

Procurement Guidance

Introduction

This document provides guidance to procurement processes to ensure that the Council obtains best value and minimises risk of challenge during a procurement project.

Specifically, this document is intended to support the Contract Procedure Rules and how to implement them.

As a Local Authority, we are accountable for how we utilise our money and that we can demonstrate that we have obtained best value. In all procurement that we have been open, fair and equal in how we have spent it.

Best value is not necessarily the cheapest option, but represents the best price over the lifetime of the contract; looking at the whole life cost of the contract.

Spend over £250 is published every month as part of the transparency agenda, and Council contracts are also published in the public domain. Therefore, you must ensure that you follow correct procedure and have documented evidence should the need arise to corroborate our decisions.

Procurement covers any contract that is being let for commercial services, goods or works. In some cases, it may seem like no procurement is taking place; eg you are accessing a framework let by another organisation (NHS, TFL etc). The CPR's relate to ALL contracts let; not just the procurement activity.

The contract procedure rules form part of the Council's constitution and therefore need to be followed. This ensures that contracts let are done within the Council's rules and any UK and EU legislation. It may also be necessary to consider property procedure rules, Financial Regulations and Partnership Rules.

Not all areas are covered by the Contract Procedure Rules, so make sure you read them carefully to ensure that you are applying the right rules. You may also need to review other council rules and policies to see what needs to be applied.

Executive Summary

The contract procedure rules form part of the constitution. It is important that the rules are applied correctly to protect the council from challenge and protect the public purse. Following the rules will also protect you from challenge.

The following 10 principles should be followed to ensure that you are compliant in your procurement process and that you deliver value for money to the Council:

1. All procurement projects must follow the overarching EU principles of value for money, transparency, equal treatment and non-discrimination.
2. Plan the procurement ahead of the requirement (or expiry of existing contract) to allow sufficient time to carry out a compliant process.
3. Consider what approach will deliver outcomes for the Council in a way that will maximise value for money i.e. should the council buy the same product/service in the same way as previously, or is there a more effective way to deliver desired outcomes?
4. To ensure a clear audit trail, all procurement projects over £1000 must be managed through the E-Tendering Portal; including all contact with bidders; clarification questions, using standard templates and where necessary contracts with all documentation relating to the process maintained and stored within the portal; including a copy of the contract awarded.
5. Demonstrate value for money by carrying out some form of competitive tender; and ensuring that the minimum number of quotes (including local suppliers where appropriate) have been **received** in accordance with rule 3.
6. That the service department take responsibility for the specification and ensure that it is neither over or underspecified and meets the services needs and is clear and concise.
7. That there is budget available for the contract and that approval to proceed has been given.
8. All procurement activity must follow these rules and be compliant with UK Law, EU regulations and Council Policy.
9. That the procuring officer ensures that council governance processes have been followed and contracts let in line with the Council's scheme of delegation.
10. If in doubt seek guidance from the Procurement and Commissioning Hub or Legal Services (where required).

If at any point you are unsure of the rules or processes you should contact the Procurement & Commissioning Hub for advice and guidance.

Corporate.procurement@enfield.gov.uk

Purpose

The purpose of the Contract Procedure Rules is to ensure that the Council is compliant to all EU, UK and Council rules and legislation.

The rules apply to all procurement of Goods, Services and Works; and the granting of any concessions. Remember that any contract let is covered by these regulations – this includes accessing any Framework agreement.

Getting Started

Before starting a procurement project, you should ensure that you have read the **contract procedure rules**. This document and other documents are available on the Enfield Eye to support you through the procurement process.

Before starting any procurement project, you should ask yourself:

- Is this procurement really needed?
- Is this procurement going to support Council outcomes and council priorities?
- Are there existing contracts in place that I can use?
- Could I use a framework to provide what I need?
- Can I work with other Council Services or other councils to go to market?

Ensure that you allow enough time for your procurement, especially if it is over the EU threshold. Quite often things take longer than expected, and it is important to ensure that the process followed is robust to reduce the risk of challenge.

The most common mistake is not allowing enough time to carry out a procurement project effectively. If you need to carry out a procurement due to an existing contract expiring ensure that you leave sufficient time to do this prior to the expiry date.

Waivers will only be allowed on grounds of extreme need. Members at the audit committee where very clear that best value should be demonstrated via a competitive process. A procurement process will be expected rather than a waiver – especially where only two or three quotes are needed.

Useful documents:

Document	Supports
Procurement Manual	How to carry out procurement and what steps to take.
Community Benefits Toolkit Sustainable procurement policy Sustainable procurement check list	How to include Community Benefits in procurement contracts
Checklist	Ensures that all elements of the procurement activity are carried out compliantly.
Contract management Guidance	Ensures that contracts are managed effectively
Procurement Quick guidance	Helps guide you into what process to follow

The procurement and commissioning hub will support procurement projects over £50,000 and will manage all procurement projects over the EU threshold.

London Tenders Portal

The Council uses the London Tenders Portal for:

- Corporate Contracts Register
- E-tendering tool to process procurement projects
- To ensure that procurements are transparent and compliant
- Audit trail
- Central repository for procurement information

The London Tenders Portal is an important tool in the process of procurement. The system is used to ensure that procurement is carried out in a compliant way and provides an audit trail. It also ensures that the council is compliant with E-Procurement regulations.

All procurement over £1000 must go through the London Tenders Portal; this includes:

- Contracts that are paid by purchase card
- Frameworks
- Collaborative procurement with other authorities

[London Tenders Portal Guidance](#) on how to use the LTP is on the Enfield Eye.

Starting a project

Once you have decided that a procurement is needed, then you need to start to 'assemble' your 'project team'. These will be people that will be needed to support your procurement. These people will change depending on the value of the project; complexity and what is being procured.

It could be that you manage the procurement yourself; it may need a large team to support your project. For more complex or high value areas you will need:

- Technical input for the specification
- Financial input for budget
- Service Department for evaluation of the bids
- P&C Hub involvement over EU threshold
- Legal for contract involvement or other legal input
- Other service departments that may use your contract

Exemptions

Exemptions are areas of spend that have been exempted by the Public Contract Regulations 2015.

It is still important to ensure that authority to commit to this contract/expense has been sought; and that there is an audit trail to support the decision making.

You should also ensure that you still apply the principles of being open, transparent, equal and fair. This ensures that you are not open to challenge.

Whilst you are not bound by the Public Contract Regulations, you may still want to carry out a competitive tender to ensure best value.

In all cases you will still need:

1. A specification to set out what the deliverables are and where and when they need to be delivered.
2. A contract (even a PO) to ensure that the supplier adheres to Council contractual arrangements.
3. Management of the outcomes and outputs of the contract to ensure that the council is maintaining value for money.

It is not mandatory to use the London Tenders Portal to record the contract, but can be used if this helps. The contract must be recorded in the London Tenders Portal as all council procurement contracts must be recorded here. Contact the P&D Hub Governance Team who will help you with this. This ensures that a copy of the contract is held centrally and that the contract renewal is monitored.

In all cases the rules around the sealing and storage of contracts still apply; as these are council rules separate to the Procurement Regulations.

Risk, Insurance and Other forms of Security

It is important when carrying out procurement that the risk of the procurement/project is assessed. This ensures that relevant steps can be taken to mitigate or minimise any potential risk to the Council.

These risks could be financial, service affecting or reputational. Risk is not always due to the size/value of the contract. A small contract could carry a high risk if it is controversial or for a high-risk area. It is important to carry out a risk assessment.

The Council has a Risk Strategy and assessments should be carried out using the [Council's Corporate Risk](#) Template. These risks should be set out in your DAR and what actions are being taken to minimise/mitigate these. The template must be stored on the LTP for evidence.

Insurance

It is important within the contract that the correct levels of insurance are stipulated. They may vary due to the type of contract. A construction contract will need different arrangements to a health contract. A health contract may need medical negligence for an example.

You should speak to the Insurance Team for guidance if you are unsure. Use your risk assessment to help you decide what the risks of the contract are and how these might be mitigated via insurance.

As a minimum, your contract should have:

- Public Liability insurance
- Employers Liability

You should also consider:

- Product insurance
- Professional Indemnity insurance
- Medical Negligence

Security

When assessing risk; the risk of the supplier performance/delivery should also be reviewed. It may be necessary to have further forms of security in place to cover the risk to the Council. This may be done in several ways:

For contracts over £250,000 the following rule must be applied:

£250,000 - £1,000,000	£1,000,000 and over
<p>Sufficient security from the contractor should be considered at this value to manage risk.</p> <p>Evidence of the form of security required, or why no security was required, must be stored and retained on the E-Tendering Portal for audit purposes.</p>	<p>The contractor must be required to provide sufficient security.</p> <p>Evidence of the form of security required, or why no security was required, must be stored and retained on the E-Tendering Portal for audit purposes.</p>

Sufficient security shall take one of the following forms:

- Parent Company, Ultimate Holding Company or Holding Company guarantee where their finances prove acceptable;
- Director's Guarantee or Personal Guarantee where their finances prove acceptable;
- Performance Bond, retained funds or cash deposit;
- Any other security as determined by finance and/or legal services.

For contracts over £1,000,000 where the contractor cannot provide security but the council has no acceptable alternative provider or has decided to accept the level of risk then the Executive Director of Finance, Resources and Customer Services must approve the award. The relevant authority report must set out the reason why it is proposed that the contract should be awarded despite absence of security and what measures are to be taken to manage this risk,

Security for performance should also be considered when looking at risk.

Approval to Procure

It is important that correct governance is followed when starting procurement. In all cases evidence of an approval/decision to procurement is needed and be stored on the Portal.

For low value procurements, this may be an email. For higher value procurement then an authority report is probably required. It is the responsibility of the service department to gain this authority and the P&C Hub will not support any procurement that does not have an authority report or evidence of approval. The Hub should be consulted when writing the report and must be invited to provide procurement implications.

Where a contract is being let by the P&C Hub on behalf of the whole council then the P&C Hub will take responsibility for governance. Eg Stationery Contract.

For construction contracts and contracts over the EU threshold then a DAR/[authority report](#) is needed. This is needed to ensure that proper governance is followed and authority to proceed is obtained at the right level of the organisation.

Those contracts that fall within the Key Decision process must be on the [Key Decision List](#) and have an authority report.

NB: A ‘key decision’ within the constitution of the London Borough of Enfield is defined as a proposal:

(a) which involves expenditure/savings of **£250,000** or above – this includes proposals phased over more than one year and match/grant aided funding, with a total of **£250,000** or above; or

(b) which has significant impact on the local community in one or more wards.
All contracts that fall within the Key Decision governance the authority report will need to follow the Key Decision governance process.

Make sure that any authority report has procurement implications. You should also discuss your route to market with procurement for input into the report. It may be that your route to market may not be the most competitive or appropriate for your contract and this may affect

Procurement & Commissioning Review Board

The procurement & Commissioning Review Board is responsible for the approval of procurement projects over the EU value.

All procurements over this threshold must come to the board to be approved. It is important that sufficient time is factored in.

The board comprises of:

Chair	Director of Finance, Resources & Customer Services
Members	Director of HHASC Director of SCS Director of ENV & Regeneration
P&C Hub Representatives	Head of Corporate Head of People Head of Place Head of the Hub Minute taker Hub efficiencies Lead
Service Department Reps	Those presenting a business case

Specialist Procurement

Some areas in the Council are managed by a ‘Hub’, and funding has been centralised. These areas must be also approved by the centralised budget holder via the relevant approval structure. There may also be a governance process to follow to access funding to these areas.

Some areas may not have a centralised budget, but do have the corporate responsibility for these areas. These services must be contacted to ensure that the correct contracts are used or that you are

- ICT
- Human Resources and Learning and Development
- CCTV
- Legal services
- Operational Support
- Procurement
- Property Services
- Facilities management
 - Furniture
 - Water coolers & fire extinguishers
 - Vending machines
- Catering and Alcohol
- Fleet & Car rental
- Taxis (SEN Transport)
- Temporary Accommodation

You must ensure that you liaise with these teams to follow the correct process. In the case of CCTV, you must ensure that you are conforming to the correct legal requirements and use contractors that are compliant to correct industry standards.

Calculating the Value of a Contract

When applying the contract procedure rules, the value of the contract is key to understanding what rules you need to apply. That is why calculating the value of your contract is important.

The contract value is always calculated by the cost x the term of the contract. If the term of the contract is unknown then you will need to multiply by 48 months.

Therefore a 3-year contract of £1000 per annum will be a £3000 contract.

If there is to be an option to extend a contract then these extensions also need to be included in the calculations:

Eg: a 3year contract with options to extend for 2 years

$$3 \times £1000 + 2 \times £1000 = £5000$$

If it is unclear what the cost of the contract might be then you will need to use information to judge what the contract value might be:

- Current cost of any contract
- Spend/budget currently being spent
- Budget available in the future
- Market forces and price
- Benchmarking information
- Other council spend or information in the public domain
- Market engagement/research

If you are starting something new and you do not have a feel for the cost then it is important to talk to the market first to get an understanding of what the market forces are. This may also assist with budget allocation.

You also need to be mindful of what is termed 'disaggregation'. This is where the contract term is reduced to change the potential route to market. For example, a 4-year contract may take the value over the EU threshold. A term of 3 years is set. In 3 years another contract is let. The reduction of the contract term; in most cases will reduce the value for money element of the contract and adds operational costs to the Council in carrying out procurement. The National Audit office suggests that the cost of a tender can be up to £70,000 for one project.

There is also no such thing as a 'rolling contract' a contract must always have an end date. At the end of this term the contract expires and a new contract must be let.

The introduction of Lots within procurement is not disaggregation; and can help smaller suppliers (SME's) to bid for work. The use of Lots should be encouraged.

- All costs must be included in the cost of the contract, but exclude VAT.
- All costs must include ongoing costs, maintenance, and support costs for the whole life of the contract. Where there are variable costs then the highest figure must be used.

If the contract is with other organisations and the Council is the lead authority then the value is the total with all the other organisations. Where the council is not the lead authority then only the value of the council's element is needed.

Where the value is within 10% of the EU threshold then EU regulations need to be considered. Contact the P&C Hub to discuss this.

Contracts can be split into Lots to encourage competition, but deliberately dividing up the contract to evade more complex processes is against Council rules and EU legislation.

Procurement Thresholds

The value of the contract determines what level of procurement needs to be carried out. The values for goods and services are different to those for works.

Once you have worked out the value of your contract, you can then look up in the CPR's table which sets out how many quotes you will need to obtain.

The guidance is a minimum amount of quotations; and in all cases, more should be obtained to ensure that best value has been demonstrated, and to account for bidders not responding. This may save time later if too few bids are returned and may need a second procurement if best value cannot be demonstrated.

You may also want to consider market engagement prior to going out to the market to understand what the appetite is for your requirement.

This can be useful feedback on your specification, or contract terms, which might enable you to make some changes to attract more bidders. This will help to achieve best value.

All procurement over £1000 must take place in the London Tenders Portal; even if the procurement is a framework, or an exception to the rules. This ensures that the contract is then visible in the Councils Contract Register.

When carrying out procurement for construction it is important to ensure that proper estimates have been applied, as 'contract creepage' is common in this area. You may wish to consider a fixed fee for this type of work.

Where construction line is used, it is important to ensure that a 'fair and transparent' method of selection is used to invite suppliers to tender/bid. If there is a challenge you must be able to demonstrate that you have not been anticompetitive.

Seeking local quotations where possible helps the local economy; and can help local businesses to support more local employment. The rules state that where possible you should look to obtain a local quotation or several for higher values.

The use of lots also can help smaller suppliers to bid for larger contracts.

Self Service:

Procurement up to £50,000 is self-service. This means that the service is responsible for carrying out the procurement. Over £1000 this must be done via the London Tenders Portal (or the supplier will not be set up in SAP).

Use the [procurement checklist](#) to help you go through

Estimated Total Contract Value	Minimum Number of Quotations	Minimum Number of Local Quotations	Additional Requirements (if applicable)	Method of issuing a contract	Responsibility for Procurement
Up to £10,000	1	1 Where practicable	Where a local quotation could not be sought then this must be recorded on the E Tendering Portal.	Use of Purchase Order.	Self-service within the service centre via the E Tendering Portal.
Contracts from £10,001 to £50,000	2	1 Where practicable	If less than two quotes are received the Divisional Director or Head of Service must approve the award. The decision must be recorded in writing and all documentation supporting the decision retained in the E Tendering Portal	Use of Purchase Order or Standard Contract for more complex requirements. Please also refer to 17.2 for requirements for sealing.	Self-service within the service centre via the E Tendering Portal.
Contracts from £50,001 to £100,000 (for supplies and services) or £500,000 (for works):	3	1 Where practicable	If less than the stated number of quotations is received the P&C Hub must approve the award. The decision must be recorded in writing and all documentation supporting the decision retained in the E-Tendering Portal. Rule 3.7 applies to works contracts in addition to the above.	Use Standard Contract Please also refer to 17.2 requirements for sealing.	Self-service via the E Tendering Portal with support from the P&C Hub.
Contracts above	5	2	If less than the stated number of quotations is received the P&C Hub must approve the	Up to £250,000:	Self-service via the E-Tendering Portal with

<p>£100,000 to EU threshold * (for supplies and services) or above £500,000 (for works)</p>			<p>award. The decision must be recorded in writing and all documentation supporting the decision retained in the E-Tendering Portal.</p> <p>Rule 3.7 applies to works contracts in addition to the above.</p>	<p>Signature on Standard Contract or sealed by Legal Services if required</p> <p>Over £250,000:</p> <p>Sealed by Legal Services</p> <p>Please refer to 17.1 (form to be approved by Legal Services) & 17.3 (requirements for sealing) And added to the Key Decision List</p>	<p>support from the P&C Hub.</p> <p>Works contracts over £500,000 must have gained approval from P&C Review Board prior to commencement of procurement.</p> <p>Service departments are responsible for:</p> <ul style="list-style-type: none"> • Specification • Governance & authority • Evaluation
<p>Above EU threshold for goods, services and works (including Light Touch Regime)</p>			<p>A fully compliant process must be carried out in accordance with the Public Contract Regulations 2015</p> <p>Routes to market:</p> <ul style="list-style-type: none"> • Open • Restricted • Negotiated • Competitive dialogue • Competitive procedure with Negotiation • Frameworks <p>This must be carried out in conjunction with Procurement & Commission Hub.</p>	<p>Up to £250,000: Signature on Standard Contract or sealed by Legal Services if required</p> <p>Over £250,000:</p> <p>Sealed by Legal Services</p> <p>(refer to 18.3 for requirements for sealing)</p>	<p>Project managed by the P&C Hub with cooperation from Legal Services as appropriate.</p> <p>All procurements over EU threshold must have gained approval from the P&C Review Board prior to commencement of procurement.</p> <p>Service departments are responsible for:</p> <ul style="list-style-type: none"> • Specification • Governance &

					<ul style="list-style-type: none">authorityEvaluation
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Contracts for Construction Works

Construction projects normally fall under works, and therefore the procurement should follow the thresholds for works.

Constructionline can be used for the selection of pre-approved suppliers. However, under your risk assessment you may decide that additional checks may be needed to ensure that accreditation by constructionline cover all your requirements.

You should also consider slippage and unforeseen costs in your risk assessment; and any business continuity plans where the project is critical.

Security should also be considered for large projects.

It is important to ensure that proper governance has been obtained; and that if the project is part of the capital works programme that other elements of the project also have agreement and funding.

Construction contracts over £1,000,000 will need to go to the Procurement and Commissioning Review Board for approval.

Over the EU threshold you must ensure that you use the right templates and contracts. This includes PAS91 tender templates.

You must also ensure that you check with CMTC that your procurement should not be managed by them; under the new Hub arrangements.

Frameworks

Frameworks are a 'shortlist' of suppliers that has been through a procurement process and are able to be 'called off' to provide provision. When using a framework, it is important to ensure that you follow the framework rules to be compliant. This can mean a direct award or the need to carry out 'further competition' to select a supplier. This will be found in the framework rules. The London Tenders Portal must be used to carry out any further competition, and where there is a direct award; this must be recorded in the portal.

You will also have to use the framework terms and conditions which cannot be varied. Make sure you are happy to abide by these prior to using the framework.

When using a framework, it is important to ensure that the framework is legally compliant and that the council can access this framework. 'Due diligence' assessment must be carried out via the P&C Hub. You must upload evidence of due diligence to the London Tenders Portal.

Frameworks do offer a quicker and easier way to market, but do not always offer Best Value. You must ensure that you have looked at all options and be clear that this is the best way forward.

If you wish to set up a framework to be used internally you must contact the P&C Hub to discuss this. It is important that the framework is set up correctly and that it is open to the right areas of the Council and where possible other organisations.

A list of [frameworks](#) can be found on the Enfield Eye.

Concessions

Sometimes contracts seem to have a 'zero' value. In these cases, it is important to understand what the supplier is getting in return for these contracts. If the contract will benefit the bidder then this has a value (not necessary monetary). It is important to ensure that these are let in a fair and transparent way. Following a procurement process will ensure this.

Pilots must also be considered in this way. The winner of the pilot will have an advantage when the pilot has ended should you decide to go to the market. It is also sometimes difficult to go to the market when a pilot has become so embedded in the working practices.

It is best to speak to the P&C Hub prior to any contract that may be a concession or grant award to ensure that you are being compliant.

Variations to Contracts

Sometimes it is necessary to vary a contract. This can be due to market changes, changes in technology or changes in Council needs or policy.

It is important to first understand if the supplier is open to changes to the contract. Any changes must be within the core delivery of the contract. Eg a supplier of food could not be asked to include the supply of stationery in their contract.

Remember that the variation of a contract to include additional requirements may be a lack of competition and may be challenged by other suppliers. In all cases best value must be obtained.

Variations must first:

- Have budget approval
- Demonstrate best value
- Have appropriate approval to proceed
- Must be in line with the existing contract

Variations must follow the same approval process as letting a new contract.

Advertising

The Public Contract Regulations state that as minimum contracts over £25,000 must be advertised. The London Tenders Portal automatically advertises contracts on Contracts Finder. If it is felt that the market is small then either an expression of interest can be placed on the London Tenders Portal, or adverts placed in trade magazines to ask for expressions of interest.

Receipting and Opening of Tenders and Quotes

The London Tenders Portal must be used for all procurement projects over £1000. This ensures that the opening of tenders is fully audited and complies with e-tendering regulations.

If there are situations where it is felt that the London Tenders Portal cannot be used, then the P&C Hub must be contacted and this discussed.

There are regulations around using electronic tendering and you must ensure that these are complied with.

Sustainable Procurement

All procurements should consider the Social Value Act 2012 and community benefits. Any community benefits must be recorded to the P&C Hub.

The Council has a sustainable procurement policy and suggests inclusion of a minimum 10% evaluation weighting for sustainability in all procurement that are tendered.

There is a community benefit toolkit to help you understand further about this.

Award of Contracts

Contracts must be awarded in accordance with the Contract Procedure Rules and UK and EU regulations. The CPR's follow the Public Contract Regulations and ensures that the Council is compliant in letting contracts.

Contract award may also need to follow an appropriate level of authority, as at times this may need additional approval. This too should be retained and loaded into the London Tenders Portal.

Awarded contracts must be signed and where necessary sealed by legal. These should then be scanned and uploaded to the London Tenders Portal.

Letter of acceptance & Limited Liability

Letters of acceptance are generally not used by the Council. There are situations where these are necessary. Agreement from AD Legal and Governance Services should be obtained.

Letters of acceptance must be set out on a proper template agreed by Legal. This should include (but not limited to):

- Price,
- Duration
- Contractor
- What is to be supplied/delivered

Letters of acceptance are only binding on the Council and the contracting party where the letter expressly states that their Tender has been accepted and the Council agrees to pay them the tender sum. The letter of acceptance should normally seek to incorporate the terms and conditions of the relevant Council standard contract or relevant industry standard contract (e.g. JCT, ICE, NEC) indicating the Council's intention to enter into a formal, written contract with the contracting party, to carry out the works/services or supplies described in the letter, such work/services or supply of goods to commence on a date specified or at any rate before the parties execute the formal, written contract, until then the contracting parties obligations to the Council shall be governed by the Invitation to Tender documentation.

Letters of acceptance are not a substitute for a signed contract, especially for contracts under seal.

Limited Liability Letters may only be used where there is a requirement for urgent works mobilisation (not simply to allow site access) and only if such has been approved by the Assistant Director of Legal Services (unless a previously approved template is used) and the appropriate authority report in accordance with the Councils Constitution has been signed off.

These should also be loaded into the London Tenders Portal for audit requirements.

Terms and Conditions

Every contract must have a contract which sets out the terms and conditions of the agreement. As a minimum, these should be the Purchase order that is raised for the supplier of the goods, services or works.

For more complex provision it is advisable to have a contract that sets out in more detail the terms and conditions. The council has developed a suite of contracts with standard terms and conditions which are held on the London Tenders Portal. These should be used for all contracts under the EU threshold.

It is important in the contract pack to include:

- Standard terms and conditions
- Description of the goods, services or works to be supplied or performed
- Price to be paid and any discounts
- Where the contract is to be performed and the times
- Place or places for delivery

Changes to these standard terms and conditions should not be made unless in conjunction with legal.

For contracts over the EU threshold it is likely that more detailed contract is needed. This needs to be done in conjunction with legal. Please ensure that you factor in sufficient time for this to be developed. Contracts must be ready at the time of going to the market for over the EU threshold.

Every written contract or official order in lieu thereof shall specify:

- 18.5.1 The works, supplies, services or materials to be supplied or performed;
 - 18.5.2 The price to be paid with a statement of discounts or other deductions;
 - 18.5.3 The time or times within which the contract is to be performed; and
 - 18.5.4 the place or places for delivery or performance.
 - 18.5.5 the terms and conditions that apply to the contract.
- 18.6 Every written contract shall include a clause which gives the Council the right to immediately terminate the contract if the contractor, or any of its employees or agents, commits an offence under the Bribery Act 2010. Appropriate clauses are included in the Council's standard terms and conditions of contract.
- 18.7 Every written contract shall include a clause requiring any sub-contractor permitted to be employed by the contractor to be paid by the contractor within 30 days of the issuing of a valid invoice.
- 18.8 There may be occasions where it is necessary to use a supplier's terms and conditions of contracts. The use of such terms must be approved by the Assistant Director Procurement and the Assistant Director of Legal Services

Post Tender negotiations

Post tender negotiations may only take place if the tender documents allow for negotiations. Otherwise bidders should be invited to re-tender on a revised specification.

Partnerships/Shared Services

Where the Council is working in partnership or in a shared service then

Prevention of Corruption

It is important to ensure that when carrying out a procurement project that the process is fair, transparent and equal. It is also important to ensure that the supplier is also acting in a transparent and fair way.

Officers should ensure that they follow the Council's code of conduct. It is especially important that officers do not accept gifts or rewards from suppliers or potential bidders that may be an inducement or where information may be imparted that may give advantage to a bidder over other bidders.

Officers must ensure that their behaviour does not lead to accusations of corruption, as this will be investigated and if found to be proved will lead to dismissal and is a crime under the [Bribery Act 2010](#) and section 117 of the [Local Government Act 1972](#).

Should you have any concerns over fraud or corruption you must raise this under the Councils [Council's Whistle Blowing Policy](#).

The tender process should ask the bidder to declare information on criminal activity. If you feel that a bidder is acting in a dishonest or corrupt manner then again this must be highlighted, and potentially be investigated.

Declaring an interest

To ensure that processes are transparent it is vital that officers declare any interest in any potential or actual contracts. This can be done in writing to the head of the P&C Hub or to their manager.

Any gifts or hospitality must also be declared and registered on the department's hospitality register.

Organised Crime

Some industries are open to organised crime. Therefore, it is important to ensure that processes are followed to protect the council against these.

Record Keeping

Keeping records of contracts is vital and over the EU threshold part of the regulations. For information on how long records should be kept please refer to the [Council's Records Retention Schedule](#).

As a minimum, all documentation relating to the procurement project must be held on the London Tenders Portal. Should your service be audited for procurement activity; this is where they will expect to find the information and you will be in breach of process by not uploading here.

If the contract is over £75,000 then the legal department will need to hold the original of the contract. Over £250,000 then the contract must be signed under seal and the original retained within the legal department.

Claims from Contractors

Should a supplier wish to make a claim then you should refer the matter to the AD Legal and Governance services for consideration.

Any claims for increases in rates, fees etc should be reviewed if there is no provision in the contract for this. The council has a policy of no up lifts in contracts; so you should refer these to the P&C Hub for advice.

Contract Manager

Contract management is the responsible of the services. For contracts over £100,000 a nominated contract owner should be recorded on the London Tenders Portal.

A proper contract review schedule should be in place for those contracts that are of high value or high risk to the council. KPI's should be in place and regularly monitored for performance. Issues of poor performance should be dealt with promptly and professionally with recorded actions and timescales for improvement.

Often areas of poor performance are not dealt with until issues reach a crisis. It is very difficult at this point to retrospectively deal with issues. Remember that a supplier cannot improve if they are unaware that they are not performing to your requirements.

Withholding payment should also not be advised unless there is a strong case to do so. Legally this may have a detrimental effect on your case or the performance of the supplier.

IR 35

In April 2017 the government introduced new taxation rules affecting those people who are self-employed/contractors.

It is important when contracting a supplier to provide services that you consider IR35. If you apply the rules incorrectly the Council is liable to any miscalculation of tax and will suffer reputational.

There is an online Employment Status Service (ESS) test that provides the view of HMRC on whether a worker on a specific engagement/contract should be classed as employed or self –employed for tax purposes.

<https://www.gov.uk/guidance/check-employment-status-for-tax>

Supporting information in addition to the CPR's

Paying suppliers

Once you have set up a contract with a supplier it is important to ensure that they are set up in the payments system. If they are not set up you will not be able to raise a purchase order to pay supplier invoices. This will delay payment to your supplier.

In order to set up a supplier in Neptune you need to complete a [supplier request form](#). Once they are set up in Neptune you can raise a purchase order. To be compliant you need to do this prior to the invoice arriving.

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