



GA.43 15/16

Governance & Audit
Committee

Date 19th January 2016

E

Subject: Amendments to Contract Procedure Rules and financial thresholds

Report by:

Director of Resources

Contact Officer:

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Purpose / Summary:

Amendments to the Contract Procedure Rules
and financial thresholds

RECOMMENDATION(S): Approve the amendments to the Contract Procedure Rules and financial thresholds

IMPLICATIONS

Legal: Changes in the Constitution are required to bring the council's procurement processes in line with the new Public Contract Regulations.

Financial : FIN-114-16 Penalties from challenge due to non-compliance

Staffing : N/A

Equality and Diversity including Human Rights : N/A

Risk Assessment : N/A

Climate Related Risks and Opportunities : N/A

Title and Location of any Background Papers used in the preparation of this report: N/A

Call in and Urgency:

Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)

Yes

☐

No

x

Key Decision:

A matter which affects two or more wards, or has significant financial implications

Yes

☐

No

x

1 Introduction

- 1.1 The new Public Contract Regulations 2015 came into force on 26th February 2015.
- 1.2 Amendments are necessary to the Council's Contract Procedure Rules (CPR's) contained within the Constitution to ensure compliance with the Public Contracts Regulations 2015 which introduced a number of changes to procurement law to regulate procurements above and below the OJEU threshold (currently £172,514 for services). This report proposes amendments to the Council's Contract Procedure Rules to ensure compliance with the law and amendments to the financial thresholds to ensure a fair and transparent process whilst not incurring a pressure of staff resources.
- 1.3 The new thresholds will come into force on 1st January 2016 for two years. They will be:
- | | |
|--------------------|------------|
| For goods/services | £164,176 |
| For works | £4,104,394 |
| Light Touch Regime | £589,148 |
- (Light Touch is a specific set of rules for certain service contracts that tend to be of lower interest to cross border competition, ie postal services, health, education and benefits)

2. Identified changes within Public Contract Regulations 2015

- 2.1 Some of the changes identified by Procurement Lincolnshire which affect district level procurement include:
- Where contract awards are between £25k to the threshold they must also be placed on 'Contracts Finder' (CF) if advertised elsewhere within 24 hours
 - Cannot use a Pre Qualification Questionnaire (PQQ) below £172K total contract value to select (can still assess suitability but may not be used to 'down select' (shortlist)). In other words you can use a PQQ for Works above £172K and the Light Touch regime
 - Can now use poor performance to assess suitability (must be evidenced)
 - Everything must be available electronically
 - Notices must be submitted electronically
 - Communication and information exchange must be electronic
 - Must consider splitting into Lots and give reasons why this has not been done
 - Contracting authorities must pay main contractors within 30 days and main contractors must pay subcontractors within 30 days and so on down the line
 - Regulations do not apply to Inter-authority contracting / shared service arrangements where they meet certain conditions
 - Shorter minimum timescales within procurement routes

- 2.2 Currently the Councils CPRs require that any procurement above £25,000 must be advertised on Source Lincolnshire (SL). This was designed to encourage local suppliers to bid for work and improve local economy engagement.
- 2.3 Under the new Regulations if the Council continues to advertise on Source Lincolnshire it must now also advertise on Contracts Finder which in effect neutralises the local engagement intentions and also advertises the opportunity nationally increasing the risk of a high volume of responses.
- 2.4 The council now has no method to manage large responses for low value procurements as it cannot short list to a predetermined number of bidders via a prequalification stage. This poses a significant risk with regards to resource, i.e. if 30 responses were received, all 30 responses must be evaluated.

3. Financial thresholds

- 3.1 One of the Council's objectives is to encourage local suppliers and to obtain value for money, therefore the following approach to the thresholds contained within the Contract Procedure Rules is proposed:-

Up to £1000	Minimum one written quotation
£1001 - £10,000	Two written quotations, one from a local supplier
£10,001 - £25,000	Three written quotations, one from a local supplier
£25,001 - £75,000	Three written quotations, based on simplified Request for Quotation (RfQ), one from a local supplier or advertisement on SL & CF
£75,001 to EU threshold	Four written quotations, detailed RfQ, two from local suppliers or where EU Treaty principles require advertisement the contract must go on SL & CF
Above EU threshold	In accordance with EU procurement law

- 3.2 This approach would enable the Council to comply with its legal obligations while minimising the impact of the prohibition on using a prequalification stage to down select and continuing to support local businesses where possible.
- 3.3 The requirement to advertise the opportunity would be with the approval of Senior Management.

4. Contract Procedure Rules

- 4.1 The proposed changes to the Council's current Contract Procedure Rules are set out in the attached document. The changes are tracked for ease of reference.

5. Conclusion

- 5.1 Approval of the changes to the Contract Procedure Rules and financial thresholds will hopefully enable growth in the local economy by allowing more local suppliers to quote for works, the potential pressure on staff resources will be removed and West Lindsey will still be able to evidence best value and quality.

6. Recommendation

- 6.1 That the above proposals for changes to the CPR's and financial thresholds are approved for adoption.

Contract Procedure Rules

Introduction and Scope

The purpose of these Procedure Rules is to –

- Help officers administer their contracts in a consistent and proper way;
- Ensure legal clarity and reliability in contract administration;
- Help ensure that expenditure involved in contracts is controlled within approved budgets; and
- Support officers to achieve and demonstrate best value for the Council.
- Ensure compliance with Public Contract Regulations, Financial Procedure Rules, applicable Grant Funding regulation and with all UK and European Union legal requirements
- Ensure fairness in allocating public contracts
- Comply with all legal requirements
- Comply with the Councils' policies
- Comply with the Councils' corporate and service aims and objectives

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These Contract Procedure Rules advise on procedures for the purchase of goods and services and should be read together with Financial Procedure Rules and the Approved Code of Practice (ACOP) for Procurement, which is held in the ACOP Library on Minerva.

These Procedure Rules apply to all West Lindsey District Council officers and services.

These Procedure Rules apply equally to contracts for the purchase and sale of goods and services.

In the event of any conflict between EU law, UK law and these Procedure Rules, the requirements of European law shall prevail over UK law and the requirements of UK law shall prevail over these Procedure Rules.

In support of continuous improvement, Contracts need to be devised that drive down costs, drive up quality and still provide an incentive for both partners.

The push towards e-government will bring opportunities for electronic tendering and other forms of e-procurement. These will offer process-cost reductions, but must provide the same standards of openness and probity as the current longer established tendering process.

How to use these Procedure Rules

Some of the rules in these Procedure Rules apply to all contracts. Others depend on the expected value of the contract involved.

The expected value of a contract is calculated by totaling all capital and/or

revenue expenditure over the expected life of the contract including any extension periods. This will include licenses and maintenance fees if applicable. For open-ended contracts, the value should be calculated over a notional four-year period.

Local Suppliers

For the purpose of these regulations a local supplier is defined as those “whose trading premises are located in Lincolnshire and/or a 20 mile radius of the County”.

Exceptions

All staff involved in the purchase and/or supply of goods and services must follow these Procedure Rules. However, exemptions can be agreed by either

- a) The appropriate Committee, or
- b) The **Core** Leadership Team and the Chief Finance Officer

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If the total value of the contract is over the EU Threshold legal advice must be sought from Legal Lincolnshire before proceeding with the exception process and the contract.

- i) An example of where option (a) might be needed is - where it is felt that a tendering exercise would not achieve best value. A report to Committee would need to demonstrate this in terms of cost, performance and quality comparisons, market conditions and any other relevant factors. The report should provide the basis for subsequent audit scrutiny.

- ii) Option (b) will be appropriate only in the following circumstances -

There are unforeseen events – for example, the breakdown of equipment or delayed deliveries,

A quotation or tender differs marginally from the specification but nevertheless represents the best value for West Lindsey,

There is only one potential supplier or contractor,

If the value of the contract is below £25,000.

If option (b) is used, a written request must be submitted to the **Core Leadership Team** and the Chief Finance Officer detailing the reasons for the request. If approved, the note must be signed by a member of the **Management Team**, on behalf of the **Management Team** and the Chief Finance Officer and retained on file. Additionally, where the value of the contract is over the EU Threshold (which should be confirmed with Procurement Lincolnshire) a report must be taken to the

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relevant Committee to inform it of the action taken and the reasons for taking it.

NOTE: It is not a substitute for instances where procurement planning has not been exercised and Services find themselves with insufficient time to undertake a competitive process.

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Rule 1. Requirements for All Contracts

All contracts must comply with Contract and Procurement Procedure Rules. A contract is any arrangement made by, or on behalf of, the Council, including schools, for the carrying out of works or for the supply of goods or services. These include arrangements for:

- a) The supply, or disposal of goods;
- b) Execution of works;
- c) The delivery of services
- d) The hire, rental, repair, maintenance or lease of goods or equipment;

Contracts do not include:

- a) Contracts of employment which make an individual a direct employee of the authority;
- b) Agreements regarding the acquisition, disposal, or transfer of land (for which Financial Regulations shall apply) or
- c) Awarding of Grant monies.

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1.1 Contracts shall include, as a minimum, details of –

- The Name of the Council and the Supplier
- The goods and services to be supplied or purchased;
- The price (including any discounts or deductions);
- The period over which the contract is to be performed;
- The timing of supply;
- Arrangements for payments.

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1.2 Other terms and conditions can be written in with the agreement of both parties.

1.3 There must be an approved budget for all contracts where West Lindsey District Council will incur expenditure.

1.4 An officer must have authority to enter into a contract, through committee approval or delegated powers.

- 1.5 If any person who is not an officer of West Lindsey District Council is involved in supervising or letting a contract on behalf of the Council, then they must comply with these Procedure Rules in the same way as if they were an officer.
- 1.6 All contracts should reflect the Council's wider policies such as equality of opportunity and sustainability and in particular, Procurement Lincolnshire's sustainable procurement strategy and any internal guidance.
- 1.7 All procurements must comply with EU law. Only those procurements above a certain threshold are required to follow the advertising and notification provisions made in the EU regulations. However, all procurements, of whatever value, must follow the principles of non-discrimination and equality of opportunity that are contained in the regulations.
- 1.8 The Council is committed to employing only competent contractors. Health and Safety should be considered and provisions made as appropriate. The Contracts Officer from Business Improvement can give further advice if required.
- 1.9 The concept of partnership is recognised and supported by the Council. Partnerships will be based on flexible and innovative approaches but must still conform to the provisions of Contract Procedure Rules (and Financial Procedure Rules).
- 1.10 Long term contracts will need to include mechanisms for variations. For example parts of the contract may be varied by reference to the then current RPI or other suitable index.

Rule 2. Framework Agreements

- 2.1 The lead officer must check whether a suitable Corporate Contract or Framework Agreement (including ESPO, other buying consortia, Office of Government Commerce or relevant Frameworks let by NHS) exists before seeking to let another contract. Where a suitable Corporate Contract or Framework Agreement exists, these must be used unless there is a good reason not to and these reasons must be recorded and agreed in writing with the Leadership Team and Chief Finance Officer.
- 2.2 The term of any *Framework Agreement* (including any extension period) should not exceed four years, except in cases duly justified by the *Contracting Authorities* and where an *EU Procurement Directive* applies and was included in the contract notice.
- 2.3 A *Framework Agreement* may be awarded to either a single *Economic Operator*, or three or more. Contracts based on *Framework Agreements*

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may be awarded either:

- By applying the terms laid down in the *Framework Agreements* (where such terms are sufficiently precise to cover the particular call-off) without reopening competition; or
- Where the terms laid down in the *Framework Agreements* are not precise enough or complete for the particular call-off, by holding a mini competition in accordance with the following procedure -
 - a) Inviting the *Economic Operators* within the *Framework Agreements* who are capable of executing the subject of the contract to submit written *Tenders*.
 - b) Fixing a time limit, which is sufficiently long, to allow *Tenders* for each specific contract to be submitted, taking into account factors such as the complexity of the subject of the contract.
 - c) *Tenders* shall be submitted in writing, and their content shall remain confidential until the stipulated time limit for reply has expired.
 - d) *Contracting Authorities* shall award each contract to the *Tenderer* who has submitted the best *Tender* on the basis of the award criteria set out in the specifications of the *Framework Agreement*.

Rule 3. Joint Commissioning:

- 3.1 When the Council jointly commissions services with other public sector bodies such as Health Authorities, or other Local Authorities, the following procedures shall apply:
- The authorities concerned will decide which of them is to act as the lead authority for the purposes of the particular service that is to be commissioned.
 - The procedures for the procurement of services of the lead authority shall be followed.
 - All partaking authorities will be issued with a copy of the agreement

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Rule 4. Contracts under £10,000

- 4.1 Contracts up to £1,000
- Strategic Leads must ensure that best value for West Lindsey is

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obtained.

A local supplier must be used where appropriate.

Minimum of one oral quotation is required for goods, which includes similar types of process (e.g. looking up from a catalogue).

Minimum of one written quotation is required for services. An email will be acceptable.

The form of contract will be a properly completed official West Lindsey District Council order raised through the Financial Management System Purchasing Module.

4.2 Contracts from £1,001 to £10,000

Strategic Leads must ensure that best value for West Lindsey is obtained.

A minimum of two written quotations is required. One of the quotations must be from a local supplier, where possible, and a local supplier must be used who can provide the most economically advantageous offer.

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The minimum requirement for the form of contract will be a properly completed official West Lindsey District Council order raised through the Financial Management System Purchasing Module. An accompanying letter or e mail, cross-referenced to the order, should give further details if necessary.

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All Contracts £5,000 and over must be entered onto the Contract Management System by the Contracts Officer in Business Improvement.

Entry of contracts under £5,000 will be dependent on the provision and at the discretion of the Strategic Lead.

The services will be responsible for updating the contract on the management system through the term.

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Rule 5. Contracts from £10,000 to £75,000

5.1 Contracts from £10,001 to £25,000

Electronic Tendering is the preferred method of carrying a RFQ exercise for procurements with an Estimated Total Contract Value exceeding £10,000.

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Strategic Leads must ensure that best value for West Lindsey is obtained.

Pre-Procurement approval is required.

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A minimum of three written quotations are required. One of the quotations must be from a local supplier and a local supplier must be used who can provide the most economically advantageous offer.

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The minimum requirement for the form of contract will be a properly completed official West Lindsey District Council order raised through the Financial Management System Purchasing Module. An accompanying letter or e mail, cross-referenced from the order, should give further details if necessary.

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Contracts must initially be entered onto the Contract Management System by the Contracts Officer in Business Improvement. It will be the responsibility of the Service to update the contract through the term.

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5.2 Contracts from £25,001 to £75,000

Electronic Tendering is the preferred method of carrying out an RFQ exercise for procurements with an Estimated Total Contract Value exceeding £25,000.

Pre-Procurement approval is required.

Procurement at this level has two options.

Option 1 – Seek a minimum of three written quotations.

Option 2 – Advertise the opportunity on Source Lincolnshire and Contracts Finder. This process will be conducted through the Open Procedure. Permission must be sought from the Chief Finance Officer

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Quotations must be based on a request for quotation (RFQ) document including a written specification with simplified Terms and Conditions.

Contracts above £25,001 must be notified to the Head of Finance who will maintain a register of such contracts.

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Contracts must initially be entered onto the Contract Management System by the Contracts Officer in Business Improvement. It will be the responsibility of the Service to update the contract through the term.

Commented [AG25]: addition

5.2.1 Invitation

- a) Strategic Leads must invite at least three written quotations from suitable traders against a written specification for the goods or services required. A date and time for the receipt of the quotations must be set and the invitation must:

- state that the Council is not bound to accept any tender or quotation;
 - specify the evaluation criteria and award procedure.
- b) As a minimum, invitations to quote should include the following details -
- A date and time for the receipt of the quotations;
 - The quality or outcomes required;
 - The goods or services to be supplied or purchased;
 - The price (including any discounts or deductions);
 - The period over which the contract is to be performed;
 - The timing of the supply;
 - Arrangements for payments;
 - Monitoring requirements and default procedure;
 - Relevant Terms and Conditions from the Councils' standard Terms and Conditions are incorporated

5.2.2 Receipt/Opening/Acceptance –

- a) Quotations should ideally be received electronically through a secure electronic vault. If this option is not practical quotations can be received in a plain sealed package by the date and time previously specified. They must be marked "Quotation for" with the name of the contract but with no mark to identify the sender.
- b) If quotations are received through an electronic vault they can be opened by an officer authorised by the relevant Strategic Lead.
- c) If quotations are received in hard copy, they are to be endorsed with the date and time of receipt and kept by the Strategic Lead in a secure place until the time of opening.
- d) Quotations (hard copy) are to be opened at one time by the Strategic Lead and another officer with a record being kept of all quotations.
- e) Quotations received after the time specified or in envelopes/packages which identify the sender may not be considered.
- f) Any anomalies or apparent errors in the quotation will be clarified by the Strategic Lead and a record of the outcome kept on file.
- g) The Strategic Lead should accept in writing the quotation that represents the best value for West Lindsey.

Commented [AG26]: remove and replace with officer in charge of the procurement process

5.2.3 Form of Contract and Contract Provisions

- a) Within this category, the form of contract may range from a comprehensive and detailed letter (for lower values) to a straightforward formal document prepared by the Legal Adviser (for higher values). Every contract shall specify the goods, materials or services to be supplied or the work to be executed, the price to be paid, the period within which the contract is to be performed and such other conditions and terms as may be agreed. The Legal Adviser should, in all cases, be consulted on the terms of the contract.
- b) The contract may include a clause for the payment of liquidated damages should the contractor fail to complete the contract within the agreed time.
- c) A clause must be inserted allowing the Council to cancel the contract and recover any losses from doing so if the contractor or their agent offers any gift or consideration in relation to the contract.
- d) Where appropriate, the contract should require that the goods or services comply with the relevant European Standard or, if unavailable, a British Standard or equivalent issued by another Member State.
- e) The contract must require that the supplier has all the necessary permissions such as waste disposal licence, planning permission etc.

Rule 6. Contracts from £75,000 up to the EU Threshold

6.1 Electronic Tendering is the mandated method of carrying out a Tender or RFQ exercise for procurements with an Estimated Total Contract Value exceeding £75,000.

Pre-Procurement approval is required.

Procurement at this level has two options.

Option 1 – Seek a minimum of four written quotations.

Option 2 – Advertise the opportunity on Source Lincolnshire and Contracts Finder. This process will be conducted through the Open Procedure. Permission must be sought from the Chief Finance Officer

Commented [AG27]: addition, LCC have made it mandatory from £5000.

Quotations must be based on a request for quotation (RFQ) document including a written specification. with simplified Terms and Conditions.

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Tenders should be co-ordinated by Procurement Lincolnshire, with all tender documentation issued electronically by and returned to the relevant

officer as advised by Procurement Lincolnshire.

Adverts must be placed in the relevant websites as advised by Procurement Lincolnshire.

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6.2 Invitation to Tender

The Strategic Lead will select the most appropriate procurement route. Generally there are two main procedures for tendering, restricted (6.5) or open (6.6). In addition Approved Lists may be used as outlined at 6.14.

Commented [AG30]: Replace with 'The main procedure for tendering is through the Open Procedure'

6.3 Restricted Procedure

A two stage process. A list of contractors can be compiled from a response to an advertisement or other market research. Where used, the advert should give details of the contract, invite expressions of interest, state the number of bidders who will be invited to tender, and give a time limit within which a pre-qualification questionnaire (PQQ) should be submitted (not less than 30 days if undertaken electronically). The PQQ will contain certain criteria including, but not limited to:

- Financial stability
- Capacity
- Track record
- References
- Health and Safety

When the time limit has expired, invitations to tenders will be sent to a selected number of bidders successful at the PQQ stage.

Commented [AG31]: take out this clause as procurements below EU threshold are subject to open procedure only

6.5 Open Procedure

An advertisement shall be placed inviting firms to tender directly for a contract. The advert should be placed on relevant websites and appear at least 40 days (if undertaken electronically) before the closing date for tenders.

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It should state the nature and purpose of the contract, where further details may be obtained and the closing date for tenders.

The Open Procedure is a single stage tender (i.e. no PQQ stage) where all bidders are required to submit a full tender response, and all compliant submissions must be evaluated.

Commented [AG33]: addition

6.6 Timescales

Advice should be sought from Procurement Lincolnshire on developing an appropriate tendering timeline. Where tendering is undertaken, using an electronic vault, timescales may be reduced according to the

procedure to be followed.

6.7 Contract Provisions

Provisions are as Procedure Rule 5.2.3 above.

6.8 Receipt of Tenders

6.9.1 Tenders ideally should be received electronically through a secure vault if this option is not practical tenders can be received in a plain sealed package bearing the words "Tender for" and the name of the contract to which it relates. There should be no mark which might identify the sender.

6.9.2 All tenders should be endorsed with the date and time of receipt, with non electronic tenders held by the relevant officer in a securely locked cabinet until the time and date agreed for opening.

6.9.3 Tenders received after the time specified or in envelopes/packages which identify the sender are not to be considered.

6.10 Opening of Tenders

6.10.1 Where Tenders are received in hard copy, they shall be opened by the Monitoring Officer and the Procurement Team or their representatives.

6.10.2 Of those present at the opening, at least two must not be involved in the tender process.

6.10.3 The service is responsible for maintaining a record of all tenders received which will include –

- The names of the contractors;
- The amount of each tender;
- The signatures of the persons opening the tenders;
- The signature of the person receiving the tenders for evaluation. (if hard copy supplied).

6.10.4 Where tenders are received through an electronic vault they will be opened by the relevant officer.

6.11 Evaluation and Acceptance of Tenders

6.11.1 Any anomalies or apparent errors in the tender shall be clarified by the Strategic Lead and a record of the outcome kept on file.

6.11.2 The tenders shall be assessed and scored against the previously set evaluation criteria.

Commented [AG34]: remove and replace with officer in charge of the procurement process

- 6.11.3 No tender shall be accepted formally until adequate and satisfactory financial and technical references have first been obtained in writing.
- 6.11.4 The appropriate Director has delegated authority to accept the tender that represents best value within the approved budget, in accordance with the Council's corporate delegations.
- 6.12 Form of Contract
- 6.12.1 The form of contract should always be a formal document, the provisions of which shall be approved by the Legal Adviser to the Council prior to the invitation to tender. Every contract shall specify the goods, materials or services to be supplied or the work to be executed, the price to be paid, the period within which the contract is to be performed and such other conditions and terms as may be agreed.
- 6.12.2 The contract shall be signed by the appropriate Director.
- 6.13 Approved Lists:**
- 6.13.1 *Approved Lists* may be used to select *Applicants* as an alternative to advertisement where the *Total Contract Value* for a contract exceeds £75,000. They may also be used to select *Applicants* where the *Total Contract Value* is less. *Approved Lists* should be used where recurrent transactions of a similar type are likely but where such transactions need to be priced individually and cannot easily be aggregated and priced in a single tendering exercise. *Approved Lists* cannot be used where the *EU Procurement Directive* applies.
- 6.13.2 Strategic Leads shall draw up in consultation with their Lincolnshire Procurement Resource:
- *Approved Lists* of *Economic Operators* ready to perform contracts to supply goods or services of particular types including without limitation on the basis of agreed contract terms; and
 - Criteria for *Shortlisting* from the lists.
- 6.13.3 No person may be entered on an *Approved List* until there has been an adequate investigation into both their financial and technical ability to perform the contract, unless such matters will be investigated each time bids are invited from that list.
- 6.13.4 *Approved Lists* must be drawn up after an advertisement inviting applications for inclusion on the list. The advertisement must be placed to secure widest publicity among relevant *Economic Operators* throughout all member states of the EU. Persons may be entered on a list between the initial advertisement and re-advertisement provided the shortlisting requirements are met.

6.13.5 The list and *shortlisting* criteria must be reviewed at least annually and re-advertised at least every three years. For clarification review means:

- The reassessment of the financial, technical ability and performance of those *Economic Operators* on the list unless such matters will be investigated each time bids are invited from that list, and
- The deletion of those *Economic Operators* no longer qualified, with a written record kept justifying the deletion.

On re-advertisement, a copy of the advertisement must be sent to each person on the list, inviting them to reapply.

6.13.6 All *Approved Lists* shall be maintained in an open, fair and transparent manner and must be open to public inspection.

6.13.7 Lists maintained by third parties e.g. the New Qualification System (NQS), Construction Line, EXOR or any list maintained in substitution of the NQS will be deemed to be an *Approved List* for the purpose of these Contract Procurement Procedure Rules and shall not be subject to the requirements of Regulation 6.13.2 inclusive.

Rule 7. Contracts above the EU threshold

7.1 At this level TENDERS are required as per Procedure Rule 6 plus –

- a) The estimated contract value must be considered in relation to the EU procurement thresholds in force at the time. An advertisement must be placed in the Official Journal of the EU and other set procedures followed.
- b) The contractor will be required to provide suitable security for the due performance of the contract. This shall be decided by the appropriate Director in consultation with Procurement Lincolnshire.

7.2 Invitation to Tender

The Strategic Lead, in consultation with Procurement Lincolnshire, will select the most appropriate procurement route. Generally there are two main procedures for tendering, restricted or open (6.5). In addition Approved Lists may be used as outlined at 6.13.

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6.9 Restricted Procedure

A two stage process. A list of contractors can be compiled from a response to an advertisement or other market research. Where used, the advert should give details of the contract, invite expressions of interest, state the number of bidders who will be invited to tender, and

give a time limit within which a pre-qualification questionnaire (PQQ) should be submitted (not less than 30 days if undertaken electronically). The PQQ will contain certain criteria including, but not limited to:

- 6.9.1 Financial stability
- 6.9.2 Capacity
- 6.9.3 Track record
- 6.9.4 References
- 6.9.5 Health and Safety

When the time limit has expired, invitations to tenders will be sent to a selected number of bidders successful at the PQQ stage.

Commented [AG37]: addition

Rule 8. Financial Control

8.1 Expenditure above the contract price should be reported as follows –

Contract Figure £	Director £	Leadership Team & Chief Finance Officer £	Committee £
Up to 25,000	Up to 2,000	Over 2,000 to 5,000	Over 5,000
25,001 to 75,000	Up to 3,000	Over 3,000 to 7,500	Over 7,500
75,000 above	Up to 5,000	Over 7,500 to 10,000	Over 10,000

- 8.2 The reporting requirement does not apply where contract growth is in accordance with the provisions of the contract.
- 8.3 Financial Procedures Rules regarding virement still apply to all additional expenditure.
- 8.4 Strategic Leads should report any overspends on the Final Account to Financial Services, identifying where the additional expenditure will be generated, and subsequently to the appropriate committee.
- 8.5 Compliance with Procedure Rules must not be avoided by breaking contracts down into lesser values.

Rule 9. Contracts Register

- 9.1 All West Lindsey District Council contracts must be recorded on the Contracts Register. Strategic Leads are responsible for updating the register.

Commented [AG38]: replace with Contract Management system

Rule 10. The Appointment of Consultants to Provide Services:

- 10.1 The following procedure applies where in the opinion of the relevant officer because of the specialist nature of the services required, it is necessary to appoint a consultant to provide the services to the Council.

This procedure does not apply when:

- The estimated Total Contract Value of the services is equal to or exceeds the EU Threshold for the supply of services in which case the EU procurement procedure must be followed, or
- When the services required may be obtained through ESPO or other collaborative arrangements in the public sector.

- 10.2 The officer must submit a report to the Director setting out:

- The nature of the services for which the appointment of a Consultant is required;
- The estimated Total Contract Value of the services;
- That no employee of the Council has been identified with the capacity or availability to undertake the services.

Commented [AG39]: this will be the pre-procurement form

- 10.3 If the Director is of the opinion that in the interest of value for money for the provision of the services it is necessary or expedient to secure the appointment of a consultant to provide those services they shall record that opinion in writing and authorise the officer to engage a consultant using an established Corporate Contract or Framework Agreement or where the nature of the services required are so specialist and no suitable Corporate Contract or Framework Agreement is in place a formal tendering process will follow receipt and evaluation of the business case proposals.

- 10.4 Where the Total Contract Value is estimated to be above £75,000 the Rules are set out in Procedure Rule 6 onwards and should be followed.

- 10.5 Where the Total Contract Value is between £10,000 and £75,000 the Rules are set out in Procedure Rule 5 onwards and should be followed.

The officer must submit invitations to provide the services to at least three Applicants who are experienced in providing services of a similar type to the services required.

Commented [AG40]: addition

Commented [AG41]: Remove

A RFQ/Invitation to Tender for the provision of consultancy services

must include:

- a) a specification for the services;
- b) a questionnaire seeking details of the applicant's experience in providing similar services;
- c) the Council's standard contractual terms on which it is intended to appoint the consultant to provide the services; and
- d) the Award Criteria.

- 10.6 If the officer is of the opinion that the nature of the services required is so specialist that fewer than three Applicants would be able to provide the services the officer must record in writing the reason why the services are so specialist and, subject to the approval of the Director of Resources, may send the invitation to provide the services to two/one Applicant(s) only.
- 10.7 Responses to the invitation to provide the services shall be submitted to the officer by the appointed time and shall be opened by the officer and a representative of the relevant Director. The responses shall be evaluated in accordance with the Award Criteria to ascertain which response is most economically advantageous. The evaluation shall be recorded in writing and the record shall be signed by the officer.
- 10.8 The officer shall submit the evaluation report to the Director and recommend the appointment of the applicant who has submitted the most economically advantageous response. The Director may accept or reject that recommendation and shall record their reason for doing so in writing and sign and date that record.
- 10.9 Prior to appointing the chosen consultant to provide the services the officer shall ensure that:
- a) two satisfactory references have been obtained;
 - b) a bankruptcy search has been undertaken against the name of the consultant with a satisfactory result;
 - c) the independent Medical Officer is satisfied of the consultant's medical fitness to provide the services;
 - d) the employment/tax status of the consultant has been confirmed