goods, services or works. The Client Procurement Officer can provide advice and guidance on this and in all cases should be contacted prior to the commencement of any procurement activity.

4.1.2 Examples of procurement routes available are as follows:

- Use of an existing corporate contract
- Use of a compliant framework arrangement
- Following a traditional procurement exercise
- Collaborative exercise

4.2 Use of Lead Services and In House Providers

4.2.1 Within the Council there are a number of “lead services” and any officers undertaking procurement which overlaps into these must engage with these prior to the commencement of the procurement. These areas are:

- All ICT requirements/service –Business Development & IT Manager
- All Fleet requirements – Maintenance Manager
- All Property/Land acquisitions/disposals – Strategic Property Services Manager
- All Corporate Property Maintenance – Strategic Property Services Manager
- Any finance related activity including external advice; payment/income system; lease agreement (inc. Fleet) etc. – Financial Services Manager

4.2.2 In addition to lead services there are also areas of the Council which would undertake commercially based work for another area of the Council. Where this is applicable, they should be considered as a potential supplier of the supplies, services or works and as a consequence be invited to submit bids as a part of the competitive process.

4.3 Use of Purchasing Consortia & Other Framework Arrangements

4.3.1 Use of a purchasing consortium or framework agreement can save time and cost involved in tendering for individual and generic contracts. It is in essence an agreement with suppliers/contractors which sets out terms and conditions under which specific purchases can be made during the period of time the agreement is valid. An agreement cannot exceed four years.

4.3.2 There are a number of frameworks available for the Council to use. Some of these have been procured by other local authorities, by local authority purchasing consortia (ESPO etc.), by central government agencies such as Crown commercial Services (CCS), by specific bodies such as PfH, EMPA, EEM etc. It is the responsibility of the contract officer to ensure that framework agreement is compliant with EU regulations (PCR's) prior to

commencing with this route. Further advice on this can be obtained from the Client Procurement Officer.

4.4 Use of Consultants/Agency Staff to Provide Services

4.4.1 Where it is deemed necessary to appoint a consultant, the use of the specific consultancy request for quotation template should be used. This should be undertaken even when the value of the contract is less than £25,000 and a direct approach can be made in order to ensure that the Council is protected contractually.

4.4.2 Consultants should be selected and contracts awarded in accordance with the procedures detailed in these CPR's with the exception of the above (4.4.1).

4.4.3 Officers should ensure that consideration is given to the following prior to the commencement of any appointment:

- The nature of the services for which the appointment of a Consultant is required
- That no employee of the Council has been identified with the capacity and/or the skillset to undertake the services

4.4.4 All agency staff should be procured in line with the council's corporate contract. Advice on the use of this can be obtained from Human Resources.

4.5 Use of Sub Contractors

4.5.1 There will be instances where a main contractor is appointed following the relevant procurement exercise and wishes to engage the use of a sub-contractor to fulfil the requirements of the contract.

4.5.2 It is a requirement of the Council's standard terms & conditions of appointment that approval has to be formally given by the Council to the main contractor prior to the engagement of a sub-contractor. Any appointment will need to be reviewed on a case by case basis as it may be a requirement that collateral warranties etc. are put in place to indemnify both the Main contractor and the Council for the works/services being undertaken. Consultation with the City Solicitor and the Client Procurement Officer are required prior to any approval being given.

Section Five – Procurement Process

5.1 Ethos of Procurement

- 5.1.1 Procurement approach should always be based on the underpinning values of the EU directives. These are that the process should be fair, open, transparent and auditable. All of this is the basis of all procurement that the Council undertakes regardless of the value.
- 5.1.2 Another key element is to ensure that value for money is achieved within all procurement. It should be noted that this does not mean that award will be made to the cheapest price but will be based on the Most Economically Advantageous Tender.
- 5.1.3 Sustainability is also key to the Council. It is not only something that is relevant for environmental issues it is used to recognise social and economic issues as well. All three are linked and as such should be addressed together. In respect of taking this in to account during the procurement process it means:
- Social – taking account of the needs of the various local communities and ensuring that these are met when developing the specification, evaluating tenders and throughout the term of the contract
 - Economic – approach to whole life costing
 - Environmental – consider the impact of these throughout all stages of the process
- 5.1.4 The Council has also a Local Agenda which it will endeavour to use where it is legal and appropriate to do so. Further details in respect of this can be found within paragraph 5.19.

5.2 Developing a contract strategy

- 5.2.1 Officers should at the earliest opportunity identify a future procurement need. In doing so they should ensure that they allow for adequate planning of the project(s) and where possible this should be identified within the relevant areas service plan. It may also be appropriate for this to be included within the Departmental Service Plan. It is at this point that a Contract Officer/Lead Officer is identified and it is their responsibility to ensure that CPR's are adhered to.
- 5.2.2 Once initial identification of a project has been made it is also the responsibility of the Contract Officer to contact the Client Procurement Officer in order that this activity can be programmed into the overall procurement service plan. Together they will assess all the options available and produce an indicative work plan for the whole of the procurement activity. This will include a detailed timeline to ensure that compliance with any statutory regulations can be met as well ensuring access to other sections within the Council whose expertise will be required.

5.3 Establishing a Procurement Timeline

- 5.3.1 Before embarking on a procurement exercise it is important for a timeline to be drawn up. Regardless of the procurement route being followed a timeline will ensure all elements are captured and an assessment of influencing factors can be made i.e. other commitments, leave etc.
- 5.3.2 Where the contract value is in excess of the OJEU threshold then some of the timescales will be mandatory. For those which are below this timescales are discretionary however it is advisable to still follow the mandatory ones where time allows. The Client Procurement Officer will provide you with an indicative timeline following your initial meeting.
- 5.3.3 Consideration should be given to the following when drawing up a timeline:
- Date contract needs to be in place by
 - Is there a specification ready for us/fit for purpose
 - Are all the necessary approvals in place
 - Is there any consultation required as part of the process
 - Has sufficient time been allowed for the evaluation of submissions
 - Is a mobilisation period required

5.4 Use of an evaluation team

- 5.4.1 Prior to commencing on a procurement exercise it is critical that an evaluation team is established. In no circumstances is it acceptable for submissions to be evaluated by an individual.
- 5.4.2 Depending on the value and complexity of the goods, services or works being procured, the number of members in the evaluation team will vary. Ideally evaluation teams should be as follows:
- for more complex/high value exercises, a team of four members should be established
 - where the value/complexity is low, a minimum of 2 people is acceptable
 - where a direct approach is to be made a review of the quotation should still be undertaken by 2 people
- 5.4.3 In addition to the core members above it may in some cases be necessary to call on the specific expertise for certain exercises:
- Finance – to assess the financial standing of the company
 - Corporate Health & Safety – to assess the H&S competency of the company
 - Human Resources – to provide advice and guidance in respect of staffing issues i.e. TUPE
 - Legal Services – to provide advice and guidance in respect of contract types

5.5 Risk Management

- 5.5.1 As part of the overall project (not just the procurement element) it may be a requirement that a risk assessment/register is undertaken. Where this is the case it is important that an assessment is carried out in respect of the

procurement element prior to commencement and any issues this exercise flags up are addressed.

5.6 Contract Values

5.6.1 The total contract value should take account of the actual length of time over which the goods, services or works will be supplied and the anticipated annual cost. The overall contract length should include any proposed extensions. Where this is not known precisely, an estimate should be made.

An example of this is as follows:

Contract value = annual value x total contract length

i.e. £40,000 estimated spend per annum x 5 year contract = £200,000 total contract value

5.6.2 The Council shall make the best use of its purchasing powers by aggregating purchases wherever possible. Under no circumstances should any requirement be split in order to avoid using the proper procedure as per these CPR's or PCR's. For example where there is a direct or similar link between contract requirements these should be aggregated together and procured as one. This is regardless of whether the one contract is then further split into "lots".

5.7 Building Innovation and Social Value into Contracts

5.7.1 Prior to the going out to the marketplace consideration should be given to how best to capture innovation and Social Value within the contract.

5.7.2 Allowing for potential innovation in contracts, such as the use of new technologies and varying ways of delivery should be an integral part of the review process when developing the tender requirements.

5.7. It is a key priority for the Council to try and ensure where relevant and appropriate Social Value into its contracts. There are a number of ways that this can be incorporated and the following are just some of the key areas to be considered:

- Local Supply Chain
- Local Labour
- Living Wage
- Community engagement
- Environmental sustainability

There is a separate policy/protocol being developed in respect of this and once approved this should be embedded, where relevant in the procurement process.

5.8 e-Procurement

5.8.1 There are now a number of methods which are available to the Council in respect of this and consideration should be given to usage of them during the

procurement process (either as part of the tender process or within the procured function):

- E-auctions
- E-tendering
- E-catalogues
- W-ordering & invoicing

Before trying to incorporate any of these into your procurement exercise please contact the Client Procurement Officer for further advice and guidance.

5.9 Standards

5.9.1 Consideration should be given for the inclusion of standards, where relevant and appropriate to the contract. These can be as follows:

- British Standard Specification
- British Standard Code of Practice
- European Standard Specification
- Relevant trade standards/qualifications i.e. NIC etc.
- ISO's

Where there are no recognised industry standards then compliance with any in house policies should be included i.e. Health & Safety etc.

5.10 Bonds & Parent Company Guarantees

5.10.1 Depending on the nature of the goods, services or works being procured it may be deemed appropriate for the tender document to allow for the inclusion of a Bond or Parent Company Guarantee.

5.10.2 The Contract Officer in conjunction with both the Client Procurement Officer and the Financial Services Manager must review whether it is necessary to include this. A Parent Company Guarantee will be considered where a candidate is a subsidiary of a parent company and the total value of the contract exceeds the EU threshold. However if the financial assessment is in respect of

- a) both the Parent Company and the subsidiary and
- b) both are assessed as acceptable

Then, it may not be necessary to request that a PCG is put in place.

5.10.3 If the company is not a subsidiary then consideration should be given to the inclusion of a Bond. As a minimum the bond should be held for at least 10% of the total contract value and should apply to all contracts in excess of £1m. It would not be usual practice for a Bond to be put in place where stage or interim payments are being made.

5.10.4 Discretion to not implement paragraph 5.10.2 – 5.10.3 will be subject to the agreement of both the Chief Finance Officer and the City Solicitor.

5.11 Insurance

5.11.1 Any supplier to the Council will be required to have in place appropriate and relevant insurance cover. It is the responsibility of the Contract Manager to ensure that this is so and this is irrespective of the value of the contract. This will ensure that the Council is indemnified as a minimum against injury and damage to persons and property. Where the contract length is for more than one year an annual review of insurances must be undertaken by the Contract Manager and copies of certificates held with the contract.

5.11.2 Advice and guidance about the required levels of cover should be sought from the Group Accountant (Technical) within Financial Services but the table below provides some initial guidance

- Employer's liability - £10m (the statutory minimum if the contractor employs any staff)
- Public liability - £5m
- Professional Indemnity –£2m (small company or a sole trader/consultant £1m)

5.12 Health & Safety

5.12.1 All contractors must have completed and passed the Corporate Health & Safety Control of Contractors Competency Assessment Form. It is possible that this can be incorporated as part of the assessment criteria when undertaking the procurement exercise and this will be reviewed on a case by case basis. Further advice should be sort in the first instance from the Client Procurement Officer.

5.13. Income Generating Contracts

5.13.1 As the Council's funding streams are being cut and we look to be more entrepreneurial, it is likely that we will look towards procurement to generate income.

5.13.2 Prior to commencing on this route authority is required from the Assistant Director for the relevant service area in conjunction with both the City Solicitor and Client Procurement Officer. Authorisation should already have been sort from the Council's Chief Finance Officer.

5.13.3 Consideration should be given to but not limited to, the following:

- The council has the relevant power to provide a service
- An assessment has been undertaken into the required resources and time
- The contract is in the best interests of the Council
- A concessions contract is used and evaluated using MEAT
- The terms of the contract are clearly set out

5.14 Prevention of Corruption and Bid Rigging

5.14.1 The Council is opposed to any form of fraud or malpractice, and is committed to operating in an open and honest way. The Council expects that employees and also individuals and organisations that it comes into contact with, will act towards the Council with integrity.

- 5.14.2 All contracts must contain provisions entitling the Council to terminate the contract and to recover any resultant loss from the contractor, if the contractor or any person acting for the contractor, is found to have been guilty of any corruption or attempted corruption in obtaining the contract or any other contract with the Council.
- 5.14.3 Officers must comply with the Employee Code of Conduct as well as the Gifts & Hospitality Policy and must not accept or invite 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 obligatory and corrupt behaviour will lead to dismissal
- 5.14.4 Officers should ensure that they are aware of Bid Rigging and its implications. Bid Rigging is a form of fraud in which a commercial contract is promised to one party even though for the sake of appearance several others also present a bid. It is a form of price fixing and market allocation. In order to mitigate the risks officers should:
- Be aware of the Office of Fair Trading guidance
 - Engage with the Client Procurement Officer if they suspect Bid Rigging
 - Undertake thorough financial checks of the company and its parent companies (where relevant)

5.15 Conflicts of Interest

- 5.15.1 Measures should be taken to ensure that there are no conflicts of interest. This is in respect of Officers, Members and any contractor the Council may have engaged with that has a relationship with a mutual/potential third party.
- 5.15.2 Written notice should be given if it comes to knowledge of a member or officer of the Council that a contract in which they have a personal or pecuniary interest is either in place or in the process of being procured. This should be provided to the Client Procurement Officer and the City Solicitor for review.
- 5.15.3 Where it is deemed that there is a conflict of interest the Officer or Member will have no further part in the management or the procurement of that contract.
- 5.15.4 There may be occasions where in addition to the above a consultant or current contractor has a relationship with a potential third party. It is therefore essential that where this could be likely contractors are asked for a declaration of interest to be completed in order to ensure transparency. This declaration should be updated periodically during the contract term.

5.16 Value for Money

- 5.16.1 One of the primary considerations before undertaking a procurement exercise is how to ensure that value for money has been achieved. This does not mean that award will be made to the lowest price submitted. A combination mix of price and quality should be used in order to award -

MEAT – most economically advantageous tender. The highest overall combination based on the percentage split applied to that tender exercise should be demonstrated.

5.17 DPA

5.17.1 When entering into any contract or agreement, involving the processing of personal data (which includes sensitive data), the Council's Information Management policies and guidance must be adhered to. In addition, for a new project, activity, or technology the Council's Privacy Impact Assessment (PIA) Guidance and Templates shall be followed and a PIA considered and where necessary completed.

5.17.2 Any contract involving the processing of personal data (accessing, handling, storing or destroying personal data), shall have a clause ensuring that the contractor or supplier complies with the Data Protection Act 1998 (DPA), the relevant Principles and other legislation/guidance. .

5.17.3 Where personal data is processed, the contract may need to include :

- Information security requirements and standards both organisational and technological.
- The purpose of processing the personal data to include clarification as to whether the contractor or supplier is a Data Processor and/or Controller.
- A right to view a copy of the contractor/supplier's Data Protection polices and security standards.
- Who will have access to the data and the circumstances, if any, where it will be passed on to a third party and if relevant the legal basis for this third party sharing.
- Whether there will be any international transfers of data and if so, including contractual clauses to ensure the adequate security of the data.
- Procedure for notification to the Council of any data protection breach and co-operation requirements
- Required retention periods and responsibility for storing the data during the retention period and its subsequent confidential destruction/deletion.
- Responsibility and time limits for Freedom of Information, DPA Subject Access requests, queries and complaints.
- Data quality including the accuracy, relevance and usability of the data
- Monitoring of the data sharing arrangements
- Possible sanctions for failure to comply with Data Protection or breaches by individual staff

5.18 Use of Standard Terms & Conditions

5.18.1 A fundamental part of any procurement activity is the need for fit for purpose terms and conditions. Whilst the templates have in place standard terms and conditions it must be recognised that these are generic. It is therefore a requirement that these are reviewed by the Contract Officer and before any documentation is published Legal Services are consulted.

5.18.2 Where the procurement exercise is in relation to a works contract there are no standard terms and conditions. An assessment should be undertaken to

see which route is best suited to the works being undertaken. Ideally the contract type would be either a JCT form of contract or an NEC3 contract. Advice can be sought from either the Client Procurement Officer or the Legal Services Manager as to the most appropriate method.

5.19 Local Agenda

5.19.1 Procurement legislation does not allow for any preference to be given to local suppliers, however it is possible to consider the local suppliers by using certain award criteria during the procurement activity. This is primarily in the use of Social Value where there are three main elements which are considered:

- Social
- Economic
- Environmental

5.19.2 In addition to this the Council has also adopted a Local Agenda in which it details the classification of a “local supplier” and how these should be incorporated. In summary the following should be noted:

- Where a direct approach is made (contract value under £25,000) then this should, where possible be to a local supplier
- Where a quotation exercise is undertaken then, where possible, at least two of the suppliers invited to quote should be local

Where it is not possible for the minimum number of “local suppliers” to be invited to provide a quotation then this should be clearly documented.

Local Suppliers are defined as:

Local suppliers are defined as those who trading premises are located within Lincolnshire and/or within a 20 mile radius of the County of Lincolnshire boundary

5.20 Community Right to Challenge (Localism Act 2011)

5.20.1 As part of the Localism Act 2011, the Community Right to Challenge enables various relevant bodies to express an interest in delivering a local authority service. The Council must consider expressions of interest (EOI) and where they are accepted, must undertake a procurement exercise for this service. The acceptance of the EOI does not mean that the relevant body has the right to deliver the service. The procurement exercise will still be governed by EU legislation, where the contract exceeds the relevant threshold, and where it isn't, be procured in accordance with these CPR's.

5.20.2 A separate policy is held by the Council and further information on this can be obtained from the Client Procurement Officer.

5.21 Employments Considerations In Procurement

5.21.1 Any procurement which would potentially involve the transfer of staff shall have regard to the Transfer of undertakings (Protection of Employment) Regulations (TUPE) and be in line with current guidance.

5.21.2 Contract Officers must seek the advice of Human Resources where there is the potential for a TUPE transfer to apply prior to the commencement of the procurement activity. It should be noted that TUPE is not just in relation to staff currently employed by the Council; it is also in relation to staff engaged by both a main or sub-contractor.

5.21.3 Where there is a TUPE transfer, the Council need to provide bidders with accurate and timely information on all relevant matters. Bidders must be able to demonstrate that they understand and can manage their obligations under TUPE. These requirements apply even if the contract is being re-let and even if any transfer of staff would be between external organisations.

5.22 Document Retention

5.22.1 It is important that all documentation relating to a procurement exercise are held securely and are easily accessible. All evaluation sheets are to be held electronically by the contract officer along with all other related correspondence. Regulation 84 (8) – (9) states that “.....contracting authorities shall ensure that they keep sufficient documentation to justify decisions taken in all stages of the procurement procedure, such as documentation on

- (a) Communications with economic operators and internal deliberations
- (b) Preparation of the procurement documents
- (c) Dialogue or negotiation if any,
- (d) Selection and award of the contract

The documentation shall be kept for a period of at least 3 years from the date of award of the contract.

5.22.2 Specific supplier documentation will be subject to the agreed retention policy issued within the Information Management Audit of your respective area.

5.22.3 Copies of all contracts, addendums and service level agreements should be held of Legal Services. For those with a value over £75,000 (total value) the original is to be retained by Legal Services. It is the responsibility of the Assistant Director for the relevant service to ensure that this process is followed.

5.23 Pre Market Engagement

5.23.1 In some instances, particularly in the case of specialist work it might be necessary to engage with the market prior to finalising all your requirements. The PCR 2015 make allowance for this.

5.23.2 Suppliers with whom preliminary discussions take place with should be made aware at the outset that a compliant procurement process will still be undertaken.

5.23.3 Any engagement undertaken with suppliers will be done so by following a consistent approach. Any information shared will be the same with each party. Discussions will be formally documented so that there is a clear audit trail.

5.23.4 The Client Procurement Officer must be consulted prior to the commencement of any pre market engagement.

5.24 Electronic Tendering

- 5.24.1 All procurement exercises undertaken where a direct approach is not being made (contracts with a value over £25,000) must be done so electronically. The Council has in place a secure procurement portal through which all activity must be undertaken. The Client Procurement Officer should be contacted prior to the commencement of any procurement activity as it is their responsibility to support and co-ordinate the process.

Section Six – Competitive Procurement Process

6.1

Once the total contract value has been determined, the most appropriate procurement route must then be established. Below summarises the process that must be followed for each:

- Below £25,000 - a direct approach can be made preferably to a local supplier
- Over £25,000 but below OJEU threshold for Supplies - a minimum of four quotes must be sort, 2 of which must be from a local supplier
- Over £25,000 but below OJEU threshold for Works - a minimum of five quotes must be sort, 2 of which must be from a local supplier
- Over the relevant OJEU thresholds – a full compliant tender process must be followed

It should be noted that all of the above is only relevant where a compliant framework arrangement is not being used.

For OJEU thresholds please see Section 10

Section 7 – Selection of Suppliers/Contractors

- 7.1 Contract Officers, up to the relevant OJEU threshold, have the authority to select suppliers to provide quotations. However they have a duty to ensure that their selection process is fair and transparent and that where they are making a direct approach they do not seem to favour one supplier at the detriment of others.

- 7.2 As detailed in section 5.19 reference needs to be made to the Local Agenda during the selection process unless the contract is of such a specialist nature.

Section 8 – Award Criteria

8.1 Award Criteria

- 8.1.1 All awards of contract, apart from those where a direct approach is permitted, will be done so based on the outcome of an evaluation made using the published award criteria.
- 8.1.2 Before finalising any procurement documentation it is a requirement that the award criteria is established and included within the final version of the documents.
- 8.1.3 Where the procurement process being undertaken is the “restricted” process the Lead Officer should ensure that there is no duplication of the selection/award criteria at both the SSQ and ITT stages. It is not permissible to assess the same criteria at both stages.

8.2 Standard Selection Questionnaire (SSQ) Assessment

- 8.2.1 As part of the Standard Selection Questionnaire, formerly the Pre-Qualification Questionnaire, assessment it may be advantageous to evaluate certain assessment elements based on pass/fail criteria as well as the standard scoring approach.
- 8.2.2 Each element should be reviewed individually in respect of how it is being assessed. For example where a service provider is required to hold certain certificates/licences it would make sense for a pass/fail to be used rather than a scoring approach.
- 8.2.3 Where you are looking to use the SQQ stage as a route to reducing the number being invited to the tender stage (this has to be detailed within the document and also within the contract notice), a mix of both assessment criteria should be used.

8.3 Invitation To Tender (ITT) Assessment

- 8.3.1 Following on from the SSQ stage the Invitation to Tender (ITT) also requires its own bespoke assessment criteria being set. This as detailed in 8.1.3 should have no duplication of the SSQ stage assessment.
- 8.3.2 The method used to assess the suitability of a submission will be based upon the most economically advantageous tender (MEAT). This takes into account both the quality of the submission as well as the price. Under no circumstances should an award be made based on lowest price only.
- 8.3.3 The percentage split to be applied between the price and quality elements should be made based upon being proportionate and relative to the contract being let. An assessment should be made as to what is the main driver. Is it price or quality or are both of equal importance. However the following can be used as a general guide:
 - A restricted budget combined with a clear and detailed statement of requirements may be suitable for a higher price weighting

- Where the level of service to be delivered is key to the Authority it is likely that quality would have a higher weighting

8.4 Price Assessment

8.4.1 As detailed in section 8.3 the amount of points available from the price and quality criteria is determined by the importance of these criteria to the goods/services/works being purchased.

8.4.2 The lowest price submission will be awarded the full allocation of the price split. All other submissions will be scored pro rata to this with the exception of where the bid is twice that of the lowest. In this case they will receive no price score.

8.5 Quality Assessment

8.5.1 The Lead Officer is required to identify the criteria with which to assess the quality aspect. If the overall split has been deemed to be 60/40 (quality/price), then the 60% needs to be split further over criterion which is to be used to assess the quality element of the evaluation process.

8.5.2 There is no definitive list of quality criteria that should be applied to all procurements as they need to be proportionate and representative of the contract being let. The following is a list of those which might be appropriate:

- Capability
- Capacity
- Technical merit
- Aesthetic and functional characteristics
- Environmental characteristics and sustainability issues
- Performance standards, quality control
- Skill level of the workforce
- After sales services, customer care policies
- Compliance with prescribed specification
- Suitability of delivery/implementation plan
- Equal opportunities
- Technical assistance

8.5.3 Each one of the chosen criteria will have to be allotted weightings which are reflective of what is most important in that procurement activity. Where the criteria is broad it is acceptable for there to be more than one assessment of the area. These are commonly known as “method statements” (see section 8.5)

8.6 Evaluation Methods

8.6.1 The Lead Officer will need to assess what method they will use to evaluate the submission. This award criteria has to be clearly set out in the tender documents to ensure that all tenderers have a fair and equal opportunity of presenting the Council with the appropriate information. Below are a number of different methods which could be used however it should be noted that this is not a definitive list:

- Method statements
- Written tender
- Presentations and interviews
- Site visits
- Sample products

8.6.2 Method statements is the most common route used to evaluate tender submissions. Appendix G has some examples of those which could be used to help evaluate a tender. They are not specific to any particular contract and may be used as they are or adapted to suit a specific requirement.

It is expected that method statements would need to be developed for each tender exercise (that being anything in excess of £25,000) that specifically relate to the service delivery aspect of that tender and as such maybe of a more specialist nature.

8.7 Use of Interviews

8.7.1 The use of interviews is permitted however this needs to form part of the quality assessment and be evaluated accordingly. Ideally this should be by way of a scenario being set which relates to the delivery of the contract.

8.7.2 Any questions asked at an interview should be identical to all those invited to tender/quote.

8.7.3 All interviews should be clearly minuted and retained along with all the other documentation.

Section 9 – Below OJEU Threshold Procurement Procedures

9.1 Contract value below £25,000

- 9.1.1 Where the total contract value is below £25,000 a direct approach, where possible to a local supplier, can be made. The use of the standard Request for Quotation template with some minor amendments is advised. Whilst not mandatory the use of the Council's electronic procurement portal would be advised.
- 9.1.2 Whilst this is a more informal procurement process there is still the need for a formal contract to be entered into. It is therefore critical that prior to the commencement of the direct approach that the standard terms & conditions are reviewed to make sure that they are proportionate and relevant to the purchase being made. In addition to this the contract Officer should also ensure that the supplier has in place the appropriate insurance levels (section 5.11).
- 9.1.3 Once the contract award has been made the Contract Officer is responsible for the updating of the Council's Contract Register.
- 9.1.4 A formal purchase order should be raised (see section 14).

9.2 Contract value above £25,000 but below OJEU Thresholds

- 9.2.1 Where the total contract value is above £25,000 but below the relevant OJEU threshold, then a Request for Quotation (RFQ) exercise can be undertaken.
- 9.2.2 In respect of Goods, Supplies and Services a minimum of four quotations should be sought. Two of these must be from a local supplier as defined in the Council's Local Agenda policy.
- 9.2.3 Use of the standard RFQ template is mandatory and the Client Procurement Officer must be contacted prior to the commencement of any activity.
- 9.2.4 The process must be undertaken electronically through the Council's procurement portal.
- 9.2.5 Award criteria must be included within the RFQ and this must be MEAT (most economically advantageous tender). The evaluation team must assess the submission using the published award criteria and complete an evaluation sheet for each one. The evaluation sheet must detail justification of the score given as this will form the basis of the award letters. Failure to do this may result in a delay in the award being made.
- 9.2.6 Whilst there are no mandatory timescales to be followed in respect of this process, it is advised that the quotation process is live for a minimum of four weeks.
- 9.2.7 A formal purchase order should be raised (see section 14)
- 9.2.8 Once the contract award has been made the Contract Officer is responsible for the updating of the Council's Contract Register.

Section 10 – Above OJEU Threshold Procurement Procedures

10.1 Overview

- 10.1.1 Where the value of a contract exceeds the relevant OJEU threshold and the use of an already procured framework arrangement is not viable, then a formal tender process must be followed.
- 10.1.2 An evaluation team should be established and this should have four key members as well as support from Financial Services and Corporate Health & Safety.
- 10.1.3 OJEU thresholds are reviewed and set bi-annually. Currently they are:
- Goods Supplies & Services - £164,176
 - Works - £4,104,394

10.2 Tender Process

10.2.1 The EU Directives have been incorporated into UK law by the Public Contract Regulations 2015. This details how procurement above OJEU thresholds have to be undertaken.

10.2.2 There are a range of processes available for above OJEU procurement exercises however the most commonly used ones are:

- Open procedure
- Restricted procedure
- Competitive dialogue
- Negotiated procedure
- E-auctions

The first two are the most appropriate procedures for the Council's procurement activity. Further information on the other routes can be obtained from the Client Procurement Officer where these are deemed to be appropriate.

10.2.3 The "open" procedure is where there is a limited market place and also it is not anticipated that there will be a high volume of interest. It is a one stage process which assesses both the history/standing of the contractor alongside its ability to deliver the specification. Submissions are undertaken by way of Invitation to Tender.

10.2.4 The "restricted" procedure is where it is anticipated that the market place is large and interest will be high. This route allows for the shortlisting of suppliers by way of an assessment using a standard selection questionnaire followed by the completion of an ITT by those that have been selected for the second stage. The SSQ is a standard document which assesses various general aspects of the contractor such as:

- Financial standing
- Company policies i.e. Equality & Diversity, Health & Safety
- Previous relevant experience

It should be noted that any criteria assessed at this stage cannot be used again at ITT (Award stage).

10.3 Mandatory/Discretionary Timelines

- 10.3.1 All OJEU procurement, regardless of the process used, are subject to both mandatory and discretionary timelines.
- 10.3.2 Mandatory timelines relate to how long the relevant procurement document has to be “live” for in the public domain as well as the alcatel (standstill) period.
- 10.3.3 Discretionary timelines relate to the time required to evaluate the submissions and for the award to be made.
- 10.3.4 It should be noted though that an indicative procurement timetable is required to be published in the tender documents.

10.4 Contract Opportunity Advertising Requirements

- 10.4.1 All procurement exercises that are above the OJEU threshold must be advertised in both OJEU (Official Journal of the European Union) and also on Contracts Finder. The Client Procurement Officer is the only Officer authorised to do this therefore it is imperative that early engagement is sought.
- 10.4.2 At the time of a contract notice being published all documentation relating to the procurement exercise must be published. This covers both the PQQ and ITT where a restricted process is being followed as well as any other documents being made reference too.

10.5 Standard Selection Questionnaires (SSQ)

- 10.5.1 Following the PCR 2015 coming into force there is a fundamental change in the use of standard selection questionnaire. Historically, Councils’ have used these documents as a way of shortlisting for procurement exercises under thresholds. The legislation now clearly states that this is no longer possible for under threshold exercises.
- 10.5.2 Where the tender process is over the relevant OJEU threshold and a restricted process is being followed, a standard selection questionnaire can be used. This is a standard document which takes a historic look at the operation of the supplier, from both a financial and experience perspective. Information assessed at this stage cannot then be assessed at the ITT stage
- 10.5.3 The use of the SSQ enables a reduction in the number of bidders to be undertaken. It is essential though that any shortlisting be identified within the contract notice and in the SSQ itself. This can either be a range or an exact number.

10.6 Invitation to Tender

- 10.6.1 All exercises must be conducted by way of using the electronic portal. No other method is permitted. Submissions received after the deadline will not be considered under any circumstances.
- 10.6.2 The standard template must be used and this has to be finalised prior to the publication of the contract notice.
- 10.6.3 The ITT must:
- Include a full specification which must describe clearly the Council's requirements in sufficient detail to enable the submission of competitive offers. In preparing the specification, the Lead Officer must have regard to any guidance given from a procurement perspective.
 - It should also clearly state that the Council is not bound to accept any tender submission.
 - Detail the award criteria to be applied when evaluating the submission
 - Clearly state that submissions will only be accepted electronically

Section 11 – Submitted Tenders – Errors, Discrepancies & Variations

11.1 Error and Discrepancies

11.1.1 Where examination of a quotation/tender reveals an error or discrepancy which would affect the final figure in an otherwise successful submission, the procedure will be as follows:

- 1 The submission will be disregarded if, in the opinion of the City Solicitor, Legal Services Manager and/or the Client Procurement Officer, the error or discrepancy has invalidated the tender by;
 - a) Allowing a potential collusion
 - b) The submission being so imprecise that it is unable to be clarified
 - c) The tendering process has been compromised
- 2 In any other case the tenderer will be notified in writing by the Client Procurement Officer (via the electronic procurement portal and given the opportunity to either;
 - a) Correct the error or discrepancy
 - b) Confirm the submission without correction
 - c) Withdraw the submission

11.1.2 If the tenderer elects to correct the error or discrepancy, no other adjustment, revision or qualification of the submission will be permitted.

11.1.3 Any correction must be confirmed in writing through the electronic tender portal and the tenderer will initial any amendments made within the relevant submission documents. These documents will be required to be resubmitted so that a clear audit trail is held. In order to be fair and transparent all submissions should be similarly checked.

11.1.4 Under no circumstances should tenderers be invited to provide supplementary values for inclusion within the submission.

Section 12 – Evaluation Process for Procurement Exercises

12.1 Completion of Feedback Sheets

12.1.1 Appendix H shows the template which must be used to detail each individual member of the evaluation team's feedback on the tender submission. It is imperative that these are completed with the relevant detail.

12.1.2 The evaluator should ensure that they score in accordance with the scoring criteria and that any comments are related back to the overriding definition of the score awarded. For example if the definition of the score awarded is good then the use of the terminology excellent or acceptable should not be used in the feedback given.

12.1.3 In addition to 12.1.2 above it is also essential that the evaluator justifies the numerical score awarded by fully disclosing what was missing from the submission which meant it could not score any higher. For example where a score of 2/4 is awarded there is a requirement for the evaluator to state those items which were missing from the submission i.e. no reference to living wage adoption in community benefits element.

This is a legal requirement of the feedback letters and failure to provide this information could lead to a delay in the award being made.

12.1.4 The scoresheets should be completed where possible electronically and if not they should be scanned into the system and stored within the relevant procurement exercise folder. Under no circumstances should any of these sheets be destroyed without the approval of the Client Procurement Officer.

12.2 Financial Assessment

12.2.1 All tenders should have an element of financial assessment within them. Financial Services will assess this element based on a pre-approved financial model. This takes account of a number of accounting ratios based on the financial accounts of the supplier. It also looks at the turnover of the company in relation to the contract value.

12.2.2 Where a pre selection is made (contract value below OJEU limit) it is the responsibility of the Lead Officer to ensure that the suppliers invited to tender are of a sound financial standing. If there is any doubt then advice should be sought in the first instance, prior to commencing with the procurement exercise, from the Client Procurement Officer.

12.3 Health & Safety Assessment

12.3.1 Prior to any supplier/contractor being able to start on site a full Health & Safety assessment must be undertaken. Any assessment must be made based upon the Council's Control of Contractors Health & Safety Competency template.

12.3.2 Where a RFQ process is being followed and the contractor/supplier is not already registered on the Council's Control of Contractors register, the

successful contractor/supplier will be required to complete and pass the control of contractor's assessment. Award will be made on this basis.

12.3.3 Where an OJEU compliant process is being undertaken then a review of the standard questionnaire will need to be undertaken to ensure that sufficient Health & Safety information is assessed in order for the contractor/supplier to be deemed competent.

12.3.4 Where there is high risk/exposure of the Council in relation to Health & Safety due to the nature of the contract being let and/or the value of the contract being in excess of the OJEU thresholds (see section 10) it is a requirement that the Health & Safety assessment is undertaken by Corporate Health & Safety.

12.4 Clarification Questions

12.4.1 Whilst undertaking an evaluation of the submission there may be occasions where the response is not clear. In these instances it is acceptable for a formal clarification to be made through the Electronic Procurement Portal. Under no circumstances should a clarification be sought in any other format i.e. direct email, telephone conversation etc.

12.4.2 Clarifications should be issued with clear reference to the submission text and with a definitive deadline for the response to be made. If no response is made by the deadline then the scoring assessment should be based on the information provided within the original submission. Acceptance of late responses may be granted however guidance on this should be sought from the Client Procurement Officer.

12.4.3 In no circumstances should a clarification be used in order to obtain further information which was not disclosed within the original submission.

12.5 Moderation Meetings

12.5.2 As the evaluation process is undertaken on an individual basis there will on some occasions be the requirement of a moderation meeting to be held. This is a process where scores which are not consistent will be reviewed and a discussion take place as to why the relevant officers have scored as such. All members of the evaluation team will be required to attend if it is deemed that moderation is required.

12.5.3 These meeting will be fully documented and any amendments to the original scoring/reasons given by the evaluation team members will be recorded on a new evaluation sheet. As in section 12.1.4 the amended forms should be stored electronically.

Section 13 – Contract Award

13.1 Drafting of Successful/Unsuccessful letters

13.1.1 Once the final scoring assessment has been completed the Client Procurement Officer will draft the successful/unsuccessful letter. This is a legal requirement where the contract values exceeds the relevant OJEU threshold. However in order to follow best practice it is an internal requirement for all exercises over £25,000.

13.1.2 Until these letters have been issued no contact should be made with any of the suppliers/contractors in relation to the outcome of the tender process.

13.2 Alcatel

13.2.1 Where the contract value is over the relevant OJEU threshold then the alcatel period (standstill period) will need to be applied. This is a 10 day period (calendar not working days) between the issuing of a successful/unsuccessful letter and the formal award letter. Allowance needs to be made for any bank holidays and if the 10 days finishes on a weekend.

13.2.2 During this period it is not allowed for any contact to be made with the successful tenderer. This is also the time when an unsuccessful tenderer can legally challenge the award made. They have to do so in writing formally within the 10 day period. If a “challenge” is made then the Authority has to respond as soon as is possible (preferably within 24 hours of receipt of the letter) in order to not delay the pending award of contract.

13.2.3 The City Solicitor and the Client Procurement Officer are responsible for responding to any challenges received. It is their decision in conjunction with the relevant Director for the service area as to whether the challenge can be defended. Their combined decision is final and will be communicated to all suppliers/contractors involved where appropriate.

13.3 Award Letters

13.3.1 Once the Alcatel period has passed without an upheld challenge being made, then the award letter can be issued. This will be undertaken by the Client Procurement Officer.

13.4 Contract Award Notices

Once the award letter has been issued and formal confirmation of acceptance of the appointment has been received from the successful bidder then a formal contract award notice will be issued. This will be undertaken by the Client Procurement Officer.

Section 14– Placing a Purchase Order

- 14.1 Once the contract documentation has been completed it is essential that a formal purchase order is raised. Failure to do so may result in the delay of payments being made to the supplier/contractor and additional costs being incurred by the Council. Further guidance on this can be found with the Council's Financial Procedure Rules or from the Council's Exchequer Team.

Section 15 – Post Procurement

15.1 Overview

15.1.1 Following the completion of a successful procurement exercise it is essential that processes are put in place in order to ensure that contract delivers the required outcomes.

15.2 Document Retention

15.2.1 Documentation relating to the actual procurement process must be kept. Ideally this should be electronically but there may be some instances where paper copies are held. Under no circumstances should any procurement related documents be destroyed without previously having consulted the Client Procurement Officer.

15.2.2 All original contracts where the value is over £75,000 (but ideally any value) must be lodged with Legal Services once they have been signed/sealed by the appropriate officer (see Section 15.13/Appendix I).

15.2.3 Contracts which have been signed must be kept for a period of six years and those which have been sealed for twelve years.

15.2.4 In all cases documents should be stored in accordance with the Council's Document Retention Policy.

15.3 Contract Management

15.3.1 It is imperative that processes are put in place to ensure that the contract delivers the required outcomes to budget and on time. The Contract Manager/Lead Officer is responsible for this but it is possible on larger contracts/cross directorate arrangements that responsibility is shared. However an overall contract manager should be nominated to co-ordinate all the various elements.

15.3.2 Once award has been made an induction meeting should be arranged with the successful bidder. In order for this meeting to be successful it is advisable for an agenda to be set and for minutes/action points to be taken. These should be circulated to both parties in a timely manner. Below is a list of some of the agenda items that need to be covered:

- delivery of specification
- implementation plan
- confirmation of key staff & contact details
- scheduling of regular contract review meetings
- communication plan
- insurance certificates obtained
- risk register
- agreement of kpi's

15.3.3 Regular contract monitoring meeting should also be held. How often these are held should be proportionate and relative to the contract. They should be fluid so that they can react to the performance of the contractor and also allow enough time in between for any issues to be actioned. These meetings should have an agreed agenda issued prior to the meeting taking place and

be formally minuted. The meetings should be circulated as soon as possible after the meeting taking place and any action points clearly defined. Below is a list of some of the areas that should be reviewed:

- Performance
- Compliance with the requirements of the specification
- Cost
- Value for money requirements
- KPI's
- Working practices i.e. Health & Safety
- Changes in legislative requirements
- User satisfaction and risk management

15.4 Dispute Resolution

15.4.1 There will be occasions where it is not possible for the project teams to be able to resolve certain issues. In these cases it should be escalated to the line manager on both sides with a view to them meeting as soon as possible in order to find a resolution to the issue. Any discussion should be documented. Where the issue is of a serious contractual nature or is a re-occurring problem which is not being resolved the Client Procurement Officer and the Legal Services Manager should both be informed.

15.5 Contract Register

15.5.1 It is the responsibility of the Lead Officer/Contract Manager to complete the relevant details on the Council's contract register. This is a legal requirement as the council is obliged to publish this as part of the Transparency Agenda.

15.5.2 An entry should be made for all contracts held by the Council.

15.6 Disposal of Assets, Land & Property

15.6.1 This does not form part of Contract Procedure Rules although how a transaction is structured may have a procurement implication. It is therefore essential that the advice is sought from the Strategic Property Service Manager in the first instance. This post holder is the only authorised officer within the Council to undertake such work. Reference should also be made to Financial Procedure Rules.

15.7 Modification/Variations to Contracts

15.7.1 It is possible at any point in time to vary the specification within the contract. However this can only be undertaken with the full agreement of the contractor/supplier. It is not something that can be forced upon them.

15.7.2 Any change to the contract should be undertaken formally by way of a variation order. This must be done in conjunction with both the Client Procurement Officer and the Legal Services Manager. Engagement with both of these should be sought before discussions are held with the Contractor/supplier.

15.7.2 Where there is a financial implication to the contract for which there is no budget provision the involvement of Financial Services will be required and processes followed in line with FPR's.

15.7.3 Certain changes may require Member approval and advice should be sought on this in the first instance from the Client Procurement Officer.

15.7.4 Dependent on the change being enacted it may be necessary for a modification to contract notice to be published. This is a legal requirement set out within PCR 15 (regulation 72).

15.8 Liquidated & Ascertained Damages

15.8.1 Every contract for works or services shall provide, where appropriate, for Liquidated Ascertained Damages (LADs) to be withheld from the contractor/supplier in instances where it is viewed that the terms of the contract have not been fulfilled. Advice must be sought from the Client Procurement Officer and/or the Legal Services Manager prior to this route being undertaken.

15.9 Contract Extensions

15.9.1 Where an extension has been allowed for within the terms and conditions of the original contract no other approval is required in extending the contract.

15.9.2 The granting of any extension should be based on satisfactory delivery of the contract up to that point and also value for money being satisfied in the costs associated with the delivery of the contract for the period of the extension being granted. It is therefore essential that sufficient time is allowed in advance of the initial contract period end date to allow for such discussions/reviews to take place.

15.9.3 Where the contract is high profile and/or high value, the granting of an extension is deemed to be a key decision, the decision should be made by Executive.

15.9.4 Where the original contract terms and conditions do not allow for an extension it still may be possible to extend. Discussions in regard to this must be taken with both the Client Procurement Officer and the City Solicitor.

15.10 Transfer/Novation of contracts

15.10.1 The council may agree where it is deemed appropriate to transfer/novate a contract. This decision must be taken in conjunction with the City Solicitor and the Client Procurement Officer.

15.11 Post Procurement Review

15.11.1 Following the completion of the procurement process the Lead Officer should undertake a review of the processes followed. Where it is felt things could have been improved/undertaken differently it is important that this is raised with the Client Procurement Officer. This can then where appropriate and legal to do so, be used to improve and influence future exercises.

15.12 Embedded Lease Determination

15.12.1 Statutory Accounting rules require that for each new contract with a value of over £10,000 and lasting more than one year that they are assessed to ascertain whether there is an embedded lease (i.e. the use of plant/equipment/vehicles is inherent in the contract e.g. refuse vehicles in the waste contract) that needs to be declared within the Council's Annual Statement of Accounts.

15.12.2 In order to determine whether there is an embedded lease contact should be made by the Lead Officer with Financial Services as there may be additional information that will be required from the supplier as part of the contract. The Client Procurement Officer will provide, when requested, the financial details of any new contracts which meet the criteria in 15.12.1. However this does not remove the responsibility from the Lead Officer to seek advice from Financial Services.

15.13 Contract Formalities including Signing & Sealing

15.13.1 All procurement exercises, regardless of value and approach, must result in a formal contract being issued. Ideally the contract should be issued and signed by all parties prior to the commencement of the contract.

15.13.2 The Council's standard contract template must be used in all cases unless prior agreement has been granted by either the client Procurement Officer or the Legal Services Manager.

15.13.3 Appendix I details the process which must be followed depending on the value of the contract being let. Officers should be aware that these are the values for the signing of contracts and are not in respect of financial authorisation levels held within the Agresso financial system. For information on this please contact Financial Services or see Financial Procedure Rules.

15.14 Risk Assessments, Contingency Planning & Exit Strategies

15.14.1 An assessment or business case should be prepared for all procurement exercises where the value exceeds the relevant OJEU threshold.

15.14.2 All lead officers/contract managers should ensure that where appropriate the following is undertaken:

- maintain a risk register during the contract period, review it at least every 3 months (depending on the complexity and profile of the contract)
- ensure that the risk register is used at all Contractor meetings as well as to inform the PIR
- undertake appropriate risk assessments
- for identified risks ensure that contingency measures are in place
- ensure critical support and maintenance arrangements are documented in the specification in order to avoid costly post tender costs
- ensure that an appropriate exit strategy is in place

Section 16 – Exception to Contract Procedure Rules

16.1 When can an exception be sought to CPR's

16.1.1 These CPR's apply in all circumstances except where an exception can be sought on the following grounds:

- a) Where important urgent repairs are necessitated by breakdown or other failure of buildings, plant, machinery or ICT software/equipment, necessary to maintain and ensure efficient and continuous service delivery.
 - i. The EU definition of “emergency” or “urgent” describes it as “brought about by events unforeseeable by and not attributable to the contracting authority”
 - ii. Prior to any works being procured agreement must be sought by either the Client Procurement Officer and/or the City Solicitor. This must be done so in writing (email is acceptable)
- b) Where renewals, repairs and upgrades to buildings, plant, appliances, machinery, vehicles or ICT equipment/software can only be efficiently carried out and most economically supplied with regard to time, cost and speed of delivery, by the original contractor/supplier or their successors or other sole specialists, subject to it not exceeding the EU thresholds when aggregated.
- c) Where urgent alternative arrangements are required to maintain the delivery of critical services due to the failure of an existing service provider or supplier.
- d) Where an emergency situation exists as defined in the Council's Disaster Recovery Strategy
- e) Activities where the Council is required to adopt other procedures by a government body. Also where the Council is operating as a partner in any joint arrangement with other outside bodies, then any contracts procured on behalf of the partnership will be done by following the lead partner's contract procedure rules.
- f) Works orders placed with utility companies i.e. for re-routing cables or pipework
- g) Where the City Solicitor and the Client Procurement Officer are satisfied that there is only one potential supplier of the required goods, supplies or services.

16.2 Exception process with a contract value up to £25,000

16.2.1 Where it is not possible for the direct approach to be made to a local supplier as per the definition in the Local Agenda policy. However this only where the City Solicitor and the Client Procurement Officer are satisfied that there are no more providers.

16.3 Exception process with a contract value up to OJEU thresholds

16.3.1 Where it is not possible to request two quotations from local suppliers it is acceptable for all quotations to be from non-local suppliers. However this only where the City Solicitor and the Client Procurement Officer are satisfied that there are no more providers.

16.4 Exception process in respect of specific category types (below OJEU)

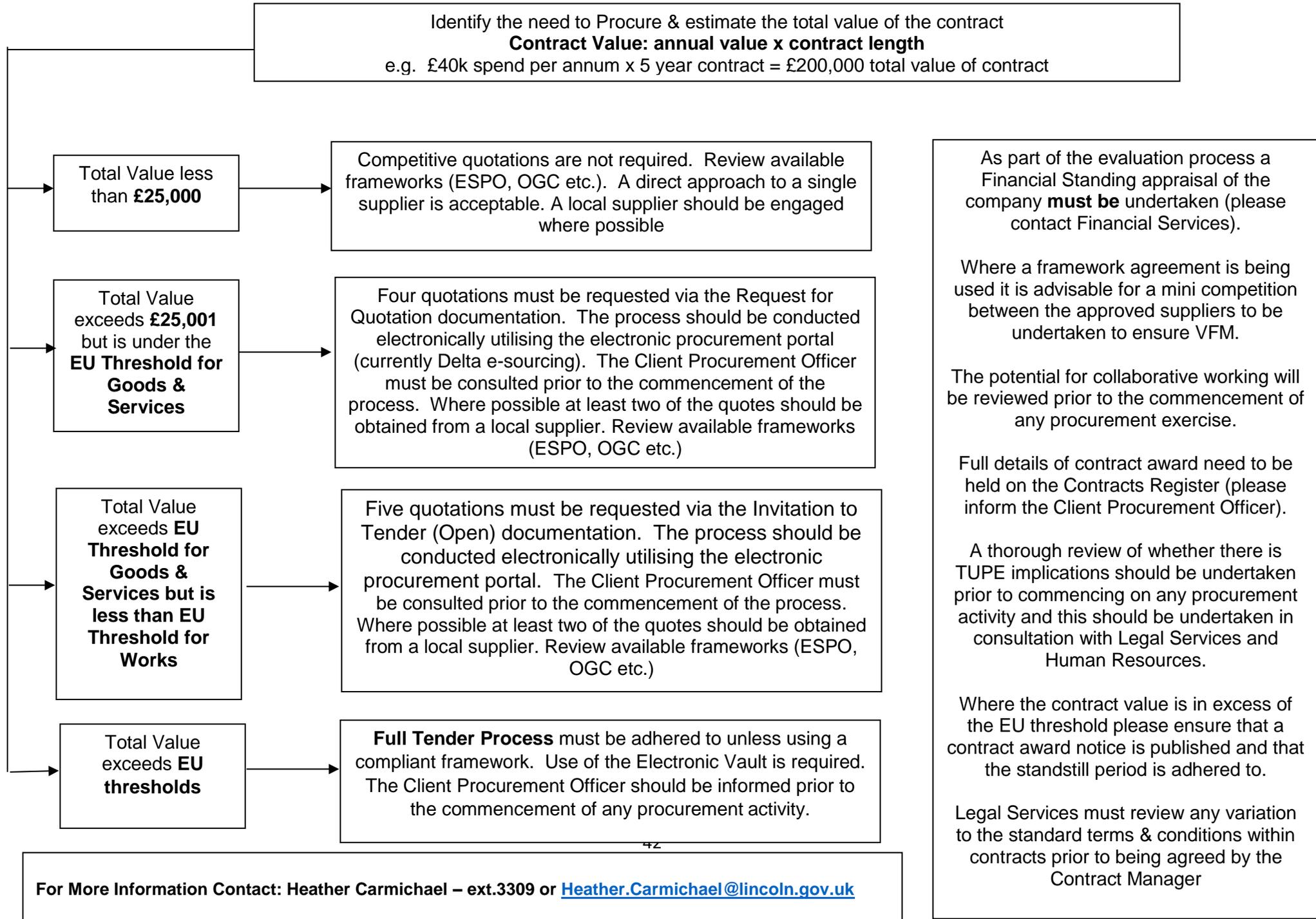
- 16.4.1 Where the appointment is in respect of specialist legal advice or for a barrister for defence of a specific case, up to the relevant OJEU threshold. Appointment can only be made by the City Solicitor
- 16.4.2 Where the appointment is in respect of ICT equipment/software and the original award was made following a compliant process. Subsequent licences and module upgrades can be made up to the relevant OJEU threshold. Appointment can only be made with the agreement of the BDIT Manager in association with the relevant Assistant Director.
- 16.4.3 Where the appointment is in respect of specialist financial advice in respect of a one off bespoke project, up to the relevant OJEU threshold. Appointment can only be made by the Chief Financial Officer.
- 16.4.4 Where the appointment is in respect of specialist property advice in respect of a one off bespoke project, up to the relevant OJEU threshold. Appointment can only be made by the Strategic Property Services Manager, in association with the relevant Assistant Director.

Appendices

A	Procurement Flow Chart Summary Overview
B	Procurement Below £25,000
C	Procurement above £25,000 but below OJEU Threshold
D	Procurement above OJEU threshold (Open)
E	Procurement above OJEU threshold (Restricted)
F	Template for Exception to Contract Procedure Rules
G	Method Statement Examples
H	Definition & Glossary of Terms
I	Signing Matrix

APPENDIX A

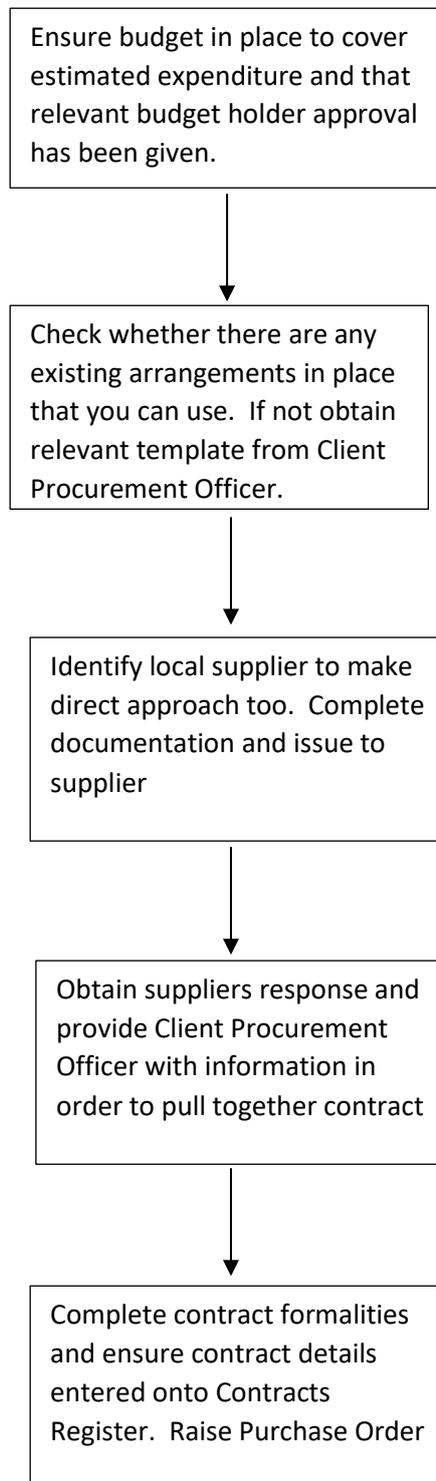
Procurement Flow Chart



For More Information Contact: Heather Carmichael – ext.3309 or Heather.Carmichael@lincoln.gov.uk

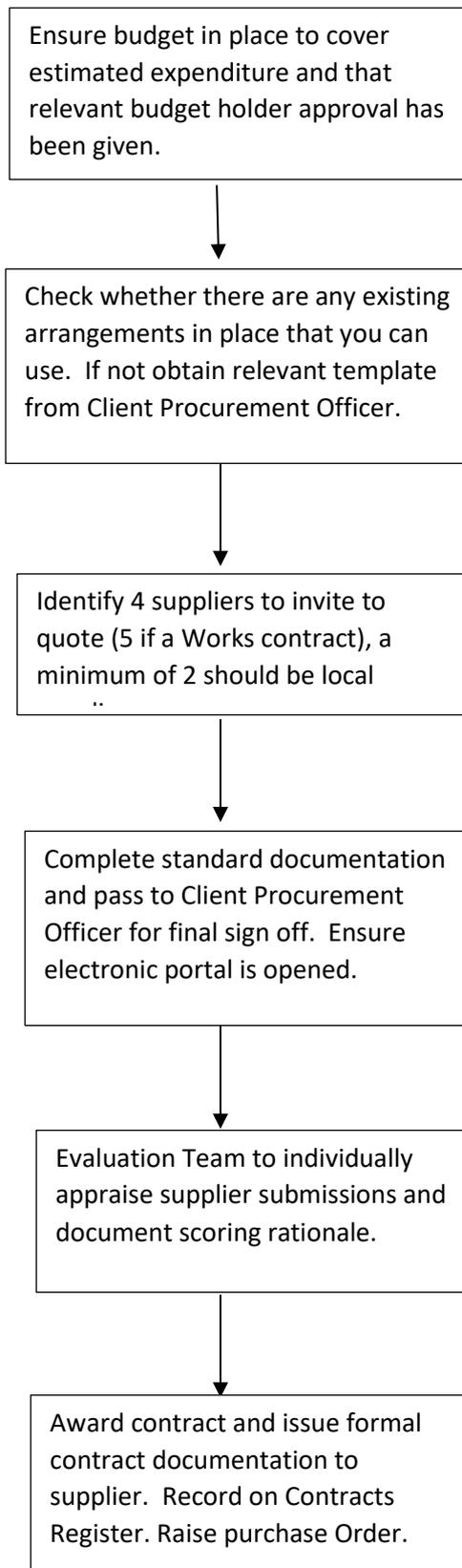
APPENDIX B

Procurement Below £25,000



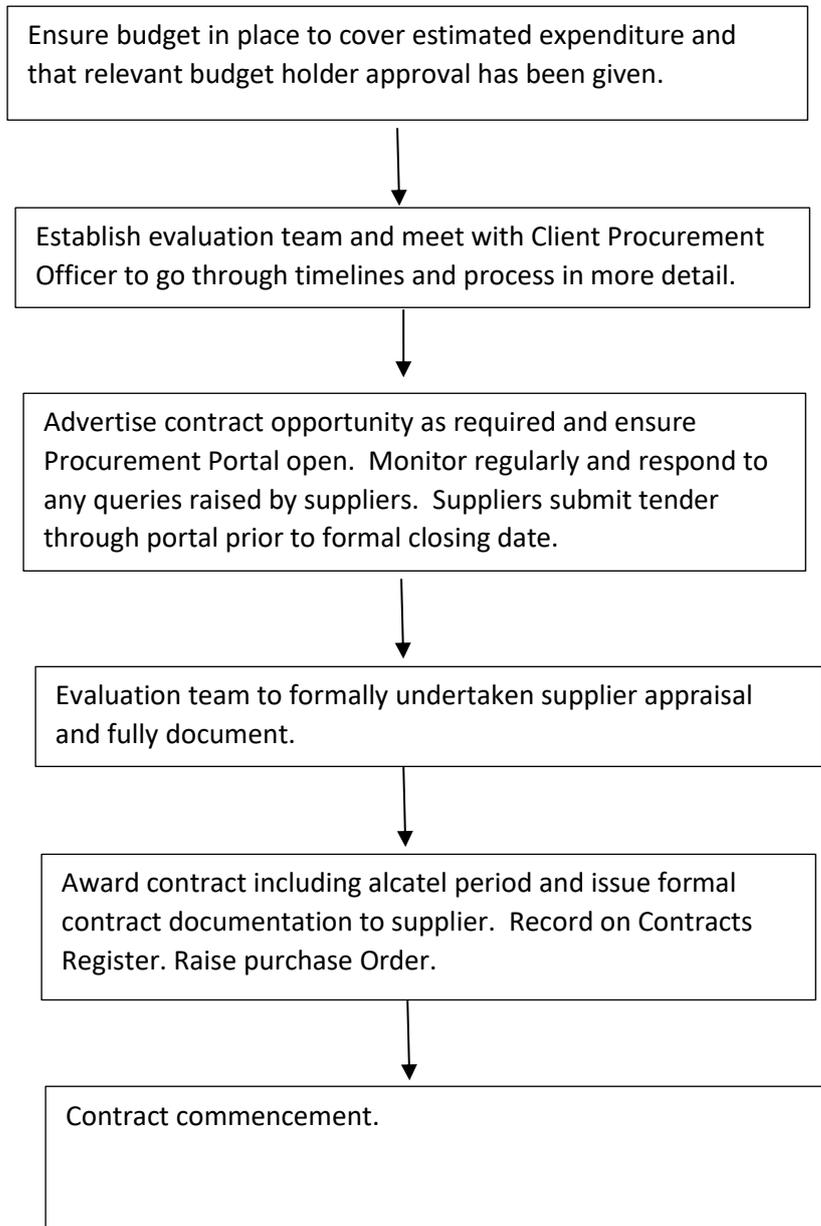
APPENDIX C

Procurement above £25,000 but below OJEU Threshold



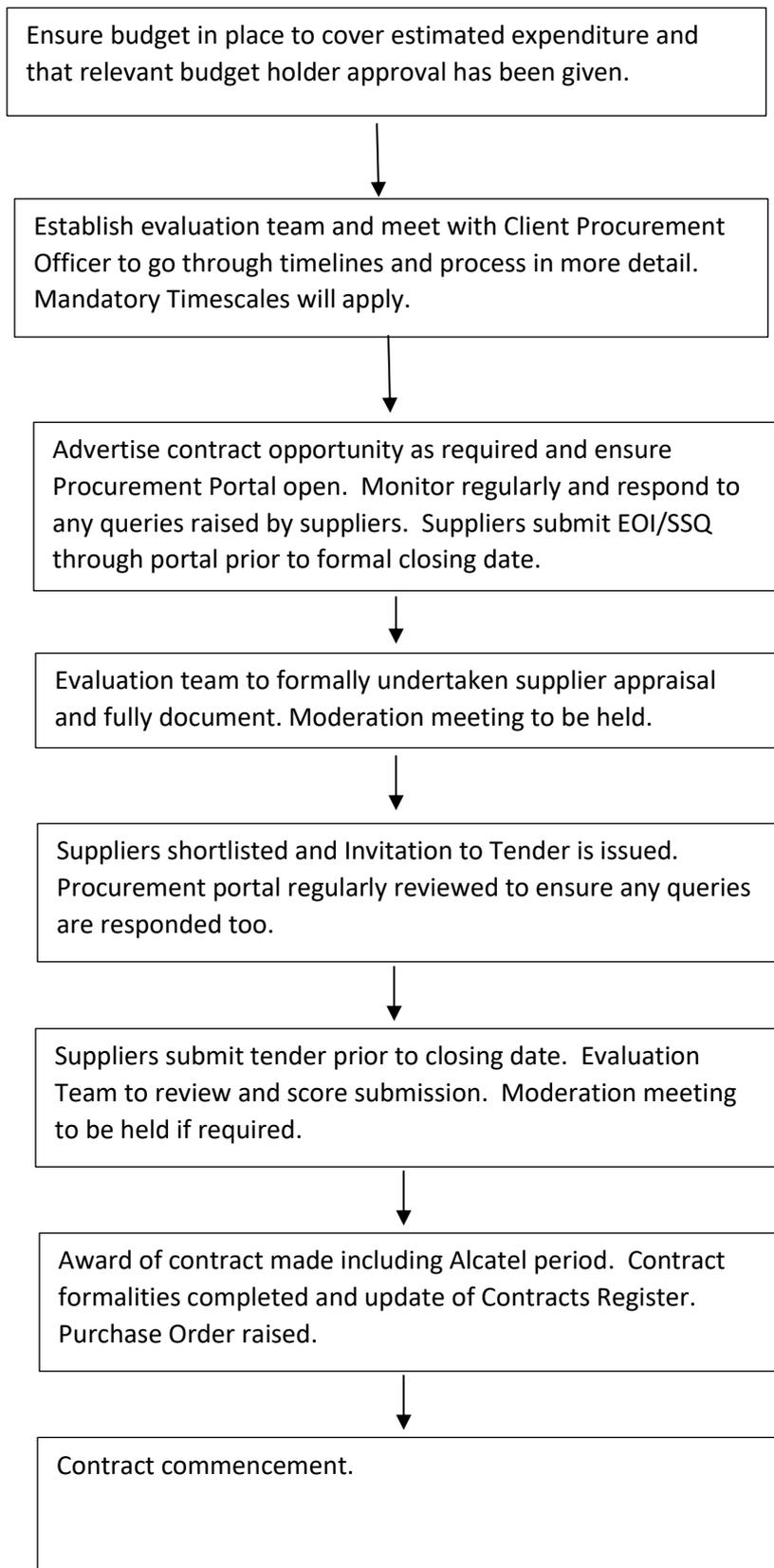
APPENDIX D

Procurement above OJEU threshold (Open)



APPENDIX E

Procurement above OJEU threshold (Restricted)



APPENDIX F

Template for Exception to Contract Procedure Rules (Below OJEU only)

APPROVAL EXCEPTION TO CONTRACT PROCEDURE RULES
Contact Name:
Job Title:
Date:
Description of Contract – this should include the estimated value; brief details of service; contract duration etc.
Reason for Request – this should relate to the relevant CPR against which the exception is being sort, together with full supporting information.
Assistant Director: (Print & Sign Name) Date:
Recorded and Approved by Client Procurement Officer: Date:
Approved by City Solicitor: Date:

APPENDIX G

Method Statement Examples

1	<p>Project Team Details</p> <p>Please identify the key personnel to be involved in the project, together with evidence of their individual skills and abilities. Please explain their roll in delivering the contract</p>
2	<p>Understanding of the Brief</p> <p>Please state, in no more than 2 sides of A4, your understanding of the Project.</p>
3	<p>Delivery</p> <p>Please explain, in no more than 2 sides of A4, how you would deliver an effective (<i>details of the service required</i>) for the client</p>
4	<p>Issues</p> <p>What do you consider to be the three main issues/challenges in delivering the service required by the client and how would you meet these challenges</p>
5	<p>Improvements</p> <p>What do you see as the three key improvements you would deliver to improve the existing level of service</p>
6	<p>Communication</p> <p>Please explain how you plan to communicate with the Client on a regular basis and in situations where urgent contact is required.</p>
7	<p>Electronic Procurement Tools and IT</p> <p>Please give details of your present capacity and future proposals for the introduction of the following:</p> <ul style="list-style-type: none"> a) online electronic invoicing and/or payment systems b) electronic reporting c) integration of any or all of the above
8	<p>Performance Indicators/Monitoring</p> <p>What measures will you put in place to self-monitor delivery of the contract, and how will you communicate this information to the Client</p>
9	<p>Support</p> <p>Contractors are requested to state their standard hours of work together with out of hours support if appropriate</p>
10	<p>IT Related Issues</p> <p>Explain how long support will be provided for previous versions of the product following release of an upgrade</p>

11	<p>Management Information</p> <p>Please give details of your present capacity and future proposals for the provision of regular management information. What reports are you able to provide and for what purpose and benefits will they be to the Council?</p>
12	<p>Sustainability</p> <p>Please explain what measures you would put in place to support the sustainable approach to procurement being championed by Procurement Lincolnshire.</p>
13	<p>Please give specific examples of where your company has demonstrated a genuine regard for a sustainable approach to (<i>detail requirements</i>) and how this approach will support this contract</p>
14	<p>Community Benefits</p> <p>Please demonstrate what, if any, community benefits may be delivered through acceptance of your tender submission.</p>
15	<p>Innovation (Only if it has been stated that variant bids</p> <p>Although you are working to a detailed specification and brief, please demonstrate any areas where you believe an innovative approach would enhance the contract. Please note that any suggestions should be costed and included within your tender submission</p>
16	<p>Risk Management</p> <p>All projects involve a certain amount of risk. Please identify the risks you feel may be associated with this project together with the actions you would take to mitigate those risks. Please provide a draft risk register to explain your findings</p>
17	<p>Project Plan</p> <p>Please detail your proposed project plan (including resources and timescale).</p>
18	<p>Exit Strategy</p> <p>Please provide your proposals for an exit strategy, i.e. how will you manage the contract towards the end of the contract period or within the life of the contract.</p>

APPENDIX H

Definition & Glossary of Terms

Definitions

Aggregation	The identification of similar purchases made and combined aggregated requirements over a specified period of time.
Appropriate Officer	Member of staff who has delegated authority to conduct procurement exercises
Competitive Dialogue	This is used when the council is unable to provide a precise specification and where the scope is negotiate about what services a contractor can provide. The purpose of this procedure is to negotiate on the specification of the project and not on the price. Contractors are allowed to individually discuss all aspects of the contract with the Council, and workable solutions are built up with each contractor. Once this process is completed, then all contractors are invited to tender based on their individual and unique solutions.
Constitution	The set of legal administrative and legislative principles by which the Council is governed, especially in relation to the rights of the people it governs.
Contract	A legally binding document which sets out various particulars for the provision of supplies services and works.
Council	City of Lincoln Council
CPR's	Contract Procedure Rules
Directorate	An area of the Council that is responsible for specific service delivery
Director/Assistant Director	Member of staff who is responsible for a Directorate/Service Area of the Council.
Expression of Interest	This is the first stage of an above OJEU threshold tender. Expressions are sought and evaluated from interested contractors.
Framework Agreement	An overarching agreement with a supplier where the prices, specifications and terms are pre-agreed but where there is no obligation to purchase. Often these are externally procured by an approved procurement body i.e. ESPO
Invitation to Tender	This is the process where a supplier responds to the specification in respect of service delivery. It is relevant for above OJEU threshold tenders only
Local Supplier	This is a supplier who's registered office (address as per invoice) is within Lincolnshire and/or within a 20 mile radius of the County Boundary
MEAT	Most economically advantageous tender upon which award is made. This takes account both price and quality

Negotiated Procedure	This allows for negotiations to be undertaken with contractors on the advertised terms of the contract. However this is in exceptional circumstances only.
Open Procedure	This process is where an advert is placed in OJEU. The tender is open to all interested parties who submit an expression of interest. It is a one stage process where the standard qualification and the ITT are issued in one document.
Procurement	The process of acquiring supplies, services and goods from a third party
Request for Quotation	This is the process used for all procurement with a value less than that of the OJEU threshold.
Restricted Procedure	An advert is placed in OJEU. Interested parties are required to complete the Standard Questionnaire and the Council will evaluate these submissions. Based on this a shortlist will be prepared and these will then be invited to tender. This is two stage process.
Threshold level	This is the monetary value attributed to different procurement procedures

Glossary of Terms

CPR's	Contract Procedure Rules
EU	European Union
ITT	Invitation to Tender
MEAT	Most Economically Advantageous Tender
OJEU	Official Journal of European Union
PCR	Public Contract Regulations
PIN	Prior Information Notice
RFQ	Request for Quotation
SSQ	Standard Selection Questionnaire (previously a Pre-Qualification Questionnaire – PQQ)

APPENDIX I

Signing Matrix

Value (£)	Officer Responsible
Up to £25,000	Service Manager* with responsibility for the area
Over £25,001 but less than £75,000	Assistant Director with responsibility for the area
Over £75,001	Contract to be signed and sealed by Legal Services

* Service Manager is defined as those officers who are part of the Corporate Service Managers Forum