



East  
Northamptonshire  
Council

## Council 8 April 2015

### Changes to the Constitution – Procurement Rules

#### Purpose of report

To present proposals for key changes to the Procurement Rules element of the Council's Constitution.

#### Appendices

A – Proposed revised Part 4.6

#### 1.0 Background

- 1.1 The council's constitution sets out how the council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by law; others are a matter for the council to choose. This includes the way the council procures goods and services, which are presented in Part 4.6
- 1.2 In addition to being best practice to review the procurement rules regularly to ensure they remain up to date, there have been significant recent changes in the regulatory framework for procurement following the implementation of the Contracts Regulations 2015. These put into English law the changes agreed early in 2014 amending the European Procurement Directives for procurements above the OJEU threshold, together with the UK requirements proposed by Lord Young which affect procurement below the OJEU threshold. Many of the measures in the regulations are required to be implemented from 26 February 2015.
- 1.3 The main impacts include:
- Part B procurements are abolished i.e. services which were exempt from OJEU under the previous regime are now either subject to a new Light Touch regime (e.g. certain social care and health contracts) or subject to the full OJEU procedure (e.g. leisure).
  - Making shortlisting illegal below the OJEU threshold. As a result non-OJEU tenders cannot have a pre-qualification questionnaire designed to restrict the number of bidders submitting tenders. This will mean the council may have to evaluate larger numbers of tenders or quotations for some contracts for example for construction, consultants, IT and telecoms, simple services, etc.
  - Advertising every tender on a national website called Contracts Finder. Again this may well increase the number of bidders, and discourage some local contractors in bidding.
  - All documents to be available and published at the time of advertising. The intention is that by publishing a full specification at the outset, bidders will self-select and not bid for inappropriate work. However, this means that more work will have to be carried by officers in advance of the date of advertising and is likely to lengthen the time taken to undertake the procurement.

1.4 As a result of these changes, the Welland Procurement Unit has re-drafted the Procurement Rules to reflect the changes in the regulatory framework. It is proposed that the same format is used by all council's using the Welland Procurement Unit although some details may have to vary to recognise organisational differences e.g. where there is an Executive or Committee governance model and whether legal services are provided in-house or not. Appropriate changes have been made to the common draft to reflect the position at this council.

1.5 The proposed rules, which will replace the current Part 4.6 of the constitution, if approved, can be found at Appendix A. Given the substantial nature of this rewrite, it has not been possible to produce a tracked change version of Part 4.6 for councillors. However the other key changes are high-lighted below

## **2.0 Proposed Key Changes**

2.1 The most significant change is the proposal to raise the advertising threshold for tenders to £50,000 from the current level of £25,000. (See section 7 & 11 of Appendix A). Raising the advertising threshold may seem perverse in the light of the drive for greater transparency, but it is consistent with the new Regulations, and should avoid excessive process work on smaller procurements arising from the fact that procurements undertaken by quotation need not be advertised, so it is proposed to use the same limit for quotations and advertising.

2.2 There are changes to the following sections to reflect the changes noted in paragraph 1.4:

- Deletion of the current section (1.5) relating to appointment of consultants as these are required to be treated as any other procurement
- Clarity on the requirements for records to be maintained and retained (new section 6)
- Expanded details of advertising requirements (new Section 7)
- Deletion of detailed descriptions of types of tenders (current section 3.2) and dynamic purchasing systems (current section 3.7) as this council does not plan to create such a system in the foreseeable future.
- Inclusion of description of Framework Agreements (new section 8)
- Expansion of detail in below sections 12 & 13 to reflect the changes in the Contracts Regulations 2105

2.3 No changes have been made to the authorisation levels of contracts.

## **3.0 Equality and Diversity Implications**

3.1 There are no equality and diversity implications arising from this report. Any implications from any future procurement activity will be considered as part of the process for that individual activity, in particular as part of the drafting of the specification.

## **4.0 Legal Implications**

4.1 As noted in paragraph 1.4 the statutory procurement framework changed with effect from 26<sup>th</sup> February. This report seeks to change the council's Constitution to bring it into line with this framework.

## **5.0 Risk Management**

5.1 Failure to follow the provisions of the Contract Regulations 2015 would expose the council to the risk of litigation. Adopted of the proposed procurement rules would reduce this risk. Once adopted, it is proposed that all officers with procurement responsibilities would be made aware of their revised responsibilities.

## 6.0 Financial Implications

6.1 This report seeks to change the procurement rules by which the council will operate to bring them in line with the law. However the changes may have limited resource implications arising from additional record keeping or evaluation of additional numbers of tenders or quotations as a result of the changes. It is not clear at this stage whether this increase in the number of responses will increase or decrease the final cost to the council of individual contracts.

## 7.0 Constitutional Implications

7.1 This report sets out proposed changes to the Procurement Rules contained within the Council's constitution. (Part 4.6)


## 8.0 Corporate Outcomes

8.1 This report links to the corporate outcome of Effective Management (ensuring robust processes are in place to manage the Council's financial management processes.)

## 9.0 Recommendation

9.1 That the proposed changes to Part 4.6 of the Constitution be approved.

*(Reason – to ensure the Council's procurement rules are up to date)*

<b>Legal</b>	Power: Local Government Act 2003 Audit and Accounts Regulations					
	Other considerations:					
<b>Background Papers:</b>						
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<b>Date: 27/3/15</b>						
<b>CFO</b> 27.3.2015			<b>MO</b>		<b>CX</b>	

## Part 4.6 Contract Procedure Rules

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## **INTRODUCTION AND PURPOSE**

### **1 Basic Principles**

- 1.1 These Contract Procedure Rules set out the rules governing all East Northamptonshire's procurements.
- 1.2 Whether or not a procurement is subject to EU Regulations, it must be conducted in accordance with the basic EU Treaty Principles. This means that all procurements must be carried out in a fair, transparent, equitable and non-discriminatory way.
- 1.3 Any changes to the relevant English or European law must be observed until these Rules are revised. If these Rules or the Procurement Toolkit conflict in any way with English law or European law in force in England then that legislation takes precedence.
- 1.4 The strategic advice of, where relevant, LGSS Legal Services and/or the Welland Procurement Unit must be sought during the earliest stages of planning and procurement.
- 1.5 All procurements must realise value for money by achieving the optimum combination of whole life costs and quality of outcome.
- 1.6 These Contract Procedure Rules are designed to ensure that procurements:
  - a) achieve value for money for public money spent;
  - b) are consistent with the highest standards of propriety;
  - c) are allocated in a fair and compliant manner;
  - d) comply with all legal requirements and established government and commercial codes of conduct;
  - e) support the Council's own corporate aims and service policies;
  - f) comply with the Council's Financial Regulations, health and safety, equality and environmental sustainability requirements; and
  - g) manage the Council's risk effectively.

### **2 Scope of these Contract Procedure Rules**

- 2.1 These rules apply to all procurements undertaken by the Council unless any such procurement is expressly excepted under these rules or is subject to an exemption.
- 2.2 The rules apply to all procurement activity including arrangements under which the Council pays or receives money or equivalent value and includes:
  - a) the permanent supply or disposal of assets/goods;
  - b) the execution of works;
  - c) the temporary hire, rental or lease of a supply;
  - d) the provision of services (including agency contracts for interim or temporary staff, consultancy contracts, contracts with the voluntary sector);
  - e) any combination of the above.

- 2.3 For the avoidance of doubt, these rules do not apply to the following contracts:
- a) Employment contracts making an individual a direct employee of the Council; or
  - b) Land transactions to acquire or dispose of some interest in land (which are covered by Financial Regulations);
  - c) Lending or borrowing of money.

### **3 Exemptions**

- 3.1 Unless a contract falls within the list of general exemptions set out in Appendix A, it cannot be exempted from these rules.
- 3.2 The exemptions listed here do not apply to procurements subject to the EU Procedure.
- 3.3 An 'Exemption Request Form' can be found at Appendix B and when an Exemption is sought this must be submitted to the Finance Manager for initial clearance. The Finance Manager may require LGSS Legal Services to provide a view on the proposed exemption.
- 3.4 The Finance Manager will ensure that a clearance on a request for an exemption is made within five working days of receipt of the relevant form.
- 3.5 Requests for exemptions will either be approved or rejected by the Chief Finance Officer (based on advice from the LGSS Legal Services and/or the Finance Manager)
- 3.6 If the exemption is approved, the application form will be endorsed and returned to the relevant department with a copy retained by the Finance Manager.

### **4 Roles and Responsibilities**

- 4.1 The officer responsible for the procurement ("the officer") must comply with these Rules, the Financial Procedure Rules (Part 4.3 of the Constitution) and all UK and European Legislation in force in England.
- 4.2 The officer must ensure that agents acting on their behalf also comply with rule 4.1 above.
- 4.3 The officer responsible for the contract must comply with the council's Code of Conduct for Employees (Part 5.2 of the Constitution) and must not invite or accept any gift or reward in respect of the award of performance of any contract.
- 4.4 The Welland Procurement Unit is the procurement service shared by this council and other councils admitted by the Welland Partnership Joint Committee. The Unit issues guidance and offers assistance on procurement matters to all participating councils.

- 4.5 The officer must have regard to current guidance offered by the Welland Procurement Unit and the principles of these Procurement Rules.
- 4.6 The officer must establish if an existing approved contract exists before seeking to let another contract. This contract must be used unless there is an overriding reason why not.
- 4.7 Where the council is procuring through the Welland Procurement Unit, there is no further requirement to seek alternative quotations and tenders. The Contract Procedure Rules for the lead authority adopted by the Welland Joint Committee for any procurement will be applied by the Welland Procurement Unit.
- 4.8 The officer must consult the Welland Procurement Unit prior to commencing any tendering activity where the contract value may be greater than the EU Threshold (see Appendix D).
- 4.9 The officer should take advice from the Welland Procurement Unit and the council's Human Resources Team when any employee may be affected by any transfer arrangement, to ensure the relevant issues are considered, including the Transfer of Undertaking Protection of Employment (TUPE), and that appropriate legal advice is obtained before proceeding with the procurement.
- 4.10 If the Welland Procurement Unit is not available to provide advice for any reason, advice should be sought from the Finance Manager, Monitoring Officer, or LGSS Legal Services, depending on the complexity or value of the contract.

## **5 Partnership and Joint Arrangements**

- 5.1 These rules apply to any proposal for the council to become involved in procurement as part of a joint venture or partnership, including the monitoring of any such arrangement. A joint venture or partnership:
- Includes any formal arrangement involving one or more organisations in addition to the council through which either a specific project or services within any of the functions of the council are to be provided; and
  - Provides a role for the council or any of its members or officers in whatever structure is used to deliver the project or services involved (such structures may include but are not limited to, companies, trusts and management committees).
- 5.2 Before any consideration is given to the council entering into a joint venture with the private sector or a strategic service delivery partnership with any external organisation, the Head of Service concerned must submit information detailing the proposed joint venture or partnership to the Corporate Management Team as determined on a case by case basis. They will give consideration to the proposed joint venture in accordance with these rules and will ensure the correct authorisation is obtained, including Committee or Council approval.

- 5.3 Procurement processes for strategic partnerships must include, where relevant:
- a) The issue of an information memorandum to prospective bidders setting out the background to the project, the council's objectives and an outline of the procurement process and timetable, with roles and responsibilities made clear.
  - b) An invitation to bidders to demonstrate their track record in achieving value for money through effective use of their supply chain, including the use of small firms, this should continue to be examined as part of the contract management.
  - c) The inclusion in invitations to tender (or negotiate) for partnerships a requirement on bidders to support optional, priced proposals for the delivery of specified community benefits which are relevant to the contract.
  - d) A clear indication of roles and responsibilities, including nomination for the lead authority where appropriate.

## **COMMON COMPETITION PRINCIPLES**

### **6 Records**

- 6.1 Where the total value is less than £50,000, the document containing the 'Invitation to Quote' as well as the quotes received from bidders must be kept as well as:
- A written or electronic record of any exemption and the reasons for it;
  - A written or electronic record of the evaluations carried out and their conclusion; and
  - Written or electronic records of communications with the successful bidder.
- 6.2 Where the total value exceeds £50,000, the officer must record:
- The method of obtaining tenders;
  - Any contracting decision and the reasons for it;
  - Any exemption and the reasons for it;
  - The award criteria in descending order of importance;
  - Tender documents sent to and received from bidders;
  - Pre-procurement market research and consultation;
  - Clarification and post tender negotiation (to include minutes of meetings);
  - The Contract documents;
  - Post contract evaluation and monitoring;
  - Written records of communications with bidders and with the successful bidder throughout the period of the Contract.
- 6.3 Written records required under Rules 6.1 and 6.2 must be kept in accordance with the council's document retention guidance.

### **7 Advertising**

- 7.1 For procurements with a value below £50,000 no advertising is required unless the procurement has corporate implications (as identified by the Head



of Service ) which are perceived to be significant. (This includes advertising on the council's website)

- 7.2 For procurements valued over £50,000 but below the relevant EU Threshold (see Appendix D) an advertisement must be placed on Contracts Finder/Source Northamptonshire and may be subsequently placed on additional media. If the procurement is likely to be of interest locally, an advert should be placed on the Council website. The advertisement shall contain details of the proposed contract and specify a time limit within which interested parties may express an interest in quoting/ tendering for the contract.
- 7.3 Where the EU Procedure applies, the Welland Procurement Unit is responsible for managing the advertising required under those Directives.
- 7.4 When advertising a Framework Agreement, the advertisement must indicate:
- a) that it is a Framework Agreement which is being tendered;
  - b) the duration of the Framework Agreement (which must not exceed four (4) years including extensions);
  - c) the expected maximum number of suppliers;
  - d) the estimated total value of the contracts to be covered by the Framework Agreement; and
  - e) the award criteria for choosing suppliers and subsequent criteria for placing orders.

## **8 Framework Agreements and E-Auctions**

### **Framework Agreements**

- 8.1 A Framework Agreement is a formal tendered arrangement which sets out terms and conditions under which specific purchases can be made from the successful bidders in unpredictable quantities and at different times during the Framework Agreement.
- 8.2 Framework Agreements must comply with these rules, including but not limited to the following:
- a) A Framework Agreement must be procured in accordance with the procurement thresholds set out in these rules. The value of the contract in relation to the Framework Agreement is the estimated maximum value over its lifetime.
  - b) A Framework Agreement shall not operate for more than four (4) years except in duly justified and exceptional circumstances.
- 8.3 In any case where a Framework Agreement is in place:
- a) subsequent call-offs from that Framework Agreement must not contain substantial amendments to the original terms of that Framework Agreement;
  - b) orders to be placed against a known price do not require further competition unless required by law;
  - c) in circumstances where the price was not specified under the Framework Agreement an order can only be placed if quotes have been requested

from all capable suppliers specified in the Framework Agreement, or, if the call-off arrangements for the Framework Agreement have been followed.

- 8.4 Where an officer wishes to procure a requirement valued over £10,000, they should consult the Welland Procurement Unit to check whether an existing Framework Agreement exists. Where the officer wishes to use a Framework Agreement offered by another public sector body, they must demonstrate (to the Chief Finance Officer or the Finance Manager) that value for money will be achieved. Costs of procurement should be included in this consideration.

### **Electronic (E) Auctions**

- 8.5 E-auctions may be used where appropriate and in circumstances where this approach will provide the council with value for money.
- 8.6 An e-auction requires the use of specialised software and tenderer support, and may then be used in these circumstances:
- a) Open or restricted procedures stating use of an auction.
  - b) Mini competition within a framework if e-auctions were mentioned in the Contract Notice
  - c) Competition for contracts to be awarded through a dynamic purchasing system if stated in the Contract Notice; and
  - d) Expressions of interest invited in accordance with the selected procedure if the Contract Notice states that an e-auction will be used.
- 8.7 Before entering into an e-auction, advice and guidance must be sought from the Welland Procurement Unit.

## **9 Competition Requirements**

- 9.1 The Officer must establish the total value of the procurement (for the life of the contract including any potential extension period which may be awarded). Where the contract period cannot be calculated, the total value should be calculated for a period of four years. For framework agreements with not guaranteed commitment, the total value will be the estimated value of call offs over the full duration of the contract.
- 9.2 Based on this value, quotations or tenders must then be invited in line with the financial thresholds detailed in these rules.
- 9.3 The Public Contract Regulations (2015) regulate procurements valued between £25,000 and the relevant EU Threshold (i.e. that for supplies/services or works). For contracts valued between those limits, officers must ensure they take the following actions:
- a) The Procurement must be advertised unless the contract is below £50,000 when paragraph 7.2 applies. In addition, once the contract has been awarded, an Award Notice must be published. (Appendix D contains further detail.)

- b) Where procurements are valued over the tender threshold, officers must ensure that an Open (One Stage) tender process is followed with no pre-qualification of suppliers permitted. Officers must therefore ensure that all procurement documentation, including the specification and conditions of contract, is available at the point the procurement is advertised.
- 9.4 Where the procurement is below £25,000, at least one of the quotations should be sought from a local supplier, where local means within the council area or sub-region, unless none exists.
- 9.5 Where the procurement is valued above the EU Threshold, the advice and support of the Welland Procurement Unit must be sought before any competition is started.
- 9.6 An officer must not enter into separate contracts nor select a method of calculating the Total Value in order to minimise the application of these Rules.

## **10 Pre Procurement Market Research and Consultation**

- 10.1 The council may consult potential suppliers, prior to the issue of the Invitation to Tender or Request for Quotation, in general terms about the nature, level and standard of supply, contract packaging and other relevant matters, provided that this does not prejudice any potential supplier.
- 10.2 When engaging with potential suppliers, the council must not seek or accept technical advice on the preparation of an Invitation to Tender or Request for Quotation from anyone who might have a commercial interest in the process and where this may prejudice the equal treatment of all potential bidding organisations or distort competition.
- 10.3 In conducting Pre Procurement Market Research, the council must ensure that:
  - a) no information is disclosed to one supplier which is not then made available to all suppliers involved in the process or who are subsequently invited to bid;
  - b) no supplier shall be led to believe that the information they offer will lead to them being invited to quote or awarded the contract;
  - c) a written record, including any communications made, any notes of any meetings held and the responses and names of individuals present shall be kept by the officer.
- 10.4 In undertaking any such activities, the officer responsible should refer to the guidance in the Procurement Toolkit.

## **The Public Services (Social Value) Act 2012**

- 10.5 This Act requires contracting authorities to consider at the pre-procurement stage of any service contract and service Framework Agreement (including goods and works contracts procured in combination with services) above EU Thresholds:

- How the proposed procurement may improve the economic, social and environmental wellbeing of an area;
- How the contracting authority may act with a view to securing that improvement in conducting the process of procurement; and
- Whether to undertake any community consultation on the above.

10.6 Appropriate records should be kept of these considerations, including the reason for any decision regarding the matter of community consultation.

## **PROCEDURES BY VALUE OF REQUIREMENT**

### **11 Procurement Thresholds**

#### **Buying Goods and Services**

11.1 Goods (including the use of goods) were once described by the UK Treasury as ‘anything you can drop on your foot’. However, the definition also includes electricity, gas, heat and water, off the shelf software and the hire of equipment without a driver. Services are defined as anything that isn’t either Goods or Works (see below). However, please note that some Services are covered by the new Light Touch Regime and officers should note the definition below before starting any procurement exercise.

<b>Value of Procurement</b>	<b>Notices Required</b>	<b>Procurement Method</b>	<b>Notes</b>
Under £5,000	None	At least one written quotation required. See Rule 11.4 below	Procurements at this value are not subject to Regulation but Officers should ensure they achieve value for money and keep the Records required at Rule 6
Between £5,000 and £10,000	None	At least one written quotation required. See Rule 11.4 below	Procurements valued above £5,000 are subject to Transparency Regulations.
Between £10,000 and £50,000	None unless advertised or tendered, then contact the Welland Procurement Unit for guidance.	Multiple quotations should be sought via a one stage process. See Rule 11.5 below.	Procurements valued above £25,000 are subject to The Public Contracts Regulations 2015 and Transparency Regulations.
Between £50,000 and EU Goods/Services Threshold	Advertising and award notices. See Rule 7 and 9.3.1.	A single stage (open) tender is required. See Rule 11.6.	Procurements valued above £25,000 are subject to The Public Contracts Regulations 2015 and Transparency Regulations.
Over EU Goods/Services Threshold	OJEU Advertising and Award notices.	A method defined by EU Procurement Regulations	Refer to Procurement Officer/external procurement advisers for further support

## Buying Works

11.2 Works are defined as the execution of building and/or civil engineering works whether or not they are accompanied by other tasks.

Value of Procurement	Notices Required	Procurement Method	Notes
Under £5,000	None	At least one written quotation required. See Rule 11.4	Procurements at this value aren't subject to Regulation but Officers should ensure they achieve value for money and keep the Records required at Rule 6.
Between £5,000 and £10,000	None	At least one written quotation required. See Rule 11.4	Procurements valued above £5,000 are subject to Transparency Regulations.
Between £10,000 and £50,000	None unless advertised or tendered, then contact the Welland Procurement Unit for guidance.	Multiple quotations should be sought via a one stage process. See Rule 11.5	Procurements valued above £25,000 are subject to the Public Contracts Regulations 2015 and Transparency Regulations.
Between £50,000 and <b><u>EU Goods/Services Threshold</u></b>	Advertising and award. See Rule 7 and 9.3.1.	A single stage (open) tender is required. See Rule 11.6.	Procurements valued above £25,000 are subject to the Public Contracts Regulations 2015 as well as Transparency Regulations.
Between <b><u>EU Goods/Services Threshold</u></b> and the EU Works Threshold	Advertising and award notices are required. Please see Rule 7 and 9.3.1.	A method defined by EU Procurement Regulations.	Procurements at this value are subject to Transparency Regulations and the Treaty of Rome principles but <u>not</u> the full Public Contracts Regulations 2015
Over EU Works Threshold	OJEU Advertising and Award notices	A method defined by EU Procurement Regulations	Refer to Procurement Officer/external procurement advisers for further support

## Buying Services Covered by the Light Touch Regime

11.3 The EU Procurement Directives 2014 list the services to be covered by a new Light Touch Regime, see Appendix D for the relevant threshold. The full list of services is available from the Welland Procurement Unit but in summary it covers the following:

11.3.1 **Health, social and related services:** Domestic help, nursing staff, medical staff, staff for households, home helps, domestic services, social work services, guidance and counselling services.

- 11.3.2 **Administrative social, educational, healthcare and cultural services:** Education and training services, organisation of cultural events. Culture is restricted to events and does not include leisure.
- 11.3.3 **Compulsory social security services**
- 11.3.4 **Benefit services**
- 11.3.5 **Other community, social and personal services:** Including services furnished by trade unions, political organisations, youth associations and other membership organisation services.
- 11.3.6 **Religious services**
- 11.3.7 **Hotel and restaurant services:** Catering, meals on wheels, canteen and cafeteria services. Includes school meals
- 11.3.8 **Legal services:** With some narrow exceptions
- 11.3.9 **Other administrative and government services:** For education, healthcare, housing, etc
- 11.3.10 **Provision of services to the community:** Generally central government services, foreign and diplomatic, defence etc. Not local government
- 11.3.11 **Investigation and security services:** Alarm monitoring, guard services, surveillance services, patrol services. Does not include CCTV
- 11.3.12 **International services**
- 11.3.13 **Postal services**
- 11.3.14 **Other services:** Tyre re-moulding, blacksmiths

<b>Value of Procurement</b>	<b>Notices Required</b>	<b>Procurement Method</b>	<b>Notes</b>
Under £5,000	None	At least one written quotation required. See Rule 11.4	Procurements at this value aren't subject to Regulation but Officers should ensure they achieve value for money and keep the Records required at CSO 6
Between £5,000 and £10,000	None	At least one written quotation required. See Rule 11.4	Procurements valued above £5,000 are subject to Transparency Regulations.
Between £10,000 and £50,000	None unless advertised or tendered, then contact the Welland Procurement Unit for guidance.	Multiple quotations should be sought via a one stage process. See Rule 11.5	Procurements valued above £25,000 are subject to the Public Contracts Regulations 2015 and Transparency Regulations.
Between £50,000 and <b><u>EU Goods/Services Threshold</u></b>	Advertising and award notices. See Rule 7 and 9.3.1.	A single stage (open) tender is required. See Rule 11.6 below.	Procurements valued above £25,000 are subject to the Public Contracts Regulations 2015 and Transparency Regulations.
Between <b><u>EU Goods/Services Threshold</u></b> and the EU Light Touch Regime Threshold	Advertising and award notices. See Rule 7 and 9.3.1.	A method defined by EU Procurement Regulations.	Procurements at this value are subject to Transparency Regulations and the Treaty of Rome principles but <u>not</u> the full Public Contracts Regulations 2015
Over EU Light Touch Regime Threshold	OJEU Advertising and Award notices	A method defined by EU Procurement Regulations	Refer to Procurement Officer/external procurement advisers for further support

## **11.4 At Least One Written Quotation Required**

11.4.1 CSO 11 (above) defines the application of this Rule where the requirement cannot be obtained via an existing approved contract or Framework Agreement.

11.4.2 Whilst obtaining Value for Money remains the primary objective, multiple quotations need not be obtained provided compliance with that objective can be demonstrated.

11.4.3 However, a quotation (written) must be obtained for requirements under £10,000 before any order is processed and this must specify:

- The goods, services or works to be supplied;
- Where and when they are to be supplied;



- The value of the transaction; and
- The Terms and Conditions including Payment Terms.

11.4.4 In the case of Works, the use of pre agreed hourly/day rates is acceptable provided the hourly/day rates do not exceed EU Thresholds.

## **11.5 Multiple Quotations Required**

11.5.1 Rule 11 (above) defines the application of this Rule where the requirement cannot be obtained via an existing approved contract or Framework Agreement.

11.5.2 The criteria for selecting the most advantageous quotation must be established before written quotations are invited.

11.5.3 At least three comparable written quotations must be sought; for quotes valued below £50,000 at least one of those quotations should be from a local supplier where local means in the council area or sub-region. Where fewer than three potential suppliers can be identified, the officer should keep a written record of the reason and all potential suppliers should be invited to quote.

11.5.4 The officer shall maintain the Records detailed in 6.1.

11.5.5 Where the requirement can be satisfied by an existing approved contract or Framework Agreement, then the order will be considered consistent with these Rules as long as the Call Off arrangements defined within the individual contract are followed.

11.5.6 Where a requirement is valued over £50,000 it must be advertised in accordance with Rule 7.2 and the requirements of Rule 9.3 taken into account.

## **11.6 Single Stage (Open) Tender Process**

11.6.1 Rule 11 (above) defines the application of this Rule where the requirement cannot be obtained via an existing approved contract or Framework Agreement.

11.6.2 Tendering under this procedure is 'open' as any Supplier expressing an interest is automatically entitled to submit a Tender.

11.6.3 Tenders should be advertised in accordance with Rule 7.2 and the requirements of Rule 9.3 taken into account.



11.6.4 Officers must ensure that all relevant documents are available at the point the Tender is advertised. These documents will include at least the Specification, Conditions of Contract and weighted evaluation criteria. Limited suitability questions may be used as part of the process, the Welland Procurement Unit should be consulted before using such questions.

11.6.5 Bidders must be given adequate time to respond, consistent with the level of complexity of the requirement and, except where the industry norm is otherwise, this should be a minimum of 15 working days.

11.6.6 The Contract Award must be authorised according to Appendix F and Rule see 3.11.3

## **11.7 Two Stage (Restricted) Tender Process**

11.7.1 Rule 11 (above) defines the application of this Rule where the requirement cannot be obtained via an existing approved contract or Framework Agreement.

11.7.2 This process contains two distinct stages, the selection (shortlisting) of suitable Bidders from those expressing an interest (usually via a Pre Qualification Questionnaire) and the Invitation to Tender.

11.7.3 Tenders should be advertised in accordance with Rule 7.2 and the requirements of Rule 9.3 taken into account.

11.7.4 Officers must ensure that all relevant documents are available at the point the Tender is advertised. These documents will include at least the Specification, Conditions of Contract and weighted evaluation criteria. Limited suitability questions may be used as part of the process, the Welland Procurement Unit should be consulted before using such questions.

11.7.5 Bidders must be given adequate time to respond, consistent with the level of complexity of the requirement and, except where the industry norm is otherwise, this should be a minimum of 15 working days.

11.7.6 The Contract Award must be authorised according to Appendix F and Rule see 3.11.3

## **11.8 Procurements Over EU Threshold**

11.8.1 Where the anticipated value of the contract exceeds the relevant current EU Threshold (see Appendix D for the current EU Thresholds), the formal advice of the Welland Procurement Unit must be sought prior to any tendering activity. Rules 10.5 and 10.6 above should also be considered.

11.8.2 The minimum standards to be applied to such a procurement must be determined before OJEU (and other) advertising takes place

11.8.3 An OJEU Notice is required for every procurement above the EU Threshold; the Welland Procurement Unit is responsible for placing these notices on behalf of the council.

## **COMMON TENDERING PRINCIPLES**

### **12 Standards and Award Criteria/Procedure**

12.1 The officer must ascertain what relevant British, European and International Standards apply and include the standards that are necessary to describe the required quality. The officer must ensure that the council does not discriminate in favour of British standards.

12.2 The criteria must take into account the council's priorities and can include economic and social considerations, support for the economy or the use of sub-contractors. They must be:

- Relevant to the works, services or goods to be provided under the contract; and
- Secure an outcome which will provide value for money for the council.

12.3 Award criteria may include:

- Most Economically Advantageous Tender (MEAT): where considerations other than price are important; or
  - Lowest cost (taking into account lifecycle costs, including disposal/decommissioning): where price is the prime factor; or
- Highest price: where payment is to be received by the council.

12.4 If using MEAT award criteria, the officer must define the relevant factors by reference to sub-criteria which may cover factors such as the following, depending on what is to be provided under the contract:

- Price
- Quality and performance
- Running costs
- Technical merit
- Economic advantage based on past experience
- Delivery date
- Environmental considerations – including disposal/decommissioning
- Aesthetic and functional characteristics
- Safety
- After sales service
- Technical assistance
- Other relevant matters
- The risks associated with the contract must be assessed

- 12.5 The procurement documentation should clearly explain the basis of the decision to the bidding organisations, making clear how the evaluation criteria specified in the process will be applied, how weightings will be distributed etc.
- 12.6 Award criteria/award procedures must not include:
- Non-commercial considerations other than those permitted under the Social Value Act;
  - Matters which discriminate against suppliers from the European Area or signatories to the Government Procurement Agreement.

### **13 Invitations to Tender/Quotations**

- 13.1 The Invitation to Tender or Quotation must specify what is to be provided in sufficient detail to enable the submission of competitive offers
- 13.2 The Invitation to Tender or Quotation must state that the council is not bound to accept any quotation or tender and that late submissions may be rejected.
- 13.3 At its discretion, the council may either waive or insist on strict compliance with any requirement set out in the Invitation to Tender or Quotation. The Invitation to Tender or Quotation will include or be deemed to include such discretion of the council.
- 13.4 Invitations to Tender (valued above £50,000) must specify that no Tender will be considered unless it is enclosed in a sealed envelope which bears the word 'Tender' followed by the name of the contract but with no name or mark which indicates the sender (including a franking mark). Where a Tender or Quotation is personally delivered to the Council, the bidders is to be informed to obtain an official receipt noting the date and time of receipt by the council.
- 13.5 The Invitation to Tender or Quotation must specify the latest date and time for the return and the name and address to which the returns are to be made.
- 13.6 The Invitation to Tender or Quotation must specify the award criteria and procedure.
- 13.7 The Invitation to Tender must include a Tendering and Canvassing Certificate which the officer can obtain from LGSS Legal Services.
- 13.8 The Invitation to Tender or Quotation should include the contract terms, specification and other supporting documents that will apply to the contract.
- 13.9 The Invitation to Tender must request that bidders hold their tender open for acceptance for a minimum of 90 days from the date of opening.
- 13.10 The Invitation to Tender must include a statement that the council does not bind itself to accept the lowest or any other tender.
- 13.11 The Welland Procurement Unit will introduce an Electronic Tendering System and it is expected that Invitations to Tender over the EU Threshold will be published and tenders received via that system following its introduction.

13.12 Details of the expected tenders must be notified to the Chief Executive (or their nominee as specified in the Invitation to Tender at least five working days prior to the tender opening.

## **14 Submission, Receipt and Opening of Tenders/Quotations**

14.1 Bidders must be given a sufficient period to prepare and submit a proper Tender or Quotation, consistent with the urgency and complexity of the contract requirements. Procurements over the EU Thresholds must abide by the time periods laid out in the Regulations.

### **Quotations**

14.2 Quotations between £10,000 and £50,000 must be returned to the relevant officer.

14.3 Quotations and tenders above £10,000 cannot be accepted by fax or other electronic means unless they have been sought in accordance with an Electronic Tendering System approved by the Welland Procurement Unit.

14.4 It shall be the responsibility of the relevant officer to keep safe the quotations above £10,000 until the appointed time of opening. Each quotation must be:

- a) Suitably recorded so as to be able to subsequently verify the date and precise time it was received and opened; and
- b) Adequately protected immediately on receipt to guard against amendments to its contents.

14.5 The relevant officer must ensure that all quotations are opened at the same time when the period for their submission has ended. The officer (or their representative) must be present.

14.6 Quotations above £10,000 must be opened in the presence of two officers, one of whom should not be from the service responsible for the purchase.

### **Tenders**

14.7 All Tenders of a value greater than £50,000 must be returned to The Chief Executive, East Northamptonshire Council, Cedar Drive, Thrapston, Northamptonshire, NN14 4LZ.

14.8 Tenders received by fax or other electronic means will be rejected unless they have been sought in accordance with an Electronic Tendering System approved by the Welland Procurement Unit.

14.9 The Chief Executive (or their nominated representatives) shall be responsible for the safekeeping of Tenders until the appointed time of opening. Each Tender must be:

- a) Suitably recorded so as to be able to subsequently verify the date and precise time it was received and opened;

- b) Adequately protected immediately on receipt to guard against amendments of its contents;
- c) Recorded in the Schedule of Tenderers prepared by the officer responsible for the procurement.

- 14.10 The Chief Executive (or their nominated representative) must ensure that all tenders are opened at the same time when the period for their submission has ended. The relevant officer (or their representative) must be present at the opening as well as another officer not from the service responsible for the purchase. The other officer is likely to be the Finance Manager, the Democratic Services Manager or the Monitoring Officer. These officers may assign a deputy to be present as an independent officer. For significant contracts, an appropriate Councillor will also be present.
- 14.11 The opened tenders must be date stamped and signed by the Monitoring Officer or S151 Officer or Finance Manager or Democratic Services Manager and another officer at the time of opening on the page containing the overall contract value, alternatively on pages containing price information where no overall value is quoted.
- 14.12 Tenders received after the closing date and time or tenders which are not submitted in accordance with these Rules will be disqualified unless it is agreed otherwise with the Monitoring Officer or the S151 Officer following advice from either LGSS Legal services or the Welland Procurement Unit.
- 14.13 An original version of the successful Tender must be retained for a period of six years from the expiry date of the Contract. Unsuccessful Tenders must be kept for twelve months from the commencement date of the contract.

## **15 Clarification Procedures**

- 15.1 The council can ask bidders for clarification of any details submitted as part of their bid. However, such clarifications must not involve changes to the basic features of the bidder's submission.
- 15.2 When requesting clarification, the Officer must make reference to the Procurement Toolkit, and if necessary take advice from the Welland Procurement Unit.

### **Errors in Tenders**

- 15.3 The arithmetic in compliant tenders must be checked. If arithmetical errors are found they should be notified to the tenderer, who should be requested to confirm or withdraw their tender. Alternatively, if the rates in the tender, rather than the overall price, were stated within the tender invitation as being dominant, an amended tender price may be requested to accord with the rates given by the tenderer.

## **16 Evaluation, Award and Debriefing**

- 16.1 The evaluation of bids must be conducted in accordance with the evaluation criteria set out in the procurement documents provided to the Bidders without deviation from the scoring criteria and in line with any guidance contained within the Procurement Toolkit.
- 16.2 All Bidders must be notified of the Award decision simultaneously in writing (via email is acceptable) by the Officer, whether or not their Bid was successful.
- 16.3 A contract may only be awarded by an Officer authorised to make such a commitment on behalf of the Council. Contracts are to be authorised according to the total value of the contract as outlined in Appendix F
- 16.4 All contracts over £10,000 awarded, must be recorded on the Contract Database by the awarding Officer.
- 16.5 A financial health check may be requested from an appropriate external body in consultation with the Finance Manager for all contracts where the criteria indicate that one is required. This may include call-offs from framework contracts. However, it is not allowable to exclude a Bidder on the basis of an external credit reference agency check alone.
- 16.6 For all Tenders (including those over the EU Threshold) the requirements of the EU Regulations in relation to the information in the Award Notice should be adhered to, these requirements are available in the Procurement Toolkit.
- 16.7 If a Bidder requests in writing a further debrief in relation to the award, the Officer must give the appropriate information within ten working days of the written request.
- 16.8 The confidentiality of Quotations and Tenders and the identity of Bidders must be preserved at all times and information about one Bidder's response must not be given to another Bidder.
- 16.9 The results of the tender evaluation must be retained on the Tender file.

## **CONTRACTS AND OTHER FORMALITIES**

### **17 Contract Documents**

- 17.1 All contracts must be in writing. Where the contract is of a non-complex nature and is for a value up to £50,000, the use of a Purchase Order is an acceptable form of contract. This must make reference to the quotation and terms agreed and a clear specification or description of the subject of the order should be attached.
- 17.2 Every contract valued over £50,000 must, as a minimum, state clearly in a form approved by the Chief Financial Officer:
  - a) That the supplier must not assign or sub-contract without prior written consent;

- b) Any insurance requirements to include clauses relating to liquidated damages and security bonds;
- c) The supplier must comply with any Ombudsman requirements, any requirements relating to legislation, including equalities sustainability, Data Protection and Freedom of Information requirements;
- d) A right of access to relevant documentation and records of the supplier for monitoring and audit purposes, if relevant;
- e) Pricing mechanism and arrangements for payment to include a clause stating that the Council will pay valid invoices within 30 days of receipt and specifying a duty on suppliers to do the same for sub contract invoices.
- f) Rights of termination.
- g) A duty on the Supplier to provide such performance management information as may be reasonably required by the Council;
- h) A duty on the Supplier to support the Council in the discharge of its duty under Section 3 of the Local Government Act 1999.

17.3 The formal advice of the Monitoring Officer and/or LGSS Legal services must be sought prior to award for the following contracts:

- a) Where the total value exceeds £50,000;
- b) Those involving leasing arrangements;
- c) Those which are complex or involve a recognisable risk;
- d) Where it is an extension to an existing contract within its terms that will take the overall value over £50,000;
- e) Where invoice payments are made to finance or factoring companies;
- f) Those involving the transfer of non land assets;
- g) Those involving TUPE or pension arrangements; and/or
- f) Where it is proposed to use the Supplier's own terms over £50,000.

17.4 All contracts valued over £50,000 must be concluded or evidenced in writing before the supply, service or work begins except in genuinely exceptional circumstances where the Monitoring Officer and/or LGSS Legal Services confirms in writing that the contract delivery can begin beforehand.

17.5 Where assets are created as a result of a procurement exercise, the lead officer shall notify the Finance Manager who is responsible for ensuring the Council's Asset Register is appropriately updated;

17.6 Contract documents must be retained for a period of six years from the contract end date and, if under seal, for a period of twelve years.

### **Performance Bonds**

17.8 The officer responsible for the contract must consult the Finance Manager and/or LGSS Legal Services about whether a Parent Company Guarantee or Performance Bond is necessary when a potential supplier is a subsidiary of a parent company and

- the award is based on an evaluation of the parent company and the total value exceeds £250,000; or
- there is concern about the stability of the subsidiary supplier.

17.9 The council must never give a bond.



## **Signature**

17.10 The officer responsible for signing the contract must have been granted the appropriate authority and ensure that the person signing for the other contracting party has the authority to bind it.

## **Sealing**

17.11 Contracts must be sealed in accordance with Article 13.05 of the council's Constitution (*those documents which in the opinion of the Chief Executive or the LGSS Legal service should be sealed*). For guidance this is likely to be contracts where:

- a) the council wishes to enforce the contract for more than six years after its end (e.g. for land or construction works); or
- b) the price paid or received under the contract is a nominal price and does not reflect the value of the goods or services; or
- c) where there is any doubt about the authority of the person signing for the other contracting party; or
- d) where a bond is established on behalf of the contractor(s) or their guarantors; or
- e) where required by the parties to the agreement.

17.12 Where contracts are completed by each side adding their common seal, the affixing must be attested by or on behalf of Chief Executive. The Chief Executive's office is responsible for the process of sealing contracts.

## **18 Prevention of Corruption/Declaration of Interests**

### **Officers**

18.1 The officer responsible for the contract must comply with the council's Code of Conduct for Officers and must not invite or accept any gift or reward in respect of the award or performance of any contract.

18.2 If Monitoring Officer advice is required on pecuniary or Code of Conduct issues, it is important that adequate time for consideration of that advice is given.

18.3 Officers should have regard to and comply with the Council's Corporate Anti-Fraud Policy when procuring goods, services and works.

### **Councillors**

18.4 The decision whether or not to declare an interest is the individual councillors' responsibility. (See section 2.5 of Part 5.1 of the Constitution)

18.5 If it comes to the knowledge of a councillor that a contract in which he or she has a pecuniary interest has been or is proposed to be entered into by the Council and in which respect their approval or decision is sought, they shall immediately give written notice to the Monitoring Officer.



- 18.6 Councillors shall have regard to and comply with the Council's Corporate Anti-Fraud Policy when involved in the procurement of goods, services and works.

## **Contracts**

- 18.7 All contracts must contain an appropriate clause that provides protection and the right to terminate the contract in the event of a supplier offering any inducement, committing fraud or committing an offence under the Prevention of Corruption Acts.
- 18.8 All contracts must contain a clause requiring suppliers to comply with the Council's Corporate Anti-Fraud Policy.

## **19 Contract Management/Variation/Extension/Termination**

### **Contract Management**

- 19.1 All contracts over the value of £50,000 and those of a complex nature below this value must have a designated Contract Manager whose name should be notified to the Supplier. This shall be a senior officer of the Council, usually a Head of Service or Service Manager. The post designated as Contract Manager shall be defined in the Contract.
- 19.2 The Contract Manager shall be responsible for ensuring that the contractor fulfils his contractual obligations and that payment is made for satisfactory completion of those obligations.
- 19.3 The Contract Manager shall undertake periodic review meetings with the Supplier following an agenda that includes relevant and appropriate topics, for example performance, quality of service, customer satisfaction, payments, contract extension or variation
- 19.4 The Contract Manager shall undertake an annual review of long term contracts (greater than two years) to ensure that value for money continues to be provided and that contract arrangements are fit for purpose. Where there is flexibility in the contract, improved terms and savings will be negotiated at this annual review.

### **Variation**

- 19.5 In any case where a variation means that the value of a contract would exceed the relevant EU Threshold, or where there is any material change to the contract, the contract must be treated as a new procurement under these Rules. A material change is one which:
- a) Would have allowed the admission of other bidders or the acceptance of another tender;
  - b) Extends the scope of the contract considerably to goods, services or works not initially covered;

c) Changes the economic balance in favour of the contractor in a manner not provided for.

19.6 For clarity, a change will be deemed immaterial if the value of the modification is both below the EU Threshold and below 10% of the original contract value (15% for works) after any contract indexation.

### **Extension**

19.7 A contract should not be extended beyond its term unless the contract documents specifically allow for this.

19.8 A Framework Agreement shall only be extended if its contract documents allow this and the original terms and extension added together do not exceed four years except in exceptional circumstances.

19.9 Where a business need has been identified which means that a contract is required to be extended beyond the term permissible in the contract, advice must be sought from the Welland Procurement Unit in the first instance and authority sought from LGSS Legal Services if such an extension is proposed.

19.10 The officer must be satisfied that such an extension would achieve value for money and be reasonable in all relevant circumstances. The officer must record in writing the reasons for reaching these conclusions.

19.11 Where the contract is subject to EU Regulations and the OJEU Notice and contract documentation did not state that the contract may be extended, advice must be sought from the Welland Procurement Unit on how to proceed.

19.12 If an officer wishes to extend a contract with a value below £500,000 and provided that clauses 19.8 and 19.9 and in OJEU cases 19.10 have been complied with, permission must be sought from Monitoring Officer and/or LGSS Legal Services. Contracts with a value over £500,000 can only be extended with the permission of the Policy and Resources Committee. The total value of the contract is the spend over the life of the contract including any extension periods.

### **Termination**

19.13 A contract up to £100,000 must not be terminated unless

- a) Advice has been sought from the Monitoring Officer and/or LGSS Legal Services; and
- b) The relevant Head of Service approves the termination of the contract.

19.14 A contract which exceeds £100,000 can only be terminated where written approval has been obtained from Monitoring Officer, after consultation with LGSS Legal Services, and where relevant, Policy and Resources Committee.

### **Assigning Contracts**

- 19.15 A Contract up to £100,000 must not be assigned unless:
- 19.14.1 Advice has been sought from the Monitoring Officer and/or LGSS Legal Services; and
  - 19.14.2 The relevant Head of Service approves the assignment of the contract.
- 19.16 A contract which exceeds £100,000 can only be assigned where written approval has been obtained from Monitoring Officer, after consultation with LGSS Legal Services, and where appropriate, Policy and Resources Committee

## **APPENDIX A: GENERAL EXEMPTIONS FROM THE CONTRACT PROCEDURE RULES**

- (A) Sole source of supply: where suitable supplies or services are genuinely only available from one supplier (e.g. if a patent, copyright or other exclusive design right exists). Similarly, for an highly specialised/niche supplies or services, where for all practical purposes no realistic alternative source of supply exists.
- (B) Reasons of compatibility: if compatibility with existing supplies, equipment or services is essential and where those supplies, equipment or services cannot be sourced from another supplier (e.g. spare parts/components for existing equipment) or where additional units are being purchased to match existing equipment and there is an overwhelming case for matching the existing equipment on the grounds of functionality, aesthetics etc.
- (C) Genuine emergencies: due to a need to respond to events that were beyond the control of the council (e.g. natural disasters such as flooding or fires) where there is a real and imminent risk to the safety of people or property.
- (D) Collaborative/Joint Purchasing: where another authority/public body is acting as 'lead buyer' and provided that the person(s) awarding the contract can demonstrate the arrangements comply with the Best Value requirements and other applicable legislation, including where relevant the EU Procurement Directives. This includes recognised wider public sector agreements, including for example those let by the Crown Commercial Service or successor organisations etc.
- (E) Urgent situations not of the council's own making: the urgency must have been reasonably unforeseeable (e.g. an existing supplier going into liquidation, urgently imposed statutory changes etc.) and genuinely be a case of 'time is of the essence'. However, urgency arising from problems of the council's own making (whatever the cause and regardless of whether it involved previous delays or shortage of resources etc.) shall not in itself justify exemption.
- (F) Procurements which have been registered as Partnerships or Grants.
- (G) Works orders placed with Utility companies, e.g. for re-routing cables or pipe work. The term 'Utilities' does not include telecommunications.
- (H) Procurements of goods, services, or works where the procurement procedure to be followed by the council is the subject of express legislation.
- (I) Low value purchases made by a Purchasing Card that are subject to guidelines issued on the use of Purchasing Cards.
- (J) The disposal of council assets that are covered by a separate regulation

**APPENDIX B: EXEMPTION REQUEST FORM**

Name of Officer seeking Exemption:

Service Area:

Contract Title:

Description of Contract (attach supporting documentation if applicable)

Estimated Total Value of Contract:

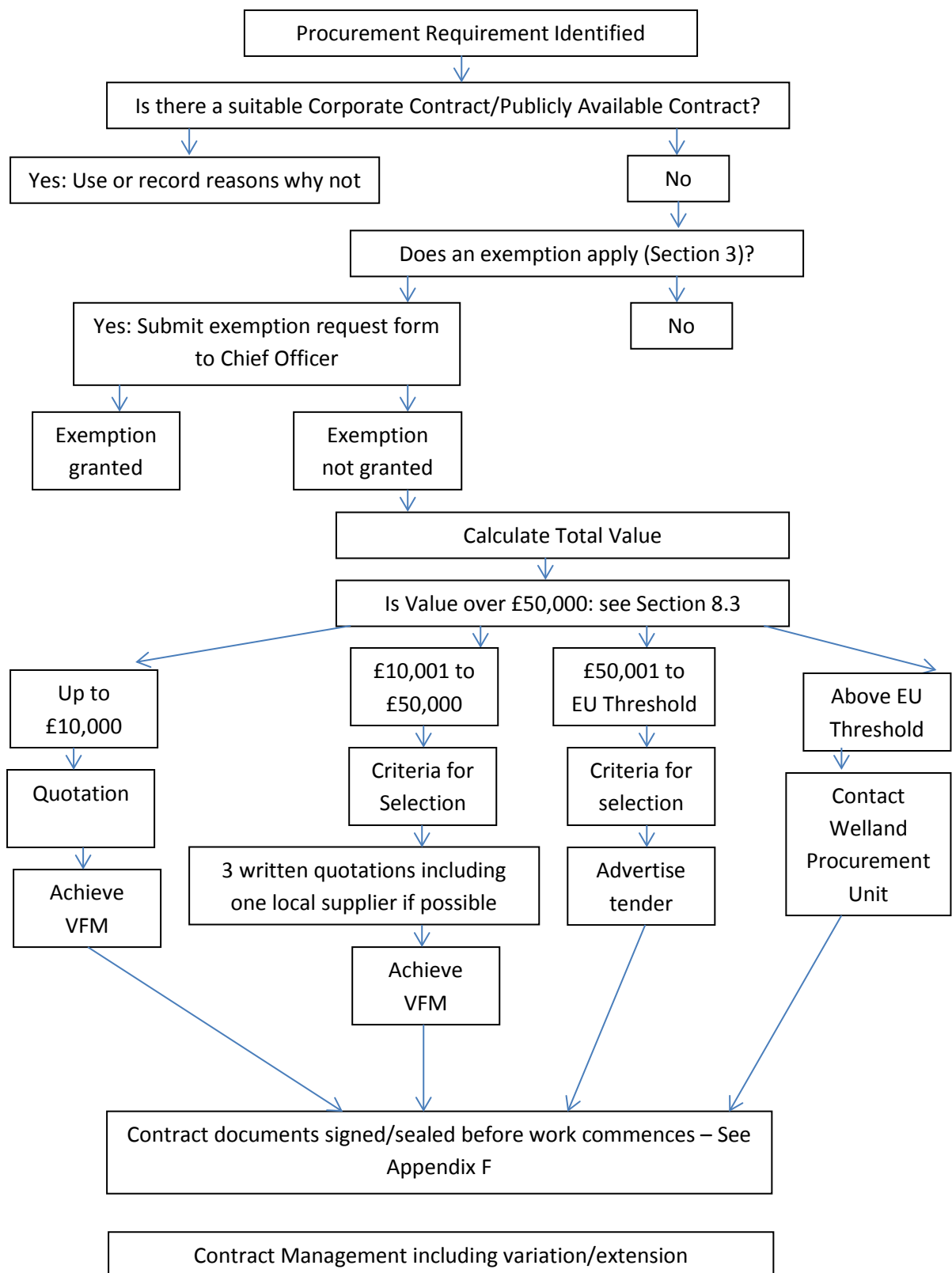
Target Contract Start Date:

Date	Justification for Exemption Request	Authorised by Head of Service
		Signed:  Name:

*This Form should be kept on file as evidence of compliance with Procurement Procedure Rules and a copy sent to the Finance Manager for authorisation*

CHIEF FINANCE OFFICER ACTION	
Authorised: Yes/No  Legal Advice required/sought Yes/No Outcome   Refer to Policy Committee: Yes/No  Reason for rejection (if applicable):	
Signature:	Print Name:
Date:	

## APPENDIX C: QUICK REFERENCE GUIDE



## **APPENDIX D: VARIABLE INFORMATION**

The following information is subject to change during the currency of these Contract Standing Orders and may be updated as changes occur by the S151 Officer.

### EU Thresholds

From 1<sup>st</sup> January 2014 to 31<sup>st</sup> December 2015, the EU Thresholds are:

- Supplies and services: £172,514
- Works: £4,322,012
- Light Touch Regime: approximately £630,000

These values are applicable until the 31<sup>st</sup> December 2015 and will then be revised. The Thresholds are revised every two years.

### Advertising Websites

All procurements valued between £50,000 and the relevant EU Threshold must be advertised on Source Northamptonshire. To place an advert, contact Clare Ellis ([cellis@melton.gov.uk](mailto:cellis@melton.gov.uk)) or any member of the Welland Procurement Unit.

Once the Contract has been awarded, an Award Notice must be published on Source Northamptonshire. Award notices will be published quarterly in arrears by the Welland Procurement Unit at dates to be announced. Please ensure that you record the following information and collate and return it quarterly to Clare Ellis ([cellis@melton.gov.uk](mailto:cellis@melton.gov.uk)) by the date given:

- Name of contractor
- Date contract entered into
- Value of contract
- Whether the contractor is an SME or VCSE.

### Welland Procurement Unit

The Welland Procurement Unit works with six councils in the East Midlands and may be contacted as follows:

Tony Hall, Head of Welland Procurement Unit, [thall@melton.gov.uk](mailto:thall@melton.gov.uk), 07768 915875  
Paul Large, Procurement Strategy Manager, [plarge@melton.gov.uk](mailto:plarge@melton.gov.uk), 07769 918574  
Clare Ellis, Welland Procurement Officer, [cellis@melton.gov.uk](mailto:cellis@melton.gov.uk), 07876 574944

### Procurement Toolkit

More detailed information on undertaking procurements can be found in the Procurement Toolkit.

### Receipts of tenders by email by use of a locked tender box facility

Tenders and quotations valued over £10,000 may not returned to the Council through conventional email. This is not secure and any such tenders and quotations

will be disqualified.. East Northamptonshire Council does not currently have access to a locked email tender box facility so tenders and quotations should be returned in hard copy with a digital version enclosed. These rules will be updated to provide appropriate provision for opening arrangements when such a locked tender box facility is available to East Northamptonshire Council.



## APPENDIX E: GLOSSARY

Agent	Any person or organisation acting on behalf of the council or on behalf of another organisation.
Approved List	A list of suppliers/providers who have already been approved as suppliers/providers to the council.
Assign / Assignment	Transfer of a contractual benefit to another party.
Award Criteria	The criteria stated in the Quotation / Tender by which the successful Bidder is to be selected.
Bidder	Any person / organisation who asks for or is invited to submit a Quotation / Tender.
Call Off	A specific requirement which can be met under the terms of a Framework Agreement and which is issued under the terms of that Framework Agreement to form a contract.
Corporate Contract	A contract let by the council.
Council	East Northamptonshire Council.
Destruction of Records Policy	The council's policy on the appropriate length of time documents relating to tenders, quotations and contracts need to be retained either in hard or electronic copy.
Dynamic Purchasing System	A completely electronic system of limited duration which is established by the council to purchase commonly used goods, works or services; and is open throughout its duration for the admission of Suppliers who satisfy selection criteria specified by the Council and who submit an indicative tender to the council, or body operating the system on its behalf and who comply with the Specification.
Exemption	Approval given by the relevant Head of Service or Committee of the council as appropriate to exempt an officer or officers from adhering to these Contract Standing Orders.
EU Procedure	The procedure required by the EU for awarding contracts where the value exceeds the EU Threshold.
EU Procurement Regulations	Regulations which are given force of law in the UK through the Public Contracts Regulations 2015 as amended and any successor regulations which specify in detail the procedures by which public authorities shall undertake their procurement.
EU Threshold	The contract value at which the EU Regulations must be applied. See Appendix 2.
European Economic Area	The members of the European Union and Norway, Iceland and Liechtenstein.
Financial Health Check	A financial risk assessment of the finances of a company, parent or group of organisations in order to establish their liquidity, profitability, stability and capability to support a contract of the value required.
Financial Regulations	The Financial Regulations outlining the Officer's responsibilities for financial matters as detailed in the Constitution.
Framework Agreement	A formal tendered arrangement which sets out terms and conditions under which specific purchases can be made from the successful Bidders in unpredicted quantities at different times during the term of the Framework Agreement.
Goods	Goods which are covered by the EU Procurement Regulations if they meet the relevant value threshold.

Government Procurement Agreement	The successor agreement to the General Agreement on Trade and Tariffs. The main signatories other than those in the European Economic Area are: USA, Canada, Japan, Israel, South Korea, Switzerland, Aruba, Hong Kong, China and Singapore.
Invitation	Invitation to Tender or Quotation in the form required by these Contract Standing Orders.
Light Touch Regime	Refers to those social and other specific services covered by Part 2, Chapter 3, Section 7 of the Public Contract Regulations 2015.
Non Commercial Considerations	<p>Except as provided, the following matters are non commercial considerations:</p> <ul style="list-style-type: none"> <li>a) The terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces (“workforce matters”).</li> <li>b) Where the terms on which contractors contract with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self-employed persons of their services only</li> <li>c) Any involvement of the business activities or interests of contractors with irrelevant fields of Government Policy</li> <li>d) The conduct of contractors or workers in industrial disputes between them or any involvement of the business activities of contractors in industrial disputes between other persons (“industrial disputes”).</li> <li>e) The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, contractors</li> <li>f) Any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees</li> <li>g) Financial support or lack of financial support by contractors for any institution to or from which the authority gives or withholds support</li> <li>h) The use or non use by contractors of technical or professional services provided by the authority under the Building Act 1984</li> <li>i) Workforce matters and industrial disputes, as defined above, cease to be non commercial considerations to the extent necessary or expedient to demonstrate value for money or where there is a transfer of staff to which TUPE applies.</li> </ul>
Officer	An officer of the Council, who is the officer responsible for undertaking a purchase and for the administration of the completed contract to include ensuring compliance with its terms and conditions and implementation of any required variation.
OJEU Notice	Notice (advertisement) posted in the Official Journal of the European Union including a PIN, a Contract Notice or Award Notice.
PIN	A Prior Information Notice. A PIN can be published before the procurement starts, when a requirement is above EU Thresholds, and makes it possible to reduce the time needed to complete a competition.

Parent Company Guarantee	A contract which binds the parent of a subsidiary company as follows – if the subsidiary company fails to do what it has promised under a contract with the Council, the Council can require the parent company to do so instead.
Performance Bond	An insurance policy: if the supplier does not do what it has promised under a contract with the council, the council can claim from the Bondsman the sum of money specified in the Bond (10% of the contract value). A Bond is intended to protect the council against a level of cost arising from the supplier’s failure.
Procurement Toolkit	A guide for procurers giving advice on how to procure goods and services in accordance with the council’s Constitution and procurement legislation.
Publicly Available Contract	A contract let by a public purchasing organisation such as ESPO, Crown Commercial Service on behalf of the council
Quotation	A quotation of price and any other relevant matter.
Corporate Management Team	The Chief Executive, Executive Director/Monitoring Officer, S151 Officer and Heads of Service
Service Contracts	Contracts let by public authorities for services as defined in The Treaty of Rome which is for anything other than civil engineering and building works and works concession contracts.
Shortlisting	Where bidders are selected to quote or bid or proceed to full evaluation.
Supplier	Any person or organisation, including companies or other bodies of persons providing, or seeking to provide, supplies, services or works to the council.
Tender	A bidder’s proposal submitted in response to an Invitation.
Terminate(d)	To end a contractual arrangement.
Total Value	The whole of the value or estimated value (in money or equivalent value) of the contract, calculated as follows: a) Where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the contract period. b) Where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions over the coming 12 months. c) Where the contract is for an uncertain duration by multiplying the monthly payment by 48. d) For nominated suppliers and sub-contractors, the Total Value shall be the value of that part of the main contract to be fulfilled by the nominated Supplier or sub-contractor.
TUPE	These regulations apply to the transfer of an economic entity or service provision change. Where TUPE does not apply, public bodies should refer to the Cabinet Office Statement of Practice (“COSOP”). TUPE is to protect employees by: 1. Prohibiting dismissals because of the transfer (but redundancies are permitted) 2. Maintaining most of their terms and conditions 3. Restricting changes to terms and conditions of employment made because of a transfer 4. Providing the right to be informed and / or consulted

Value for Money	Is not necessarily the lowest price, it combines goods or services that fully meet the needs with the level of quality required, delivered at the time needed and at an appropriate price.
Welland Procurement Unit	The Welland Procurement Unit is the Welland Partnership procurement service shared by the Council and other Councils. The Welland Procurement Unit issues guidance and offers assistance on procurement matters to all participating councils.
Works Contract	Contracts let by public authorities for civil engineering and building works and works concession contracts.

## APPENDIX F: AUTHORISATION LEVELS

Agreements must be completed as follows:

Paragraph 17.10 should be checked for applicability before reference to limits below

TOTAL VALUE	METHOD OF COMPLETION	BY
Up to £10,000 (See paragraphs 11.1-11.5)	Signature Use of Purchase Order, or Written Contract for complex requirements	Officer with appropriate authority to enter into a contract. (see paragraph 17.9)
Over £10,000 and up to £50,000 (See paragraphs 11.6-11.10)	Signature  Use of Purchase Order with specification attached or Written Contract for complex requirements (see paragraph 17.1)	Head of Service (see paragraph 17.9)
Over £50,000 and up to £250,000 (see paragraphs 11.11-11.19)	Signature on Written Contract (see paragraphs 17.2-17.6)	Head of Service (see paragraph 17.9)
Over £250,000 and up to £1,000,000 (see paragraphs 11.11-11.19)	Signature on Written Contract (see paragraphs 17.2-17.6)	Chief Executive and Executive Director (see paragraph 17.9)
Over £1,000,000 (see paragraphs 11.11-11.19)	Signature on Written Contract (see paragraphs 17.2-17.6)	Chief Executive and Executive Director , in consultation with Chair of Policy & Resources (see paragraphs 17.3 and 17.9)