CONTRACT PROCEDURE RULES

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SECTION 1 INTRODUCTION AND GENERAL REQUIREMENTS

1.1 These Contract Procedure Rules (CPR's) are a framework of rules, which must be adhered to when purchasing goods, services, works or income generating contracts or disposing of Council property. These Contract Procedure Rules[1] have been established to ensure that the Council is compliant with UK legislation, follows best practice and achieves best value for money in its procurement activities. These Contract Procedure Rules do not apply to employment contracts, contracts for the sale or purchase of land or buildings or any other contracts which are exempt under the Procurement Act 2023 or subsequent/associated UK legislation[2].

1.2 These Contract Procedure Rules promote good purchasing practice, public accountability, data transparency and help protect officers from any complaints. Following the rules is the best defence against any possible allegation that a purchase or disposal has been made incorrectly or inappropriately.

1.3 Officers responsible for purchasing goods, services, works or income generating contracts are bound by and have a duty to read and be familiar with these Contract Procedure Rules. these Contract Procedure Rules lay down **minimum** requirements. A more thorough procedure may be appropriate for a particular contract.

1.4 Officers must ensure that any necessary pre-purchasing steps have been taken. This may include[3]:

- conducting a value for money review
- drafting a business case,
- conducting pre procurement market engagement
- considering any workforce implications including TUPE
- health and safety and business continuity requirements
- complying with *Key Decision requirements*
- Equality Impact Assessment
- GDPR (Data Protection)
- Safeguarding considerations
- Section 20 considerations if housing
- Collaboration opportunities
- considering Social Value

1.5 Unless an exemption provided for in Section 3 has been approved, it is a disciplinary matter to fail to comply with these Contract Procedure Rules. Responsibility for compliance rests with everyone who carries out procurement of goods, services or works (including contracts for consultancy) for or on behalf of the Council. The ultimate responsibility for identifying the need to start a procurement, creating the procurement, managing it through its contract term and requirement to re-procure rests with the Director (or Strategic Director in the case of direct reports) for the relevant area.

1.6 These Contract Procedure Rules should be read in conjunction with the Council's Financial Regulations as appropriate. Officers should also consider the Co-operative Procurement Strategy when considering embarking on a procurement[4]. These Contract Procedure Rules will be reviewed and updated on a periodic basis (the latest version will be held on the

[1] Referred to from now on throughout this document as These Contract Procedure Rules or CPR's

[2] Contact the Recruitment Officer regards employee contracts (for the avoidance of doubt, contracts with agencies or companies who supply temporary staff are subject to CPR's) and the Estates Manager regards contracts for sale of land.

[3] Checklists to help ensure correct steps are addressed are available on the intranet under Procurement

[4] Co-operative Procurement Strategy is held on the intranet under Procurement

intranet).

1.7 Officers must also ensure that any agents or consultants acting on their behalf in purchasing or disposal matters also comply with the Council's Contract Procedure Rules, Financial Regulations and with all UK legal requirements.

1.8 **Contracts** mean any arrangement, for pecuniary interest, for the supply of goods (including hire, rental or lease arrangements), services or works to the Council. "Pecuniary interest" includes arrangements where the Council pays for goods, services or works and/or where the Supplier has the right to exploit works or services and to generate its income from doing so (i.e. a Concession Contract). Contracts do not include and, these Contract Procedure Rules do not apply to, purely compensatory or supportive arrangements such as grants, although officers must ensure any such arrangements comply with the Subsidy Control Act 2022 and associated regulations. Advice should be sought from Legal Services about any potential subsidy control implications.

1.9 The Procurement Act 2023 and Procurement Regulations 2024 set out what is legally required for UK public contracts procurement. This includes some rules for procurements below the Public Contracts Threshold; these have been incorporated into the CPR's.

1.10 All contracts must be subject to competition, as follows:

Band 1	Up to £15,000 (£25,000 if Works)	One quote (confirmed in writing if greater than £1,000)
Band 2	£15,001 – £100,000 (£250,000 if Works)	Three quotes to a purchaser specification via the Council's e-tendering system
Band 3	£100,001 (£250,001 if Works) – Public Contracts Threshold	Invitation to Tender via the Council's e-tendering system
Band 4	Above Public Contracts Threshold	*Procurement Act 2023 Procedures* via the Council's e-tendering system

1.11 An officer must neither enter into separate contracts nor select a method of calculating the *Estimated Contract Value* in order to circumvent the application of These Contract Procedure Rules or The Procurement Act 2023. If it is not possible to estimate the value of a contract (for example because the duration is unknown), the contract must be treated as having an estimated value above the Public Contracts Threshold.

1.12 Where the value of a contract exceeds £175,000, it should generally (where practicable) be made in the form of a deed and signed under seal by the Council. Should an officer wish to depart from this requirement, authorisation must be given by the Borough Solicitor and Legal Services must first be consulted for advice on the legal implications of doing so. Notwithstanding the forgoing, a contract of any value may be entered into as a deed if requested by the applicable Head of Service or Legal Services – for example where an extended limitation period of 12 years is required (the normal limitation period is 6 years).



Clare Fletcher -Strategic Director

For Further Advice on these Contract Procedure Rules:

The authorised version of These Contract Procedure Rules and various supporting written guidance are held on the Council's intranet site, under "Procurement".

If you have any queries about These Contract Procedure Rules or the various supporting written guidance please contact one of the following as appropriate:

- Corporate Procurement Managerprocurement@stevenage.gov.uk
- Finance – Director

If you are unclear about the procurement rules please seek relevant advice before taking any purchasing or disposal action.

SECTION 2 CONTRACT PROCEDURE RULES – PROCUREMENT OBJECTIVES

All Procurement exercised should take into consideration the following, but these are essential for band 4 procurements which are contracts at or above the threshold for The Procurement act 2023 and are known as covered procurements.

2.1 In carrying out a covered procurement, a contracting authority must have regard to the importance of—

(a) delivering value for money;

(b) maximising public benefit;

(c) sharing information for the purpose of allowing suppliers and others to understand the authority's procurement policies and decisions;

(d) acting, and being seen to act, with integrity.

2.2 In carrying out a covered procurement, a contracting authority must treat suppliers the same unless a difference between the suppliers justifies different treatment.

2.3 If a contracting authority considers that different treatment is justified in a particular case, the authority must take all reasonable steps to ensure it does not put a supplier at an unfair advantage or disadvantage.

2.4 In carrying out a covered procurement, a contracting authority must—

(a) have regard to the fact that small and medium-sized enterprises may face particular barriers to participation, and

(b) consider whether such barriers can be removed or reduced.

SECTION 3 EXEMPTIONS TO THESE CONTRACT PROCEDURE RULES

3.1 An exemption under this Section allows an officer to partly depart from the normal contract action required in following these Contract Procedure Rules.

These Contract Procedure Rules shall not prevent expenditure being incurred where an emergency or disaster involving destruction of or danger to life or property occurs or is imminent. Where in the opinion of a Senior Leadership Team (SLT) member, in consultation if possible with the Chief Executive and the Director (Finance), (where over £250k the key decision urgency process also applies) the urgency of the situation will not permit delay, nothing in Financial Regulations or these Contract Procedure Rules shall prevent the Council from incurring the expenditure as an exemption. Where the contract value is over £100,001, action under this exemption shall be reported to the next meeting of the Cabinet.

3.2 Subject to adhering to The Procurement Act 2023 and any subsequent /associated UK legislation, the following exemptions from the requirement to obtain the requisite number of quotations or tenders must be the subject of prior and written approval by either the Corporate Procurement Manager, Strategic Director (S151), Director (Finance), or the Borough Solicitor:

a) For the purchase of goods, works or services which are of a specialist nature or are Officer. A record obtainable from only one or a limited number of Suppliers and there are no other satisfactory alternative options.[5]

b) Where exceptional circumstances clearly show it is in the best interests of the Council to negotiate a new contract with an existing Supplier.[6]

c) Unforeseen works or circumstances where delay will adversely impact on the service delivery for the council or access to external funds.[7]

d) Tenders or quotes for similar goods, works or services have been obtained in the last 24 months.

e) The goods are classed as used or second hand - where the Borough Solicitor, the Director (Finance) or the Corporate Procurement Manager is satisfied that the market for such goods or materials is such that it would be unreasonable to tender or where the time required to complete the tender process is likely to lead to the loss of opportunity to purchase a used or second hand item and where the relevant officer has ensured that a Value for Money approach has been applied.

f) Other exceptional circumstances that don't fit with any of the above authorised by both the Corporate Procurement Manager and the Borough Solicitor

3.3 Once a request to waive these Contract Procedure Rules has been received, a Waiver Action Form will be completed by the Officer requesting the waiver and reviewed by the Approving of the decision approving or rejecting a waiver request and the reasons for it must be kept and an entry made in the waiver request register which will be maintained by the Corporate Procurement Manager

3.4 Officers applying the exemption rules in 3.3 must, ***as a minimum***, draft a specification and use the Council's preferred contractual documents, where appropriate (as outlined in Section 5). Unless otherwise stated, Financial Regulations (including key decision processes) will still

[5] The officer must provide evidence to prove that there are no other satisfactory alternatives, such as a recent public notice where no suitable candidates responded.

[6] For example, where the Council have received consultancy services for a complex project and wish to employ the same consultant for additional consultancy services relating to that project, because the use of an alternative consultant would result in the loss of an important skillset or knowledge, which is not easily transferable.

[7] Must have been unforeseeable, not caused by a lack of prompt action by the Council

apply and will need to be adhered to.

3.5 Officers must ensure the contract is recorded on the contracts register if an agreed exemption to CPR's results in a change to existing contract details or constitutes the award of a new contract with a value over £5000[8].

3.6 Compliance with UK legislation is considered to satisfy the Council's These Contract Procedure Rules and Financial Regulations. **No exemption shall be granted if the giving of that exemption would cause a breach of The Procurement Act 2023 or subsequent / associated UK legislation.**

[8] See guidance on the intranet on how this is achieved.

SECTION 4 SPECIFIC REQUIREMENTS FOR CONTRACTS BELOW £100,000 (BAND 1 AND 2)

4.1 Overview

Band	Estimated Contract Value	Minimum No. of Quotes	Contract Signature
1	Up to £15,000 (£25,000 if Works[9])	At least one oral quote (written if over £1,000)	Officers authorised to sign purchase orders within this value banding.
2	£15,001 to £100,000 (£250,000 if Works)	At least three written quotations to a purchaser specification.	Officers authorised to sign or seal contracts within this value banding[10]

Where the preliminary estimated contract value is within 10% of a higher category value, the appropriate provisions for the higher category of contract should be applied (unless the preliminary estimate is based on a firm quote). If the existing contract you are using has a total contract value within the Band 2 threshold and you anticipate the new final contract total may be within the Band 1 threshold, you must still continue to follow the Band 2 process unless the new contract is fundamentally different.

The value of any contract is calculated on the basis of the maximum amount the Supplier could expect to receive under or in connection with the contract (including from payments to be received from the Council or third parties) over the entire contract period to include any optional extension periods. Contract periods should be appropriate to the market in question and not artificially shortened to bring the value into a particular band. It should also be considered if the requirement can be combined across the Council or combined with similar works e.g. electrical works needed over x years rather than singular works to various buildings over multiple contracts, to provide the council with better value.[11]

Band 1
Contracts with a value between £5,000 and £15,000 (£25,000 if works) should be considered as to whether conducting a procurement exercise would be more expensive in officer time than the value of any savings, if that is the case a band 1 waiver form must be submitted to your Tier 4 manager or AD if you are Tier 4 for approval before proceeding. This is more likely to apply to services and works, where quality has to be assessed or site visits to quote arranged and unlikely to apply to goods.

4.2. Supplier Selection

4.2.1. Suppliers invited to quote within these bands can be sourced from any means, including the Internet, suppliers registered on www.supplyhertfordshire.uk or based on previous satisfactory experience with the Council. There is no requirement to issue public notices for contracts within these bands, although this may be appropriate in some instances. However, when inviting quotations in Band 2, Officers must invite a Stevenage based supplier if one such exists on www.supplyhertfordshire and is appropriate for the requirement. If no Stevenage based look to Hertfordshire based as this supports the Councils community

[9] Works are defined as activities having a Works CPV code see intranet for further guidance on what constitutes a works contract.
[10] As per the authorised contract signatory list held by Exchequer Services.
[11] Guidance document "Estimating the total value of your procurement correctly" is available on the intranet under Procurement.

wealth building agenda. Officers should also document the reasons for selecting the suppliers (such evidence may be required should the decision be challenged at a later date).

If you are sourcing contracts of a similar nature on a regular basis i.e. low value bespoke building alterations it is a requirement to ensure that you invite at least one supplier not invited last time so that more suppliers are given the opportunity to quote for the Council's business.[12]

Framework Agreements

4.2.2. Framework agreements let by other contracting authorities, where the council has been named as being able to use the framework agreement, can be used. Examples of contracting authorities that let framework agreements of this nature are: Crown Commercial Services (CCS), Eastern Shires Purchasing Organisation (ESPO), Procurement for Housing (PfH), Homes England, and Yorkshire Purchasing Organisation (YPO).

4.2.3. The officer may utilise any of the above purchasing consortiums framework agreements (or any other framework agreements approved by either the Corporate Procurement Manager or Borough Solicitor). Any procedures provided by the purchasing consortium must be followed; generally mini competition is likely to achieve the best value as it allows Contractors to submit tailored bids to our requirement.
Direct Award is not available on all frameworks, where it is an option then generally it is only permitted if one of the below applies;

- The framework is sole supplier; or
- Where there is a ranked call off provision; or

Officers wishing to use Direct award for other reasons may apply to do so using one of the Waiver reasons in section 3.

4.2.4. When conducting a mini competition, the officer must follow the procedures provided by the contracting authority to conduct the mini competition amongst all the capable suppliers on the framework. It is not permitted to include suppliers in the mini-competition who are not listed on the framework.

4.2.5. Officers should use existing contracts where these are provided for and suitable, details of which can be found on the shared drive under Corporate> Central Contracts Database. Officers must liaise with the contract manager of the contract before proceeding to ensure they are compliant. All procurement of ICT Hardware and Software must be in consultation with the IT team.

Officers should consider if the requirement could be satisfied by another department through insourcing or through another contract tendered within the council or another public body and contact the relevant team to enquire before going out externally.

4.2.6. In exceptional circumstances and for contract values under £1,000 only, an officer may be permitted to contract with a supplier or group of suppliers without first obtaining an oral quote. In this instance, the officer must first submit the request in writing to either the Corporate Procurement Manager, Director (Finance), or the Borough Solicitor and obtain his or her prior written approval before awarding the contract(s). [13]

[12] Guidance on supplier selection at quote level is available on the intranet under Procurement.
[13] An example of where this may be acceptable would be contracting with a supplier to top up of the Depot's bulk fuel storage facility. The charge per litre will have been pre-agreed before awarding a contract, but the number of litres to be supplied will not be not known until the goods have been supplied.

4.3. The Invitation to Quote (Band 2 only)[14]

4.3.1. Officers must provide adequate instructions to respondents, outlining what is required (specification), in what format and by when. The Invitation to Quote[15] should also define the award criteria, whether lowest cost or most advantageous quote (See 5.4.1). Officers are reminded that further instructions may be necessary depending on the nature of the contract. For example, specific insurances and equality requirements may be appropriate where the purpose of the contract is to supply services directly to the public.

4.3.2. The officer responsible for the purchase may consult potential Suppliers prior to the issue of the Invitation to Quote in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters provided this does not prejudice any potential Supplier.

4.3.3. Quotations must be submitted through the In-Tend e-tendering system. If there is a reason why Intend cannot be used, this needs to be agreed with the Corporate Procurement Manager in advance of the procurement[16]. A return date must be specified and adhered to. When using In-Tend the receiving officer can open the returns as soon as the system makes them available.

4.3.4. Suppliers must be given a minimum of 5 working days to respond to an invitation to quote, but they may require longer timescales if the contract is considered complex in any way.

4.4. Contract Evaluation and Award (Band 2 only)

4.4.1. To ensure adequate competition, there must be at least two satisfactory responses from the number of quotations requested (and this is expected when conducting a mini competition from a framework as well) i.e. responses which meet a minimum quality standard under which the Council could award the contract. If the Council receives only one satisfactory response, the officer must not open the responses before seeking advice from Corporate Procurement who will determine if the officer should obtain an additional quote, re-run as an advertised process or obtain an exemption under CSO 3.3.

4.4.2. All quotes must be evaluated based on the defined award criteria in the Invitation to Quote. Post tender negotiation may be used for certain contracts, in accordance with CPR's 5.7.4 and 5.7.5.

4.4.3. If the quoted contract value for the preferred supplier falls into the higher band 3 when processes for the lower Band 2 were followed, the officer must provide either the Director (Finance), the Borough Solicitor or the Corporate Procurement Manager with a written explanation and supporting evidence as to the basis for estimating the contract value at the lower band. The Borough Solicitor, Director (Finance) or Corporate Procurement Manager will decide whether the contract should be re-tendered following the procedures within the higher band.

4.4.4. Officers must not agree to contract conditions where payment is made before the goods, works or services are received, unless otherwise approved in writing by either the Corporate Procurement Manager, the Director (Finance), or the Borough Solicitor. Staged payments are acceptable but must be proportionate to the cost of the goods, works or services received.

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[14] A checklist is available on the intranet under staff into/finance/corporate procurement to help you through the steps of a quote process.

[15] SBC invitation to quote templates are available on the intranet under Procurement

[16] An example of an exemption could be where we are not in a market position to impose the use of Intend.

4.4.5. Successful and unsuccessful Suppliers should be informed of the decision within 14 days of the closing date and feedback provided if requested.

4.4.6. Contracts or agreements over £5,000 must be signed by an authorised signatory. If there is no written contract, the authorised signatory must confirm in writing (either via letter or email) that the quote has been accepted, stating the cost and any other terms (such as payment terms and delivery date) to which the Council is agreeing to. In the absence of a written contract, a Purchase Order containing the above mentioned information and signed by an authorised signatory is sufficient.

4.4.7. For contracts over £5,000 officers must ensure the details are entered onto the Central Contracts Database[17].

4.4.8. All documentation must be kept in accordance with the Document Retention Schedule which can be found on the intranet.

[17] See guidance on the intranet about how this is achieved

SECTION 5 CONTRACTS BETWEEN £100,001 AND PUBLIC CONTRACTS THRESHOLD[18]

5.1 Overview

Band	Estimated Contract Value	Minimum No. of Respondents	Contract Signature
3	£100,001 (£250,001 if works) to Public Contract Threshold (see CSO 6.1 for values)	N/A unless Works over £177,500 excluding VAT[19]	Officers authorised to sign contracts within this value banding[20], unless under seal (see CSO 5.8.7)

Where the preliminary Estimated Contract Value is within 10% of a higher category value, the appropriate provisions for the higher category of contract should be applied (unless the preliminary estimate is based on good evidence). If the existing contract you are using has a total contract value within the Band 3 threshold and you anticipate the new final contract total may be within the Band 2 threshold, you must still follow the Band 3 process unless the new contract is fundamentally different.

The value of any contract is calculated on the basis of the maximum amount the Supplier could expect to receive under or in connection with the contract (including from payments to be received from the Council or third parties) over the entire contract period to include any optional extension periods. Contract periods should be appropriate to the market in question and not artificially shortened to bring the value into a particular band. It should also be considered if the requirement can be combined across the Council or combined with similar works e.g. electrical works needed over x years rather than singular works to various buildings over multiple contracts, to provide the council with better value.[21] Collaboration with other Hertfordshire authorities is encouraged and can be promoted via the Hertfordshire Procurement Group by talking to Corporate Procurement.

5.2 Supplier Selection: Public Notice & Purchasing Consortium

5.2.1. Within this contract value banding, either a public notice or a suitable framework agreement that the council is entitled to use can be used.

Public Notice

5.2.2. If the chosen method is a public notice, officers must follow the: Open procedure – all Suppliers expressing an interest are sent an Invitation to Tender (ITT) and all responses are evaluated. An exception can be made for Works contracts with a value between the Public Contract Threshold for services and the Public Contract Threshold for Works which allows for conditions of participation to be assessed before issuing the ITT to a limited number of participants.

The Public notice will be placed via the Corporate Procurement team on the Council's E procurement portal, In-Tend- and on the Find a Tender Service website in order to maximise competition. The notice will state how to register on the In-Tend system, the

[18] Checklists are available on the intranet under Procurement to assist you with the process

[19] If the number of respondents is being restricted invite at least three to tender where sufficient qualify

[20] As per the Authorised Signatory list held by Exchequer Services.

[21] Guidance document "Estimating the total value of your procurement correctly" is available on the intranet under Procurement.

scope of the requirement and the deadline for submission.

Framework Agreements

1.1.1. Framework agreements let by other contracting authorities, where the council has been named as being able to use the framework agreement, can be used. Examples of contracting authorities that let framework agreements of this nature are Crown Commercial Services (CCS), Eastern Shires Purchasing Organisation (ESPO), Procurement for Housing (PfH), Homes England (HE), Yorkshire Purchasing Organisation (YPO).

1.1.2. The officer may utilise any of the above purchasing consortiums framework agreements (or any other framework agreements approved by either the Corporate Procurement Manager or Borough Solicitor). Any procedures provided by the purchasing consortium must be followed, generally mini competition is likely to achieve the best value as it allows Suppliers to submit tailored bids to our requirement.

Direct Award is not available on all frameworks, where it is an option then generally it is only permitted if one of the below applies;

- The framework is sole supplier; or
- Where there is a ranked call off provision.

Officers wishing to use Direct award for other reasons may apply to do so using one of the Waiver reasons in section 3.

1.1.3. When conducting a mini competition, the officer must follow the procedures provided by the contracting authority to conduct the mini competition amongst all the capable suppliers on the framework. It is not permitted to include suppliers in the mini competition who are not listed on the framework.

In the same way it is a requirement to obtain two compliant bids when utilising a quotation exercise, the same applies when utilising a mini competition via a framework. Therefore, it is vital to conduct some pre market engagement to be sure that the framework is suitable. Some frameworks have the option of an expression of interest to alert potential bidders of the forthcoming competition. Should you be looking to award more than one contract as a result of the mini competition then proportionally more compliant bids must be received.

5.3 Pre Market Engagement

5.3.1 Pre-procurement engagement with the market (including talking to potential suppliers) is encouraged provided that it does not prevent an effective competition taking place when the requirement is put out to the market. In fact, engaging with the market before starting the formal procurement process is best practice and helps to maximise value for money from the resulting procurement.[22]

5.3.2 Officers must conduct an appropriate level of pre market engagement prior to launching the invitation to tender:
As a minimum they must get feedback from some potential bidders to ascertain:
There is interest in the opportunity at this time
Our estimate of the value is in the right ball park
Suggestions on how the service, product or works may be delivered differently.

Advice on conducting pre market engagement is available from Corporate Procurement

5.4 The Invitation to Tender

[22] Further information on pre procurement market engagement is available on the intranet under Procurement

5.4.1 The **Instructions to Tenderers**[23] must, as a minimum, include the following:

a) List the information which must be provided by the supplier in their response, including any forms, tables or pricing schedules to be completed.

b) State the method of response required. All tenders shall be issued through the Council's E-tendering System – In-Tend (see CSO 5.5).

c) Outline a timetable for the remainder of the procurement exercise, detailing the closing date for receipt of responses, the evaluation period and when a response on contract award is expected.

d) State the method which will be via In-Tend and the deadline for obtaining additional information or clarification (usually 7-14 days before the closing date for receipt of responses) and that additional information requested will be distributed to all suppliers (this should be distributed to all suppliers at the same time through Intend no later than one week before the closing date for receipt of responses[24]).

e) Outline how the responses will be evaluated, listing the appropriate award criteria and their relative weightings, which shall be based on the "most advantageous tender". The award criteria may include price, service, quality of goods, running costs, previous experience, delivery date, cost effectiveness, relevant environmental considerations, employment considerations, aesthetic and functional characteristics, safety, after-sales services, technical assistance, contract terms and conditions and any other relevant matters. Lowest price must not be used as the sole award criteria unless approved by Corporate Procurement.

f) The measurement system may include the following 4 elements:

- Any pass/ Fail considerations
- A point scoring system for individual quality/value for money considerations.
- Weightings applied to quality/value for money issues in accordance with their importance to the completion of the contract.
- A "Quality Threshold" which sets the minimum standard expected. Tenders which fall below this shall be excluded from consideration.

g) State that late responses will not be considered unless it is proven that a third party is at fault and that the Council is not bound to accept any Tender.

h) State the price validity period (usually up to a maximum of six months).

i) Provide a statement to the effect that under the Freedom of Information Act (2000), the Council may be obliged to provide information regarding the procurement exercise or a subsequent contract award and that respondents will be advised of any requests for information and be given an opportunity to comment before disclosure of such information(information whose disclosure would be likely to prejudice anyone's commercial interests is exempt from disclosure provided the public interest in withholding the information outweighs the public interest in disclosing it)

j) The level of economic and financial standing required

[23] An template Invitation to Tender can be requested from Corporate Procurement.
[24] A Clarification/Query template spreadsheet is available from Corporate Procurement

k) The level of insurance required

l) Any Pass/Fail elements or minimum thresholds to be met

5.4.2 An adequate **specification** must be included. The specification must describe clearly the Council's requirements in sufficient detail to enable the submission of competitive offers.

5.4.3 For contracts within this value banding, the following **Standard Forms**[25] should form part of the Invitation To Tender and should be included in the final contract documentation:

a) Form of Tender
b) Certificate that the Tender is Bona Fide
c) Parent Company Guarantee (if applicable).
d) Performance Bond Certificate (if applicable).
e) Insurance requirements

5.4.4 Where appropriate to the type of contract being let, the officer should use standard industry contracts ie JCT[26] or the **Council's own standard contracts**,. Where the Council does not supply a suitable standard contract for the type of contract being let, the officer should liaise with Legal Services to identify contract terms relevant to that specific contract. The officer must seek advice from Legal Services if he/she is unclear as to what terms and conditions should be included in the contract. Supplier standard terms and conditions should only be accepted following consultation and approval by Legal Services. In any event, it should be stated in the Invitation to Tender which contract terms will apply to the contract. SBC's standard clauses and contracts are available from corporate procurement. [27]

5.4.5 Suppliers invited to tender must be given an adequate period in which to prepare and submit a proper tender, consistent with the urgency of the contract requirement. Normally at least **four weeks** should be allowed for submission of Tenders but this can be less if the Contracting Officer has ascertained, during pre procurement market engagement, that a lesser time period is practical and realistic. All tender documents for a contract shall be despatched to the Suppliers invited to tender on the same day via in-Tend.

5.4.6 A tender period can be extended if there are justifiable reasons, and it is practical to do so. The reasons for any extension of time should be recorded and communicated in writing to all respondents ideally at least one week prior to the closing date.

5.4.7 Suppliers must demonstrate that they carry a range and level of insurance cover acceptable to the type of contract being let. As a starting point it would be prudent to assume the following <u>minimum</u> levels of indemnity, Public Liability £5m, Employers Liability £10m (although the legal minimum is £5m), Professional Indemnity £2m, Products Liability between £1m and £5m. These must be reviewed for adequacy in light of the various risk factors affecting the contract. Only in very low risk scenarios would levels of indemnity lower than these be acceptable .If in doubt, contact the Council's Insurance Officer.[28]

[25] Standard Forms can be obtained from corporate procurement
[26] Standard amendments to JCT Minor Works or Measured Term contracts are available from Corporate Procurement
[27] It is prudent that Officers obtain the standard clauses and contracts as and when the procurement need arises, as they are subject to change.
[28] An insurance checklist can be found on the intranet under staff info/finance/insurance

5.4.8 The advice of Legal Services must be sought as necessary, particularly for contracts which are complex.

5.5 Submission, Receipt and Opening of Tenders

5.5.1. Tenders shall be submitted through the Council's E-tendering System – In-Tend. Instructions on how to register on the e-tendering system must be provided in the public notice. The system sends full guidance documents on how to use the system to respondents when they register and has on line guidance at every stage. Within the Invitation to Tender documents respondents must be provided with a contact point in case they experience any problems in using the E-Tendering system. Respondents must also be advised that failure to advise the Council of the problem **before** the deadline for return of tenders will mean they have lost their opportunity to tender. Where a notification of a problem is received in time, consideration should be given to extending the deadline for submission and all tenderers should be advised accordingly of any extension of time.

5.6 Not Used

5.7 Tender Evaluation

5.7.1. The following should be checked by the Officer:

a. The Tenders are actually from the Suppliers invited to tender (where using a framework or works contracts where a suitability stage was used);

b. That there are no errors or omissions in the completion of the documents.

c. Where a check of the prices quoted suggest collusion among tenderers or 'ring' pricing, the case should be referred to the Director (Finance);

d. If the supplier invited to tender is on the gov.uk debarment list. If they are consult with Corporate Procurement.

5.7.2. To ensure adequate competition, there must be at least two satisfactory responses to the Invitation to Tender i.e. two responses which meet the minimum quality threshold. If there is only one satisfactory response, the officer must either re-tender the contract, advising respondents accordingly, or obtain an exemption under CSO 3.3.

5.7.3. Where necessary, clarifying some aspect of a Tender response in writing or by way of a meeting is permitted. If a meeting is held then relevant notes should be made of the results of the meeting and matters should be confirmed in writing for contractual purposes.

The officer must use the award criteria and measurement system[29] as set out in the Invitation to Tender.

5.7.4. The Procurement process should take no longer than 10 months from issue of advertisement to award of contract. Should the procurement process take longer than 10 months, authorisation must be sought from the Borough Solicitor, Director (Finance) or Corporate Procurement Manager to proceed with the contract award.

Within (and below) this contract value banding only, ***Post-Tender Negotiations*** **may only be used** where the officer justifies the need for post tender negotiation in writing to either the Corporate Procurement Manager, the Director (Finance), or the Borough Solicitor and that the request is authorised by either the Corporate Procurement Manager, the Director (Finance), or the Borough Solicitor in writing. Post-Tender Negotiations

[29] A sample criteria and measurement template can be found on the intranet under Procurement.

will only be authorised when lawful.

5.7.5 Negotiations must be conducted by a team of at least two suitable officers with the involvement of Legal Services, as required. Changes should be confirmed in writing for contractual purposes. Where Post Tender Negotiation results in a significant change to the specification (or contract terms) the contract must not be awarded but re-tendered.

5.7.6 Officers must not agree to contract conditions where payment is made before the goods, works or services are received, unless otherwise approved in writing by either the Corporate Procurement Manager, the Director (Finance) or the Borough Solicitor. Staged payments are acceptable but must be proportionate to the cost of the goods, works or services received and must be submitted for checking to Treasury and Capital in Accountancy, see CSO 5.8.10.

5.7.7 If the tendered contract value for the preferred Supplier falls into the higher band 4 (above the Public Contract Threshold) when processes for the lower Band 3 were followed, the officer must provide either the Corporate Procurement Manager, theDirector (Finance), or the Borough Solicitor with a written explanation and supporting evidence as to the basis for estimating the contract value at that lower band. The Corporate Procurement Manager, the Director (Finance), will decide whether the contract should be re- tendered following the procedures within the higher band.

Checks on Financial Status

5.7.8 For contracts within this value banding, the officer must ensure the supplier has the level of economic and financial standing that they self certified that they have. To do so obtain two years annual accounts for the preferred Supplier before contract award (unless this is not possible, for example where a company has recently been established). Annual accounts are to be provided to Corporate Procurement, who will check that the supplier self certified correctly. Please allow at least 1 week for this process to be completed.

5.7.9 If the veals an unsatisfactory appraisal, yet the officer still wishes to use the Supplier, he/she must submit a written request to the Director (Finance) or nominated deputy for his/her approval. Approval will not be given in circumstances where the Supplier has failed any minimum pass/fail requirements set out in the Invitation to Tender or associated procurement documents. Any conditional approval given by the Director (Finance) or nominated deputy must be strictly complied with.

5.7.10 At the discretion of Corporate Procurement, financial checks may not be necessary for specific Suppliers. For example, where the contracting body is a local authority.

5.7.11 All contracts in this value banding with a term of over 24 months or that are considered high risk will need to be registered with Corporate Procurement for monitoring updates on financial status.

5.8 Contract Award and Contract Management

5.8.1 Consult Financial Regulations to ascertain the correct process to gain approval to award[30]

5.8.2 All Suppliers who have expressed an interest in a proposed contract should be notified in writing through the Council's E-tendering system whether they have or have not been successful in winning the contract. Tenderers should be notified of their score against each award criteria, the score the winning tenderer obtained and the name of the winning tenderer.

[30] An Approval flowchart is available to assist on the intranet under Procurement

If requested additional feedback should be provided.

5.8.3 All contracts in this value band will be in the form of a written contract (see 5.4.4 above) and signed by an authorised signatory of both the Council and the Supplier, unless the contract is required to be sealed under CSO 5.8.6. The written contract must set out (as a minimum):

a) Description of the work, services or goods (which may comprise the specification);

b) The contract price (exclusive of VAT) and payment terms;

c) Any performance dates or milestones;

d) The contract period including details of any permitted extension options;

e) The applicable terms and conditions including provisions for the Council to terminate the contract; and

f) Any other applicable contract documents (e.g. tender, correspondence, specification, drawings, KPI's, project brief/proposal and signed/completed Standard Forms (see 5.4.3)). A copy of these documents should form part of the contract.

5.8.4 Letters of Intent shall only be used in exceptional circumstances and with the approval of the Borough Solicitor who should be satisfied that they are adequately worded.

5.8.5 If acceptance of a tender is for any reason delayed beyond the appropriate tender price validity period, the Supplier must be asked to confirm his tender in writing before the acceptance is issued. This letter of confirmation must be included as part of the contract. If the recommended tenderer submits a revised price, Legal Services must be consulted for advice on how to proceed.

5.8.6 A contract must be sealed[31] in the following cases:

a) For all formal construction/works contracts over the current Public Contract services threshold (see 6.1)

b) Where an extended limitation period of 12 years is required (the normal limitation period is 6 years after the end of the contract).

5.8.7 **For contracts within this value banding,** officers must ensure the details are entered onto the Central Contracts Database **An electronic copy of the contract pack must be provided to Corporate Procurement for the Central Contracts Database followed by a scan of the relevant contract pages holding signatures/seals at point of execution.**[32]

5.8.8 The officer may wish to use a contract management checklist to ensure all required steps have been followed. An example checklist can be found on the intranet under "Procurement", although Business Units may use their own forms to reflect their special requirements.

5.8.9 All documentation and records of communications pertaining to the tender must be kept in accordance with Document Retention Schedule which can be found on the intranet.

5.8.10 The officer must monitor and manage the performance of the Supplier throughout the contract to ensure that requirements are delivered satisfactorily. In performing this task the officer must monitor:

a) Key performance indicators as set out in the contract where applicable

[32] Information on process for recording contracts is on the intranet

b) Work performance
c) Compliance with specification and contract terms and conditions
d) Cost
e) Any Value for Money requirements
f) User satisfaction
g) Risk management
h) Variations to the original contract ensuring these are recorded

Further guidance is available on the intranet under “Procurement”.

SECTION 6 CONTRACTS AT OR ABOVE THE PUBLIC CONTRACTS THRESHOLD (BAND 4)

6.1 Overview

The value is set by central government and values for 2025 are £214,000 inclusive of VAT for services or supplies and £ 5,372,609 inclusive of VAT for works or concessions. See intranet for current value.

A check list can be found on the intranet to guide procuring officers through the tender exercise (under the "Procurement" section). Further advice should be sought by contacting Corporate Procurement.

The value of any contract is calculated on the basis of the maximum amount the Supplier could expect to receive under or in connection with the contract (including from payments to be received from the Council or third parties) over the entire contract period to include any optional extension periods.

Contract periods should be appropriate to the market in question and not artificially shortened to bring the value into a particular band. It should also be considered if the requirement can be combined across the Council, or combined with similar works e.g. electrical works needed over x years rather than singular works to various buildings over multiple contracts, to provide the council with better value.[33]

Collaboration with other Hertfordshire authorities is encouraged and can be promoted via the Hertfordshire Procurement Group by talking to Corporate Procurement.

6.2 Procurement Act 2023

6.2.1 The detailed complex advertising, tendering and reporting processes imposed by the Procurement Act 2023 and Procurement Regulations 2024 are not fully covered in These Contract Procedure Rules. Separate advice and instructions may be issued from time to time by the Corporate Procurement Manager and Legal Services relating to The Procurement Act 2023 and Procurement Regulations 2024. Such advice and instructions These Contract Procedure Rules can be found on the intranet under "Procurement" and should be followed by officers. In the event of any conflict between These Contract Procedure Rules and the Procurement Act 2023/Procurement Regulations 2024, the Procurement Act 2023/Procurement Regulations 2024, will prevail.

6.2.2 Works contracts generally fall under the scope of construction projects, such as new build, or major renovations involving the bringing together of different services and supplies. The Procurement Act 2023 is very specific as to what falls into their definition of 'Works' so do not assume 'Works' without consulting with Corporate Procurement or Legal Services. If in doubt apply the Services or Supplies thresholds.

6.2.3 'Open and Competitive Flexible Procedure are the procurement procedures applied via the Procurement Act 2023[34], whereby:

a) in the case of **open procedures**, any interested Supplier may submit a tender;

[33] Guidance document "Estimating the total value of your procurement correctly" is available on the intranet under Procurement.

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b) In the case of **the Competitive Flexible Procedure**, Suppliers must follow the process that has been designed. If a request to participate is part of the process then only suppliers invited by the Council after shortlisting may progress to the next stage of the procedure;

6.2.4 It is a requirement of the Procurement Act 2023 to conduct some Pre Market Engagement or to state in the tender notice why you didn't publish a preliminary market engagement notice. Therefore it is strongly advised that some formal Pre Market engagement is undertaken and a preliminary market engagement notice published.

6.2.5 The advice of the Corporate Procurement Manager and/or Legal Services must be sought where following the Procurement Act 2023, especially if intending to use the Competitive Flexible Procedure.

6.2.6 The officer must provide the information needed to enable the procurement team to place notices required by the Procurement Act 2023. Some notices are optional but the procurement teams advice must be taken

6.3 Supplier Selection

6.3.1 Under the Procurement Act 2023, the officer must liaise with Corporate Procurement to place a Tender Notice to the Find a Tender service. Public notices may also be placed in trade journals and approved Suppliers can be advised of the tender exercise, so long as this is done after the Tender Notice has been published..

6.3.2 Framework agreements, Dynamic purchasing systems (DPS) and Dynamic Markets managed by other contracting authorities can be used when the contract value is above the Public Contract Threshold, so long as the contracting authorities have awarded the framework agreement (or DPS/Dynamic Market) in accordance with PCR2015 or the Procurement Act 2023, and on behalf of the Council. Where it is proposed to use any of the above for a procurement above the Public Contract Threshold, approval must first be sought from either the Corporate Procurement Manager, the Director (Finance), or the Borough Solicitor and Legal Services must be consulted as to whether the proposed route is legally compliant and any terms and conditions to be used are appropriate. Framework agreements, DPS' and Dynamic Markets must not be used to award concession contracts.

6.3.3 Any procedures provided by the purchasing consortium must be followed and the procedure must be undertaken in compliance with the PCR 2015 or the Procurement Act 2023 (as applicable). Generally mini competition is likely to achieve the best value as it allows Suppliers to submit tailored bids to our requirement.

6.3.4 Direct Award is not available on all frameworks, and never on a DPS or Dynamic Market, where it is an option then generally it is only permitted if the officer can establish that best value considerations have been taken into account and one of the following apply;

- The framework is sole supplier; or
- Where there is a ranked call off provision.

Officers wishing to use Direct award for other reasons may apply to do so using one of the Waiver reasons in section 3.

The officer must follow the procedures provided by the contracting authority to conduct the mini competition amongst the suppliers on the framework. It is not permitted to include suppliers in the mini-competition who are not listed on the framework.
It is expected that when conducting a mini competition at least one more bid than the number of contracts to be let is received, therefore a level of pre market engagement needs to be undertaken to ascertain if this is an appropriate route to market.

6.4 Short Listing

6.4.1 Short Listing will be applicable if the Council is using the Competitive Flexible procedure, as outlined in the Procurement Act 2023.

6.4.2 For contracts within this value banding (unless utilising an approved framework) a financial check must be undertaken as part of the evaluation process. See CSO 6.7.10.

6.4.3 All Suppliers who have expressed an interest in a proposed contract should be notified in writing whether they have or have not been successful in making the next stage promptly after the decision has been made. Feedback should be provided in the letter.

6.4.4 The Supplier's status on the Central Digital Platform and on the debarment list together with any conditions of participation relating to legal and financial capacity to perform the contract and/or technical ability to perform the contract should be considered at the Short listing stage as the Council is generally precluded from taking these factors into account as 'award criteria' within the tender stage.[35] When using the open procedure these factors should be considered as part of the tendering process (although separately to evaluation of tenders).

6.5 The Invitation to Tender

6.5.1 The Instructions to Tenderers[36] must, as a minimum, include the following:

a) Set out how the procurement will be conducted. If not using the open process explaining how the competitive flexible procedure will be conducted;

b) List the information which must be provided by the Supplier in their response, including any forms, tables or pricing schedules to be completed and that they need to ensure the information held on the Central Digital platform is up to date;

c) State the method of response required. All tenders must be issued through the Council's E-tendering System – In-Tend (see CSO 5.5);

d) Outline a timetable for the remainder of the procurement exercise, detailing the closing date for receipt of responses, the evaluation period and when a response on contract award is expected;

e) State the method and deadline for obtaining additional information or clarification (usually 14-21 days before the closing date for receipt of responses) and that additional information requested will be supplied to all respondents (this should be supplied to all suppliers at the same time no later than 7 days before the closing date for receipt of responses[37]);

Set out in detail how the responses will be evaluated, listing the appropriate award criteria and their relative weightings, which shall be based on the "most advantageous tender". "Lowest price" must not be used as the sole award criteria unless approved by Corporate Procurement ;

f) ""–""

g) State that late responses will not be considered and that the Council is not bound to accept any Tender;

[35] If you are unsure about the 'conditions of participation' please contact the Corporate Procurement Team

[36] An outline Invitation To Tender can be obtained from Corporate Procurement.

[37] A Clarification/Query template spreadsheet is available from corporate procurement

h) State the price validity period (usually up to a maximum of six months);

Provide a statement to the effect that under the Freedom of Information Act (2000) and the requirements for transparency, the Council may be obliged to provide information regarding the procurement exercise or a subsequent contract award and that respondents will be advised of any requests for information and given an opportunity to comment before disclosure of such information (information whose disclosure would be likely to prejudice anyone's commercial interests is exempt from disclosure provided the public interest in withholding the information outweighs the public interest in disclosing it)

6.5.2 An adequate **specification** must be included. The specification must describe clearly the Council's requirements in sufficient detail to enable the submission of competitive offers.

6.5.3 For contracts with an estimated value of over £5m it is mandatory to set at least 3 KPIs unless the Council considers that the supplier's performance under the contract could not appropriately be assessed by reference to KPIs.

6.5.4 For all contracts within this value band, the following **standard forms** must either form part of the participation document or the Invitation To Tender and should be included in the final contract documentation[38]:

a) Form of Tender

b) Certificate that the Tender is Bona Fide

c) Parent Company Guarantee (if applicable)

d) Performance Bond Certificate (if applicable)

e) Insurance requirements

The officer should seek advice from Legal Services as to what terms and conditions should be included in the contract. Where appropriate to the type of contract being let, the officer should use standard industry contracts ie JCT[39] or the **Council's own standard contracts**. Where the Council does not supply a suitable standard contract for the type of contract being let, the officer should liaise with Legal Services to identify contract terms relevant to that specific contract. The officer must seek advice from Legal services if he/she is unclear as to what terms and conditions should be included in the contract. In any event, it should be stated in the Invitation to Tender which contract terms will apply to the contract. SBC's standard clauses and contracts are available from corporate procurement.

6.5.5 A tender period can be extended if there are justifiable reasons and it is practical to do so. The reasons for any extension of time should be recorded and communicated in writing to all respondents with as much notice as possible of the change. For Open tenders a notice must be placed notifying the change to the tender period. This will also apply to the Competitive Flexible Procedure if an extension is made to the first stage within the procurement process.

6.5.6 Suppliers must carry a range and level of insurance cover acceptable to the type of contract being let. As a starting point it would be prudent to assume the following minimum levels of indemnity, Public Liability £5m, Employers Liability £10m (although the legal minimum is £5m), Professional Indemnity £2m, Products Liability between £1 and £5m. These must be reviewed for adequacy in light of the various risk factors affecting the contract. Only in very low risk scenarios would levels of indemnity lower than these be acceptable. If in doubt, contact the Council's Insurance Officer.[40]

[38] Standard forms can be found within the template tender documents available from corporate procurement
[39] Standard amendments to JCT Minor Works or Measured Term contracts are available from Corporate Procurement
[40] An insurance checklist can be found on the intranet under staff info/finance/insurance

6.5.7 The advice of Legal Services must be sought as necessary, particularly for contracts which are complex.

6.5.8 The Procurement Act 2023 lays down specific time periods for submission of Tenders, which must be followed (see guidance in the Intranet under ”Procurement”))

6.5.9 If the procurement is a mini competition (tender) under an approved framework agreement that has been let in accordance with PCR2015 or the Procurement Act 2023 and covers the Council, then normally at least four weeks should be allowed for the submission of Tenders. This can be less if the Contracting Officer has ascertained, after consultation with all short listed Suppliers, that a lesser time period is practical and realistic.

6.5.10 It may be necessary during the tender period for the Council to clarify some aspects of its tender documents. This may be done in writing or by way of a meeting i.e. Bidders Day. Parity of tendering must be preserved so it is important that all tenderers are issued with the same information.

6.5.11 Before a tender notice is published, the officer must consider if the requirement could be split into lots. If the requirement could reasonably be split into lots and a decision is made not to do so, reasons for such must be provided in the tender notice.

6.5.12 The Public Services 2012 Social Value Act requires commissioners to consider securing economic, social, or environmental benefits when buying services at or above the Public Contracts Threshold. To comply with the Act, commissioners must think about how what they are going to buy, or how they are going to buy it, could add these benefits, and must also consider whether they should consult on these issues. This consideration needs to be documented and retained in line with the councils retention guidance.

6.6 Submission, Receipt and Opening of Tenders

For contracts within this value banding, CSO 5.5 must be followed.

6.7 Tender Evaluation

1.1.1 The following should be checked by the Officer:

a) The Tenders are actually from the firms invited to tender (Not applicable in an open tender);

b) That the Tenderers are not on the debarment list;

c) Whether or not Tenderers are “excluded” or “excludable” suppliers;

d) Check that the price of the tenders as set out on the Opening of Tenders is correct;

e) That there are no errors or omissions in the completion of the documents; and

f) Where a check of the prices quoted suggest collusion among tenderers or ‘ring’ pricing, the case should be referred to the Director (Finance).

6.7.2 Guidance is available from Corporate Procurement on carrying out checks of the debarment list and considering whether a Tenderer is an “excluded” or “excludable” supplier. If a Tenderer is on the debarment list and/or is an “excluded” or “excludable” supplier within the meaning of the Procurement Act 2023, advice must be sought from Corporate Procurement and Legal Services.

6.7.3 Where necessary, clarifying some aspect of a Tender response in writing or by way of a

meeting is permitted. If a meeting is held then relevant notes should be made of the results of the meeting and as necessary significant matters should be confirmed in writing for contractual purposes. It is possible to upload the notes to the Council's Intend system if required.

6.7.4 The Procurement process should generally take no longer than 10 months from issue of advertisement to award of contract. Should the procurement process take longer than 10 months, authorisation must be sought from the Borough Solicitor, Director (Finance) or Corporate Procurement Manager to proceed with the contract award.

6.7.5 ***Post Tender Negotiation*** **must not be conducted unless authorised by Corporate Procurement in consultation with Legal Services. It is unlikely to be agreed except in particularly complex procurements**

6.7.6 The officer must use the award criteria and measurement system as set out in the public notice and Invitation to Tender[41]. The measurement system should usually include the following three elements:

a) A point scoring system for individual quality/value for money considerations;

b) Weightings applied to quality/value for money factors in accordance with their importance to the completion of the contract. Any sub-criteria must also be identified at this stage and the appropriate breakdown weighting disclosed;

c) A "Quality Threshold" which sets the minimum standard expected. Tenders which fall below this shall be excluded from consideration.

6.7.7 All suppliers must be notified in writing through the Council's E-tendering system whether they have or have not been successful either in making the next stage or winning the contract. Suppliers must be given an assessment summary so they can understand why they scored as they did and a copy of the winning bidders assessment summary (redacted of commercially confidential information). Template assessment summaries are available from Corporate Procurement.

6.7.8 Once the assessment summaries have been sent the council can publish a contract award notice. **The contract with the successful supplier must not be entered into until 8 working days (standstill period) after the date on which the contract award notice was published** allowing unsuccessful suppliers time to dispute any decision made. [42] Certain contracts are not subject to a mandatory standstill period but the Council's default position (absent authorisation from Corporate Procurement) is to apply a standstill period to all contracts valued at or above the Public Contracts Threshold.

6.7.9 Officers must not agree to contract conditions where payment is made before the goods, works or services are received, unless otherwise approved in writing by either the Corporate Procurement Manager, the Director (Finance) or the Borough Solicitor. Staged payments are acceptable but must be proportionate to the cost of goods, works or services received and must be submitted to Treasury and Capital in Accountancy for checking, please see CSO 6.8.13.

Checks on Financial Status
(Note 6.4.2 above)

[41] A sample criteria and measurement template can be obtained from Corporate Procurement.
[42] Compliant template letters showing the standstill period are available from Corporate Procurement

6.7.10 When using the Competitive Flexible Procedure financial appraisals should be conducted at the first stage that may cut down the numbers of tenderers. When using the open procedure, financial appraisals should be carried out as part of the tendering process.

6.7.11 At the discretion of Corporate Procurement, financial checks may not be necessary for specific Suppliers. For example, when the contracting body is a local authority.

6.7.12 All contracts in this value banding with a term of over 24 months or are considered high risk will need to be registered with Corporate Procurement for monitoring updates on financial status.

6.8 Contract Award and Contract Management

6.8.1 Consult Financial Regulations regarding the process to be followed to gain approval to award

6.8.2 Officers must obtain and check copies of all documents that were self-certified by the supplier during the tender process before awarding the contract.

6.8.3 All contracts over the Public contracts services threshold must be made under the common seal of the Council. Unless in exceptional circumstances approval to sign under hand is sought and obtained, from the Borough Solicitor, prior to competition.[43] Officers must follow the sealing process as detailed on the intranet.[44]

6.8.4 If acceptance of a tender is for any reason delayed beyond the appropriate tender price validity period, the Supplier must be asked to confirm his tender in writing before the acceptance is issued. This letter of confirmation must be included as part of the contract. If the recommended tenderer submits a revised price, Legal Services must be consulted.

6.8.5 A written report must be compiled that satisfies section 98 of the Procurement Act 2023 and records of all communications between the Council and suppliers involved in the procurement process must be retained. The report and records must be kept with the signed contractual documents for a minimum of 3 years from the date the contract is entered into or, if the contract is awarded but not entered into, the date it was awarded.[45]

6.8.6 Contract details notices must be published by the Corporate Procurement team on Find a Tender the within 30 days of the day on which the contract is entered into (120 days in the case of a light touch contract) via the Council's E-tendering system – In-Tend[46].

6.8.7 For contracts within this value banding, **an electronic award notification form must be completed and passed to Corporate Procurement[47] An electronic copy of the contract pack must be provided to Corporate Procurement for the Central Contracts Database followed by a scan of the fully signed contract pages holding signatures/seals at point of execution.**

6.8.8 On-line Publication is required of a full copy of the contract for contracts valued at over £5mill (redacted for commercially sensitive information). The contract must be published before the end of the period of 90 days (180 days in the case of a light touch contract) beginning with

[45] The award notification form contains a page to complete Regulation 98 information advice is available from Corporate procurement.
[46] The Corporate Procurement Team will undertake this task.

[47] The Award notification forms are found on the intranet under Procurement

the day on which the contract is entered into, although if possible this should be done at the same time as publishing the contract details notice.

6.8.9 For contracts with an estimated value of over £5m it is mandatory to set at least 3 KPIs unless the Council considers that the supplier's performance under the contract could not appropriately be assessed by reference to KPIs. A description of the 3 KPIs which the Council regards as most material to performance of the contract must be set out in the contract details notice. The requirement to set and publish details of KPIs does not apply to concession contracts or light touch contracts, although it is best practice and generally advisable to set KPIs.

6.8.10 The officer may wish to use a contract management checklist form to ensure all required steps have been followed. An example checklist can be found on the intranet under "Procurement", although Business Units may use their own forms to reflect their special requirements. All documentation and records of communications pertaining to the tender must be kept in accordance with Document Retention Schedule which can be found on the intranet.

6.8.11 The officer should provide his or her line manager, or Senior Leadership Team member as considered necessary, with regular reports on the financial position of a contract for budget or funding monitoring purposes and to enable corrective action to be taken as necessary.

6.8.12 All interim valuations and final accounts in respect of staged payment contracts must also be submitted for checking by Treasury and Capital in Accountancy for recording in the Central Contracts Database before they are sent for payment to Exchequer.

6.8.13 The officer must monitor the performance of the Supplier to ensure that requirements of the contract are delivered satisfactorily[48]. In performing this task the officer must monitor:

a) Work performance (including KPI's if applicable). If the contract is over £5m then performance must be assessed against KPIs set in accordance with the requirements of the Procurement Act 2023 at least once in every 12 month period and on termination and details of the assessment must be published online. Officers are required to consult with Corporate Procurement on this requirement.

b) Compliance with specification and contract terms and conditions.

c) Cost

d) Any Value for Money requirements

e) User satisfaction

f) Risk management (to include checking that relevant certificates such as insurance are up to date and financial monitoring is being undertaken)

g) Ensure that variations are considered, checking before agreeing that they are lawful and providing information to corporate procurement in a timely manner to enable notices to be published where applicable.

6.8.14 Should there be a breach of contract or a failure to perform to the Council's satisfaction, then a contract performance notice may need to be published within 30 days. This applies to contracts awarded under the Procurement Act 2023. Where there are performance issues or where there has been a breach of contract, officers must consult with Corporate Procurement and/or Legal Services on this issue.

[48] Guidance on contract management is available on the intranet under Procurement

6.8.15 Mandatory Contract Termination Notices for any contract terminations of Covered Public Contracts including natural expiry within 30 days of termination/expiry must be published. Details must be provided to Corporate Procurement team who will publish the required notice.

6.8.16 All documents, communications and minutes pertaining to the tender exercise and contract award must be kept in accordance with the Document Retention Schedule which can be found on the intranet under the section marked Freedom of Information.

6.8.17 All staff that manage contracts and have this within their job description must attend the Council's training on Contract Management.

SECTION 7 SPECIAL TYPES OF CONTRACTS

7.1 Engagement of Consultants

7.1.1 It is important that value for money is obtained when employing consultants.[49] Therefore, for all instances where the Contract Value of a consultancy appointment is over £10,001, the commissioning officer must provide a report to the Director responsible containing as a minimum the details listed under CSO 7.1.2.

7.1.2 Before consultants are invited to bid/tender the Director is responsible for:

a) identifying the project objectives; and
b) documenting the reasons for the employment of consultants including the benefits of employing consultants against-in house staff or agency staff; and
c) documenting the residual in-house costs to support the consultant and ensuring that sufficient budget is available to meet all identified costs;
d) Preparing a project brief with action dates to be recorded against each section, including:
    (i) background; and
    (ii) objectives; and
    (iii) timetable; and
    (iv) total costs; and
    (v) performance monitoring arrangements; and
    (vi) documentation standards; and
    (vii) contact names and numbers for enquiries

7.1.3 All consultants must provide evidence of adequate professional indemnity insurance prior to their appointment. The requirement for insurance and the levels required should be advertised in the specification of works, if in doubt about the levels required consult with the Council's Insurance Manager

7.1.4 Human Resources must be consulted to help determine if the appointment is within IR35 or if a consultant is appointed and employed through an agency or through the council's payroll the consultant may fall under the Agency Workers Regulations 2010.

7.1.5 It should be a condition of contract with any consultant, agent or professional advisor who is to be responsible to the Council for the award or supervision of a contract on its behalf, that in relation to that contract they shall:

a) comply with these These Contract Procedure Rules as though they were an employee of the Council; and
b) produce on request all the records maintained by them in relation to the contract award and award of contract; and
c) on completion of the contract, transmit all records that they have produced or received that relate to the contract to the appropriate Director

7.1.6 Any letter of appointment or contract must set out the consultants legal obligations to the Council including where the ownership of intellectual property rights will sit. Advice on intellectual property can be sought from Legal Services. Every written contract shall provide that the consultant shall not assign directly or indirectly the whole or any part of the contract without the written approval of the Council.

[49] A consultant is a professional who provides expert advice in a specific field; they either operate within the organisation or are employed externally by an organisation for a fee.

The Invitation to Quote / Tender

7.1.7 When procuring consultants the total estimated contract value should be used to adopt the procurement band to use.

7.1.8 Where it can be demonstrated that there are insufficient suitably qualified consultants to meet the competition requirement, the officer must record in writing the reason why the services are so specialist and obtain an exemption approval as required by paragraph 3.3 of Section 3 of these Contract Procedure Rules to invite fewer consultants.

7.1.9 For consultancies over £10,001 related to construction, estates or building surveying work, the use of conditions of engagement is permitted where they are considered appropriate by the Director in consultation with Legal Services[50]. Other consultancies over £10,001 including management and IT should use terms and conditions either supplied or approved by Legal Services .

Tender Evaluation and Contract Award

7.1.10 The tendering, evaluation and award procedure, as outlined in Section 5, shall apply to all consultancies where the total estimated value is over £100,001 and under the Procurement Act 2023 threshold and in cases below that value where there is a strong likelihood of additional work (i.e. serial or extension contracts), which would bring the total value above £100,001.

Contract Monitoring

7.1.11 For contracts over £100,001, the Senior Leadership Team member shall be responsible for ensuring that the Consultants work is properly monitored on an ongoing basis. This includes:

a) Appointing a named Project Officer or Group

b) Specifying key tasks and dates for Consultants

c) Monitoring costs against budgets and total contract value (payment schedules should include the agreed fees and the frequency of invoicing)

d) Arranging regular progress meetings with Consultants

7.1.12 The project officer shall maintain and keep all records pertaining to the tender, award and ongoing maintenance of the contract.

7.1.13 The project officer shall maintain the following documentation:

a) project brief/objectives; and
b) minuted authority, where required; and
c) the agreement with the consultant and any subsequent variations; and
d) records that can demonstrate contractors' compliance with contract standards prior to payments being made; and
e) record of payments made to the consultant and for the project; and
f) a project evaluation form

7.1.14 The project officer shall report immediately to the Director any material technical or financial deviation by the consultant from the specified agreement.

[50] Standard terms and conditions for consultants approved by Legal are those in the services quotation document provided on the intranet under Procurement.

7.2 Disposal Contracts

7.2.1 Where items, excluding land and buildings over the cost of £1000 (at the time of purchase) cannot be re-used elsewhere in the Council an asset disposal certificate form found on the staff intranet under Finance must be completed, explaining why the items are surplus or redundant, any health and safety issues, and the proposed method of disposal. The form should be submitted to the relevant Director for approval to proceed with disposal of the items. All vehicles must be disposed of through sale by public auction or by quotations from a reputable dealer.

7.2.2 Where small items of equipment such as keyboards are scrapped under the cost of £1000 (at the time of purchase), they must be recorded on a list held by each relevantDirector and signed off at year end. The list must be passed to Treasury and Capital in Accountancy at year end.

7.2.3 The highest bid received for an item if reasonable should be accepted. One of the following methods of disposal should be used:

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a) Invite quotations or tenders from outside organisations[51]

b) Sale by Public Auction.

c) Trade in for a new item when the circumstances are appropriate.

d) Scrap the items in a safe manner.

7.2.4 The proposed method of disposal should be approved by a Director. All disposals must comply as applicable with the Waste Electrical & Electronic Equipment Directive and Health & Safety legislation. All Council and personal data must be removed from any IT or recording equipment prior to their disposal.

Competition Rules

7.2.5 Where inviting quotations or tenders from outside organisations the following number of bidders should be invited as follows:

Estimated Value	**Minimum number of bidders to be invited (for Plant & Equipment only)**
Up to £15,000	**At least one bidder by quote**
Over £15,001 up to £100,000	**At least three bidders by quote**
Over £100,001	**At least four bidders by invitation to tender**

7.2.6 Records of the bids received and written approval by an authorised officer to accept the most favourable bidder should be kept. The acceptance will be by letter signed by SLT Member or Director if the value is under £100,000 or a Senior Leadership Team member if the value is over £100,001.

7.3 Not Used

7.4 Contract Hire and Lease/Rental Agreements

7.4.1 Contract hire and lease/rental agreements are procurements and are subject to the provisions contained in These Contract Procedure Rules.

[51] Quotations or tenders can be issued through the Councils Intend e-tendering system if required

7.4.2 Before entering into a contract hire or lease/rental agreement the officer shall ensure that the financial implications have been assessed by Accountancy. Lease/Rental agreements can only be signed off following approval from the Director (Finance) or their nominated deputy.

7.5 Nominated Sub-Contractors and Suppliers

7.5.1 If nominations are to be used then the terms of the contract between the Council and the main contractor should make it clear that the main contractor will be expected to enter into contract with the sub-contractors or Suppliers nominated by the Council.

7.5.2 *Tenders* for the nominated sub-contractors or Suppliers will be invited, opened and evaluated by the Council in accordance with These Contract Procedure Rules. The officer shall nominate the successful tenderer(s) to the main contractor.

7.5.3 The main contractor will ensure that the main contract indemnifies them against the sub-contractors own obligations in relation to the works, supplies or services included in the sub-contract.

7.6 Term Contracts and Framework Agreements

7.6.1 An officer may consider it advantageous to the Council, to invite tenders on a Term basis or under a Framework Agreement where payment is based not on defined works, services or supplies, but on a Schedule of Rates, Bill of Quantities or fixed unit cost over a defined period of time.

7.6.2 Unless a long term partnership, term contracts should not exceed five years or in the case of framework agreements four years, but will not normally exceed two years unless the contract contains a price fluctuation clause. It is not permitted to extend a contract that is renewed yearly on more than four occasions without re-tendering. Such cases should be reviewed annually and a written record of the decision (with reasons) to either, extend the contract or carry out a new competitive tendering exercise must be kept. Officers must not enter into contracts that auto renew unless authorised by Corporate procurement.

7.6.3 The relevant procedures and regulations in Sections 3 to 6 of These Contract Procedure Rules are applicable to all Term Contracts.

7.6.4 Any Framework Agreement must be tendered in accordance with These Contract Procedure Rules or under The Procurement Act 2023, as applicable.

7.6.5 The estimated value of the Term Contract should be based on the full length of the contract (including any options for contract extensions) or for four years if the contract is renewable yearly or is a framework agreement.

7.6.6 Where additional items of work are required but not contained within the Schedule of Rates consult with Corporate Procurement to check these are legally valid variations, If agreed all suppliers on the framework agreement or term contract shall be given the opportunity of pricing such items which will then be added to the main Schedule of Rates to be used in the future.

7.7 Partnerships & Shared Services

7.7.1 The term ‘Partnership’ is used to cover a wide variety of joint ventures and other procurement arrangements. The Senior Leadership Team member or contracting officer shall ensure that

the prior approval of The Director (Finance) or the Borough Solicitor for the proposed partnership arrangement is obtained. The financial implications must be assessed by the Director (Finance) and all proposed partnership agreements must be cleared with the Borough Solicitor **at the earliest stage**.

7.7.2 All partnership agreements shall include *where relevant*:

a) The principles of the partnership
b) Output specification and specified inputs
c) Partnership board
d) Open book accounting
e) Any profit sharing arrangement and payment mechanism
f) Hierarchy of dispute resolutions mechanisms
g) Quality and Environment management systems
h) Asset transfer
i) Withdrawal arrangements

7.7.3 Partnership agreements which involve a joint venture/contractual arrangement with private sector bodies are subject to the provisions of These Contract Procedure Rules.

7.7.4 A competitive exercise shall be undertaken in accordance with the provisions of These Contract Procedure Rules to select the partner and award the work. In any cases where the proposed partnership would mean that These Contract Procedure Rules of another public sector body would take precedence over those of Stevenage Borough Council, the written approval of either the Director (Finance) or Borough Solicitor must first be obtained before any partnership is formalised.

7.7.5 Procurements undertaken through an existing Shared Service will be made using the These Contract Procedure Rules of the contracting lead authority.

7.8 Income Generating/Commercial Contracts or Concession Contracts

7.8.1 All income generating contracts must be subject to competition, as follows:

	Estimated Value of the contract to bidders	**Minimum Number of Bidders to be Invited**
Band 1	Up to £15,000	At least one bidder by quote
Band 2	£15,001 – £100,000	At least three bidders invited to quote (a minimum of two responses received)
Band 3	Above £100,001	Public advertisement used

7.8.2 Details of income generating/commercial contracts in band 2 or above must be reported to and approved in writing by a Strategic Director.

7.8.3 For contracts with an estimated value above £100,001, CSO 5.5 (regarding the submission, receipt and opening of tenders) must be followed.

7.8.4 Where income generating/commercial contracts also incur a cost to the Council, the cost element may be subject to These Contract Procedure Rules in its own right. In this

instance, the advice of the Corporate Procurement Manager, Director (Finance) or Shared Legal Service Commercial Law team should be sought.

SECTION 8 OTHER CONSIDERATIONS

8.1 Contractual Disputes

8.1.1 The officer should seek the advice and involvement of Legal Services as appropriate in contractual disputes with Suppliers.

8.1.2 In the event of a claim from a Supplier for loss or expense incurred (either permitted by the terms of the contract or extra-contractual), seek advice from Legal Services immediately.

8.2 Termination of Contracts

8.2.1 Subject to the terms and conditions of the contract, where the Supplier has demonstrably failed to deliver the work, services or goods in accordance with the contract the Council will be at liberty to terminate the contract either wholly or in part and to procure the works, supplies or services of the same or similar description elsewhere, in order to make good such default.

8.2.2 Should the Supplier become debarred during the course of the contract consult with Legal Services.

8.2.3 Adequate written evidence of poor unacceptable performance must be kept. Such records would include relevant correspondence and records of relevant meetings with the Supplier.

8.2.4 For contracts let under the Procurement Act 2023 Contract performance notices may be required and termination notices will be required once the contract is terminated. Involve the Corporate procurement team to ensure appropriate publication.

8.2.5 Legal Services must be involved in the termination of any formal contract to ensure that:

a) The Council's case for termination is legally sound; and,

b) The termination is carried out in accordance with the terms of the contract.

8.3 Bankruptcies, Liquidations and Novations

8.3.1 In the event that a Supplier ceases to trade as a result of a bankruptcy, liquidation or otherwise then Legal Services must be involved in any of the following:

a) Terminating the contract

b) The appointment of new Supplier to complete the work or service;

c) Negotiations with liquidator/receiver/administrator

d) Assignment of contract and Novation

8.3.2 If a Supplier indicates that it wishes to transfer, assign or novate a contract, Legal Services must be consulted prior to any agreement to accept. Equally, if a supplier's business is transferred to another supplier, legal advice must be sought from Legal Services as to whether a novation or assignment is needed and as to any other steps that must be taken before any such assignment or novation is accepted.

8.4 Contract Variations

8.4.1 For contracts equal to or above the Public Contracts Thresholds, officers must seek advice from Corporate Procurement and/or Legal Services before any variation is agreed. This includes any contracts below the Public Contracts Threshold where the proposed variation will or may take the overall estimated value of the contract over the threshold.

8.4.2 No variation shall take place that contravene the Public Contracts Regulations 2015 or the Procurement Act 2023 in any circumstances.

8.4.3 Depending on the circumstance the council may need to publish a public notice prior to committing to the variation and a voluntary standstill period should be considered for contracts equal to or above the Public Contracts Threshold.

8.4.4 Variation shall relate to the work specified in an existing contract only and shall not be given in circumstances where a separate contract should or ought to have been entered into. E.g. the variation must not materially change the contract.

8.4.5 All variation must normally be issued to the Supplier prior to the relevant work being carried out but, in exceptional circumstances, should be given as soon as possible thereafter.

8.4.6 Unless agreed otherwise with Legal Services, variations shall be documented in the form required by the written contract or (if none) documented in writing and signed by an authorised signatory on behalf of the Council and the Supplier. In the case of sealed documents Legal Services must be consulted. Officers should consult with Legal Services if in doubt about the process for formalising a variation (or if support is required).

8.4.7 All contract variations regarding contract value or expiry dates for both under and over threshold contracts must be reported to Corporate Procurement to enable the changes to be updated on the Council's contracts register.

8.5 Contract Extensions

8.5.1 Term contracts often have the provision for extensions, e.g.. the contract term is 3 years with the option to extend for a further 2 years. When considering taking up the extension option consider if this will be in the councils best interest to extend. e.g. is the service still required in the existing form? Has the market changed? Could re procuring produce a saving? Do the research in sufficient time so that if the answer is re procure there is sufficient time to re procure well, the default should not be to extend because it's not been thought about it in time for any other option. The decision to extend is signed off by the officer with delegated rights to sign contracts of the value of the extension.

8.5.2 Should the contract not have provision to extend but is it considered desirable then all requests must be made in writing to either the Corporate Procurement Manager, the Director (Finance) or the Borough Solicitor for their approval. No extension that contravenes the Public Contracts Regulations 2015 or the Procurement Act 2023 will be granted and no extension to an existing contract shall be given unless it can be clearly demonstrated that a change of Supplier would result in one or more of the following:

a) Unacceptable technical difficulties

b) A significant and unacceptable increase in costs to the Council

c) Significant disruption to the delivery of Council services.

8.5.3 Should the value of the extension being requested bring the contract value up to and above

the Public Contract Threshold or tip a previously under £5m contract to above that value then consult Corporate Procurement on the implications that brings before making the formal request.

8.5.4 It is not permitted to extend a contract that is renewed yearly on more than four occasions without re-tendering. Such cases should be reviewed annually and a written record of the decision (with reasons) to either, extend the contract or carry out a new competitive tendering exercise must be kept. Officers must not enter into contracts that auto renew unless authorised by Corporate Procurement.

8.5.5 Legal Services shall be consulted about the process to document the extension.

8.5.6 Where the total contract value (including the original contract value) exceeds £5,001, details of the contract extension must be provided to Corporate Procurement for recording on the Central Contracts Database. If a contract record has already been entered on the central register then this will need to be updated with the contract extension details[52].

8.6 Green Environment and Sustainable Sources

Goods or services which are known to be harmful to the environment, and where there are other adequate options, will not be used. Wherever practical and cost effective, only materials from sustainable sources will be used.

8.7 Diversity

Officers should take steps in the procurement exercise to encourage a diverse and competitive supply market, including small firms, social enterprises, ethnic minority businesses and voluntary and community sector suppliers.[53]

8.8 Equality

The Council must have due regard to the requirements of the public sector equalities duty under the Equalities Act 2010, which must be taken into account when procuring goods, works, or services from external providers.

8.9 Innovative Procurement/Abnormal Contract Action

New or different ways of purchasing goods, services or works, which give better value for money, are encouraged. However, any proposals for innovative procurement or abnormal contract action (including the use of another organisation's Contract Procedure Rules and E-auctions) must be discussed with the Corporate Procurement team and then be cleared by the Borough Solicitor to ensure the proposal is legally sound.

8.10 Conflicts of Interest

Officers must be mindful of any conflicts of interest or perceived conflicts of interest at all stages of the procurement process and must document for band 4 procurements as a minimum that this has been considered (and mitigated if needed) at pre procurement, tender, evaluation, and contract management stages. Further guidance is available from Corporate Procurement. Confirmation that this has been done will be required before

[52] A variation form to amend central contract database details is available on the intranet under Procurement
[53] Further guidance on how to encourage a diverse and competitive supply market using pre-procurement is available on the internet under Procurement.

publishing any notices in relation to the procurement at band 4 or above.

In addition Section 117 of the Local Government Act 1972 provides that, if it comes to the attention of any officer, that the Council has entered or is proposing to enter into a contract in which he or she has "pecuniary" interest, he or she must give notice in writing of that interest to the Authority as soon as is practicable. It is a criminal offence not to comply with this provision.

a) The register in which the written notice is to be given is held by the Constitutional Services Manager.

b) "Pecuniary" includes any direct or indirect interest and is defined by reference to Section 95 of the Local Government Act 1972. The Borough Solicitor's advice should be sought in areas of uncertainty.

c) The requirement to register applies even if the officer is not involved with the Contract.

8.11 Freedom of Information Act (2000)

The Data protection officer or their appointed nominee should be consulted where requests for information on tenders or contracts are received under the Freedom of Information Act (2000). This also includes requests under the Environmental Information Regulations 2004.

8.12 Security of Performance and Performance Liability

In order to protect the Council from non-performance or poor performance in a contract, the officer should consider whether a performance bond or a liquidated damages clause is required and in what form. These are especially relevant for Works and some Service contracts[54]. Legal Services should be consulted about the type and wording of the bond or liquidated damages clause.

For Works contracts over £500,000 the Council may (dependant on risk analysis) require the Supplier to provide a performance bond for 10% of the total contract value between £500,000 and £2,000,000 and 5% for contracts above £2,000,000.

Supplier contracts should be checked carefully for any limitations of liability and advice should be sought from the Legal Services. The foreseeable damage to the Council which might arise from the failure on the part of the supplier, any limitation on liability, the insurance carried by the supplier (other than public liability cover) and, security for performance, are all interrelated factors and should be considered carefully as a whole.

8.13 TUPE and the Best Value Code of Practice on Workforce Matters

If contracting out a service or re-tendering a term contract, the Transfer of Undertakings (Protection of Employment) Regulations ("TUPE") 2006 may apply. This is a very complex area where legal guidance and trade union consultation must be sought at an early stage.

8.14 Health and Safety

Officers should take steps during the procurement exercise and throughout the length of the contract to ensure that health and safety is appropriately covered.

[54] Standard templates and further explanations/guidance for performance bonds and liquidated damages clauses can be found in the High Value Services Contract available from Corporate Procurement

Considerations include:

- Clearly identify all aspects of work to be carried out by the contractor
- Consider the health and safety implications
- Competency to do the job safely?
- How reliant on sub- contractors and sub-sub-contractors?
- Reputation?
- Prosecutions, notices, accident record?
- Ensure contractors know what is expected
- Show SBC safety policy procedures, permit systems, contractor guidance and confirm they have been read and understood
- Whether Works contractors should be SSIP (or equivalent) registered

Consider requiring your Contractor to:

- Outline recent health and safety performance
- List, with evidence, qualifications and skills
- Provide safety method statement
- Be a member of trade organisation or professional body
- Provide clear information about the risks of the operation
- Provide safety rules and procedures
- Any employee, contractor or sub contractor working on behalf of SBC on SBC premises including tenanted properties must have ID relevant to their employment.

For further guidance, please refer to the Councils Health and Safety Guidance which can be found on the intranet under staff info/hr/health and safety.

8.15 Safeguarding Children[55]

All services commissioned by the Council must operate within the requirements of the Council's Safeguarding Children Policy and meet the relevant legislative standards. Where appropriate, procuring officers will need to ensure that contractors demonstrate that they meet these requirements. As an indicator, contractors/agencies must have in place the following:

- Senior Management Commitment to Safeguarding
- Clear, Accessible Statement of Responsibility (including Safeguarding Policy, Complaints, Equal Opportunities and Incident Monitoring Procedures)
- Clear mechanisms for identification and investigation/action regarding safeguarding concerns
- Clear Line of Accountability for Reporting Safeguarding Concerns
- Child and Family conscious service planning and delivery
- Staff Training programme for Safeguarding
- Safer Recruitment Policy
- Information Sharing procedure

8.16 Accessibility

Consider whether what you are buying needs to meet new Accessibility requirements - it could be websites / apps or even pdf/reports/pictures – anything that is published by SBC to the public or to staff[56]

[55] Additional information regarding Safeguarding is available on the Stevenage Borough Council website.

[56] Speak to IT service desk for assistance or https://www.gov.uk/guidance/accessibility-requirements-for-public-sector-websites-and-apps

8.17 GDPR

The Council must have due regard to the requirements of the General Data Protection Regulations 2018. Conduct a Data Protection Impact assessment to perform an assessment of privacy risks of performing data processing activities involving personal data handling.[57]

8.18 Social Value

The Council must have due regard to the Public Services 2012 Social Value Act. As such the Council requires 10% of the evaluation of band 3 procurements and above for services and works to be dedicated to additional social value. See guidance from Corporate Procurement as to how this is implemented..[58]

8.19 Modern Slavery

The council must consider the risk of modern slavery existing within its supply chain. Procuring officers need to research the level of risk that exists in the relevant market. If the risk is medium or high they should consult with Corporate Procurement suitable measures to take above and beyond the questions asked as standard in the SBC quotation and tender templates available via the intranet or Corporate Procurement.[59]

8.20 Fraud Prevention

The council must comply with the Bribery Act 2010 and consider the risk of fraud within its supply chain. Procuring officers need to think about whether their actions could be perceived as fraudulent or favoring a particular supplier and also be alert to possible fraudulent behavior from bidders during the procurement and evaluation process. Within contract management processes consideration needs to be given to preventing fraudulent behavior by contractors or Council officers. Any suspicion of fraudulent behaviour should be reported to the Shared Anti-Fraud Service or use the Councils Whistleblowing policy[60].

[57] See intranet staff info/data protection.
[58] See information on the intranet under Procurement
[59] See intranet procurement.
[60] See intranet for more information

Appendix A - Table of Definitions / Terms

Authorised Contract Signatory	The named officer who has been sanctioned via SLT to sign contract with suppliers to a specified contract value. The list of authorised signatories and respective values are maintained by Exchequer Services.
Bond	A bond is a legally enforceable financial guarantee given by a third party (the guarantor) to the Council to guarantee the obligations of a *Supplier* under a contract. The guarantor agrees to pay the Council a sum of money if the *Supplier* does not do what has been promised under a contract with the Council (e.g. a bond is often 10% of the total contract value). The purpose of a bond is to help the Council meet the extra expenses to remedy the contract default and/or complete the contract.
CCS	Crown Commercial Services - a local authority approved purchasing consortium, which is an executive agency of the Cabinet Office.
Contracts Finder	Government mandated advertising portal for all contract notices and awards under PCR 2015 advertised by Local and National Government and it's agencies.
Concession Contract	Means a contract for the supply, for pecuniary interest, of Works or services to the Council where at least part of the remuneration for that supply is the right for the Supplier to exploit the works or services and under the contract the Supplier is exposed to a real operating risk (i.e. a risk they will not be able to recover their costs of providing the Works or services).
CPV	Common Procurement vocabulary - a list of codes in a hierarchy which defines the requirements. Referred to in the Procurement Act 2023 and used in public notices
CPR	These Contract Procedure Rules
ESPO	Eastern Shires Purchasing Organisation - a local authority approved purchasing consortium.
Estimated Contract Value	Means the estimated total value of a contract, calculated in accordance with paragraph 5.1 of these Contract Procedure Rules
Financial Regulations	The Council's financial regulations set out rules/procedures for financial management and the conduct required of Council staff in dealing with financial matters. They are issued by the *Director (Finance)* and form part of the *Constitution.*
Framework Agreements	Framework Agreements are agreements entered into between a contracting authority and one or more *Suppliers*, setting out the terms and conditions (e.g. pricing mechanisms, quantity and scope of services/supplies/works and duration) under which future purchases (or call offs) can be made throughout the term of the agreement.

Homes England	Homes England is the non-departmental public body that funds new affordable housing in England. It was founded on 1 January 2018 to replace the Homes and Communities Agency.
Insurance cover and indemnity / liability limits	Normally, contracts should require suppliers to indemnify (protect) the Council from public liability and employers liability to an appropriate limit, but products liability and professional liability may be required when relevant to a particular contract. The appropriate limit of indemnity should be judged individually depending on the nature of the contract, risk assessment, size of contracting firm etc. A brief explanation of each type of liability follows: **Public Liability** provides indemnity for damages the insured is legally obliged to pay to a third party who has suffered damage or injury as a result of the insured's action. It does not extend to damage or injury suffered by employees of the insured. It does not include pure financial loss suffered as a result of advice given. The contract may include a co-indemnity or cross-indemnity clause, which effectively extends the supplier's cover to include SBC. **Employers' Liability** provides indemnity for damages the insured is legally obliged to pay to an employee who has suffered damage or injury as a result of the insured's action. The contract should include a wide definition of "employee" so as to include apprentices, work-experience people, and volunteers if appropriate. **Products Liability**, often included as part of general Public Liability Section of a policy, provides indemnity for damages the insured is legally obliged to pay to a third party who has suffered damage or injury as a result of the product for which the insured is responsible. **Professional Liability (or Indemnity)** covers loss or damage (except bodily injury or damage to property) arising from the negligence or accidental error/omission of any official or employee while the Council is acting in a statutory capacity.
In-Tend	The Councils E tendering system software, also known as Supply Hertfordshire
ITT	Invitation to Tender.
Key Decision	Decisions that are defined as Key Decisions in the *Constitution.* If the purchase is a Key Decision*,* the Officer must ensure that all appropriate steps have been taken. If the Contract value exceeds £250,000 or the contract will be significant in terms of its effects on communities living or working in the area, then the purchase is likely to be a key decision (See Decision Making - Article 11 in the Constitution for further information).
Nominated Suppliers and Sub-contractors	These are sub-contracts specified in the main contract where the Council nominates specific *Suppliers* or sub-contractors to the main contractor. The main contractor is expected to establish sub-contracts with the *Suppliers* nominated by the Council.
Novation	The agreed transfer to another *Supplier* of the full obligations and rights under the contract.

Parent Company Guarantee	The parent company (or holding company) guarantees the proper performance of a contract by one of its subsidiaries (the contractor). The conditions of the parent company guarantee will usually give the parent company the opportunity to remedy any default within a period of notice before the guarantee is called. The liability can take several forms including a financial guarantee of completion of the project itself or the employment of another *Supplier* to complete the project.
Post Tender Negotiation	Post tender negotiation means negotiations with any tenderer after submission of a *Tender* and before the award of the contract with a view to obtaining an adjustment in price, delivery or content.
PFH	Procurement for Housing – a local authority approved purchasing consortium, more specifically for Housing
Public Contracts Regulations 2015 or PCR 2015	Public Contract Regulations 2015 are the legally required processes for UK public procurement which were transposed from EU Procurement Directives 2014 along with some UK specific rules (PCR 2015 is often referred to as EU Regulations) These are superseded by the Procurement Act 2023 from 24th February 2025.
Public Contracts Threshold	Means the threshold amount for a particular contract to be classified as a ”public contract” and subject to the substantive requirements of the Procurement Act 2023, as set out in Schedule 1 of the Procurement Act 2023 and as updated from time to time.
Procurement Act 2023	Legislation in force from 24th February 2025 succeeding PCR2015
Quotation	“Quotation” means an offer to supply or purchase goods, or materials, execute works or provide services including consultancy, at a stated price based on terms and conditions agreed with the *Supplier*. For the purpose of These Contract Procedure Rules, the Council uses the term ‘Quote’ rather than ‘Tender’ for the more simplistic procurement process to be followed for estimated contract values below £100,000.
SBC	Stevenage Borough Council
Short Listing	Where *Suppliers* are selected: • to quote or bid or • to proceed next stage of the process.
Supplier	Any person, organisation or economic operator who supplies the Council with Goods, Works or Services. For the purpose of These Contract Procedure Rules, the term supplier includes contractors, consultants and service providers.
Senior Leadership Team member	The Directors, Strategic Directors and Chief Executive.
Tender	“Tender” means a formal offer to supply or purchase goods, or materials, execute works or provide services including consultancy, at

	a stated price based on set terms and conditions. For the purpose of These Contract Procedure Rules, the Council uses the term 'Tender' as opposed to 'Quote' for the more complex procurement procedure required for estimated contract values over £100,001.
TUPE	Transfer of Undertakings (Protection of Employment) Regulations
Works	are (for the purpose of the PCR 2015) given the meaning set out in the PCR 15 and (for the purpose of the Procurement Act 2023) activities having a "works" CPV code in Schedule 3 of the Procurement Regulations 2024
YPO	Yorkshire Purchasing Organisation - a local authority approved purchasing consortium

Appendix B Notice requirements of Procurement Act 2023