



# **Contract and Procurement Procedure Rules (CPPRs)**

**Effective February 2025**



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**Scope and  
Responsibilities**

# 1 Scope and Responsibilities

West Lindsey District Council operates a procurement service with support and advice from the Procurement Lincolnshire (PL) shared service. This document is adapted from materials provided by the shared service.

## 1.1 Scope of Contract Procurement and Procedure Rules

- 1.1.1 These procedures inform of the mandatory minimum requirements for undertaking procurements and forming contracts. They must be followed. A glossary of terms is provided in Appendix 1.
- 1.1.2 Following approval, this document sits within the Council’s Constitution.
- 1.1.3 These CPPR’s do not contain procedures relating to making payment or undertaking purchasing activities such as raising purchase orders or using purchasing cards. These processes are found within the Financial Procedure Rules.
- 1.1.4 All values quoted within these CPPR’s are inclusive of any Value Added Tax (VAT), where applicable.
- 1.1.5 As set out in the document, Officers should obtain advice from the relevant Procurement Resource, as soon as possible when a procurement is required. Some useful contacts:

Procurement Resource	Business Development Officer Contracts and Procurement. <a href="mailto:anna.grieve@west-lindsey.gov.uk">anna.grieve@west-lindsey.gov.uk</a> Procurement Lincolnshire (PL) <a href="mailto:procurement.lincolnshire@lincolnshire.gov.uk">procurement.lincolnshire@lincolnshire.gov.uk</a>
Information Assurance	Data Protection Officer <a href="mailto:tom.carrington@west-lindsey.gov.uk">tom.carrington@west-lindsey.gov.uk</a>
Compliance	Monitoring Officer <a href="mailto:Lisa.Langdon@west-lindsey.gov.uk">Lisa.Langdon@west-lindsey.gov.uk</a>
Legal Services	<a href="mailto:legalservices@lincolnshire.gov.uk">legalservices@lincolnshire.gov.uk</a>

## 1.2 Basic Principles

1.2.1 A “contract” is any arrangement made by, or on behalf of, the Council, including arrangements for:

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

1.2.2 For the purpose of these CPPRs, “contracts” do not include:

- a) Contracts of employment which make an individual a direct employee of the Council;
- b) Agreements regarding the acquisition, disposal or transfer of land (Financial Regulations apply to these);
- c) Documents dealing with the award and use of Grant Monies

1.2.3 All contracting activity must:

- a) Comply with these CPPR’s; the Council’s Financial Procedures; applicable Grant fund spending regulations and relevant applicable legislation including the Public Contracts Regulations 2015 (PCR2015), Procurement Act 2023 (PA 2023).
- b) Have regard to statutory guidance released by the Cabinet Office and as required by PA 2023 (Procurement Policy Notes (PPN)).
- c) Have regard to national procurement objectives, the National Procurement Policy Statement (NPPS), which may be updated from time to time but currently include:
  - i. Achieving best value for public money
  - ii. Acting and being seen to act with integrity
  - iii. Maximising the public benefit
  - iv. Sharing information
  - v. Ensuring fairness, treating suppliers equally and not putting any supplier at an unfair advantage or disadvantage.
  - vi. Having regard to inclusion of Small and Medium size Enterprises (SMEs) and removing barriers that they may face to tender for the Council’s opportunities.
- d) Be consistent with the Council’s corporate plan and strategies
- e) Be legitimate, lawful and within the budget and policy framework

1.2.4 No use of the Procurement Exception Process nor use of the Provider Selection Regime (PSR) (current Standard Selection Questionnaire (SSQ)) is to be undertaken

by Officers without obtaining prior advice on the applicability and use of such process(es) from the relevant Procurement Resource.

### **1.3 Joint Commissioning and Procurement**

1.3.1 Before any contract is entered into in collaboration with other public sector bodies, such as other Local Authorities, advice should be obtained from the relevant Procurement Resource, as the procurement may require approvals through Management Team or Committee.

1.3.2 Where a new agreement is put in place to establish a working arrangement with another public body that goes beyond a single requirement; commercial advice should be obtained from PL prior to entering into any agreement.

1.3.3 When a requirement is jointly commissioned or procured with other public sector bodies the following procedures shall apply:

- a) Officers will consult their Procurement Resource as soon as they are aware of such a requirement.
- b) The authorities involved will decide which of them is to act as the lead authority for the particular contract to be commissioned.
- c) The procedures of the lead authority shall be followed. Where a competitive process is undertaken no exception to these CPPRs is required.

### **1.4 Responsibilities**

1.4.1 The Director of Corporate Services (Section 151) - has delegated responsibility for:

- a) Ensuring that procedures for procurement and contracting are sound and properly administered.
- b) For ensuring all income and expenditure is lawful.
- c) Ensuring that contracts are not split into smaller parts to avoid the necessary procurement procedures.
- d) Monitoring the use of exceptions to these procedures as set out in this document.

#### **1.4.2 Directors' Responsibilities**

Directors and Assistant Directors are responsible for:

- a) Ensuring all staff comply with transparency legislation by providing information to the Procurement Resource to ensure the details of all contracts valued at £5,000 and above are provided for completion of the Council's electronic Contract Register including any extensions and approved exceptions.



- b) Ensure that exceptions are sent to the Procurement Resource to be kept in a register of exceptions. The use of exceptions will be monitored by the Section 151 Officer and reported quarterly to Governance and Audit Committee.
- c) Ensure that a contract is signed by the Council and Supplier prior to any work commencing on the contract and that Officers provide an electronic copy of the signed contract to the Procurement Resource (where the contract is formed otherwise than by way of a purchase order).
- d) Ensure all staff work with their Procurement Resource in line with these rules.
- e) The appointment of consultants is in accordance with these rules and all contracts relating to the appointment of a consultant, where the value is above £5,000 is recorded on the Council's Contract Register.
- f) Ensuring all staff are aware of their responsibilities under these procedures and receive adequate training.

#### 1.4.3 **Officer Responsibilities**

Officers are responsible for:

- a) Seeking advice from their Procurement Resource in accordance with these rules at an early stage and particularly when a procurement need has been identified. Officers will need to comply with these rules.
- b) Complying with appropriate legislation including the PCR 2015, PA 2023; the Councils Constitution, Financial Procedures, and these CPPR's.
- c) Seek advice from the Procurement Resource to identify if a suitable existing contract or Framework Agreement exists.
- d) Ensuring compliance with transparency legislation by providing information to the Procurement Resource to ensure the details of all contracts valued at £5,000 and above are provided for completion of the Council's electronic Contract Register including any extensions and approved exceptions.
- e) When appointing a consultant, the appropriate procedures in this document are followed.
- f) Seeking to protect the Council from the commercial and operational risks of TUPE by seeking advice from the Procurement Resource if required.
- g) Using the Council's e-tendering portal for all Request for Quotations and Tendering processes above £5,000.
- h) Comply with the procurement Conflict of Interest process.

1.4.4 Prior to the advertisement of any procurement by the Procurement Resource, officers using the template provided, must submit a summary of their Pre-Market Engagement activity for review by the Procurement Resource.

#### 1.4.5 **Procurement Resource Responsibilities**

The Procurement Resource is responsible for :

- a) Complying with appropriate legislation including the PCR 2015, PA 2023; The Councils Constitution and these CPPR's. The Procurement Resource must pay due regard to any relevant statutory guidance issued from time to time by the Cabinet Office.
- b) Check whether a suitable existing contract or Framework Agreement (including EPSO, CCS) exists before undertaking any commissioning activity. Where such an agreement exists an assessment should be undertaken to determine if it is the best route to market and demonstrates value for money, particularly in the case of frameworks that can be called off from without competition. The recommended route to market must be recorded within the Procurement Strategy.
- c) Complying with all Notice and Transparency obligations.
- d) Supporting and advising Officers on procurement and commercial activity that are below threshold (see financial threshold limits at Section 2, para. 2.3).
- e) Managing the procurement process for above threshold contracts shall be conducted by the shared service Procurement Resource.
- f) Manage the Council's conflict of interest process.
- g) Recording the Councils Pre-Market Engagement conclusion summaries.

#### 1.4.6 **Contract Manager Responsibilities**

Contract Managers are responsible for:

- a) Managing contracts in accordance with the Councils Contract and Risk Management Guidance document, so that a requirement is delivered in line with the contract terms.
- b) Complying with all transparency requirements during the management of the contract including when modifying contracts.
- c) Keep under review the value of contracts that are modified where permitted by legislation and consider if they become a convertible contract or exceed £5 million in value.
- d) Seeking appropriate advice from Procurement Resource in the event of supplier poor performance.
- e) Monitoring Suppliers performance against the requirements of the Contract including monitoring performance against Key Performance Indicators (KPIs) and reporting this performance where required.

## **1.5 Conflicts of Interest**

- a) The Council must act with integrity when it undertakes any procurement activity, and a conflict-of-interest process needs to be followed. This section needs to be read alongside the Members and Officers Codes of Conduct, and any other relevant Council Protocols and procedures as set out in the Council's Constitution

relating to the management of fraud, bribery, corruption, bias, conduct in public life and any other internal business or organisational rules.

- b) A conflict of interest arises in a procurement context where there is a conflict between the interests of a person acting in relation to a procurement and those of the procurement itself. Conflicts of Interest relate to 'actual' conflicts or a 'potential' Conflict of Interest which may turn into an actual conflict if certain circumstances occur. A 'perceived' Conflict of Interest may also arise where it may be wrongly understood that there is a conflict.
- c) The Procurement Resource will advise on the process and specific steps required to mitigate and manage Conflicts of Interest, particularly if there is a conflict, or a potential conflict relating to a commercial matter. Steps will include but not limited to completing declarations of interest, checks of pre-existing declarations and any central registers held within the Council.
- d) Officers and the Procurement Resource will need to identify and keep under review actual and potential conflicts of interest. A formal conflict assessment will need to be prepared and this will need to be published with transparency notices and updated as necessary during the life of the procurement. The conflict assessment statement will also address any perceived conflicts of interest.
- e) Any conflict of interests identified within a procurement will be dealt with on a case-by-case basis. Officers and the Procurement Resource will take every step to mitigate the conflict of interest, and these mitigations will be published in the conflict assessment statement.
- f) Suppliers are to be excluded from a procurement whereby a conflict of interest puts the supplier at an unfair advantage and if steps cannot be taken to avoid the advantage or the supplier refuses to take any necessary steps to remove the conflict.
- g) For below threshold procurements, the principles around Conflicts of Interest still apply however the formal publication of conflict assessment statements are not required. Officers should seek advice from the Procurement Resource where required.



# **Selecting the correct procurement route**

**Including above and below threshold contracts and exceptions to the normal tendering route.**

## **2 Procurement Routes and Pre-Procurement Considerations**

### **2.1 Calculating the Estimated Total Contract Value**

- 2.1.1 Before undertaking a procurement, exercise or contract modification Officers must calculate the Total Contract Value. The Total Contract Value includes VAT. Officers shall follow Council guidance on how to do this and seek advice from the relevant Procurement Resource where required.
- 2.1.2 Total contract value must be the maximum value payable under the whole contract lifecycle including implementation and exit arrangements. It must also consider any potential variables including:
- a) Options to supply additional goods/services/works.
  - b) Options to extend or renew the contract.
  - c) Price rises provided for in the contract.
  - d) The value of any goods, services or works provided by the Council under the contract other than payment.
- 2.1.3 Officers must not separate a requirement into smaller contracts to avoid a higher threshold procurement. unless there is a justifiable reason and approved by MT.
- 2.1.4 Where possible Officers should look to combine requirements with other service areas to avoid duplication of contracts and to increase the commercial attractiveness of opportunities.
- 2.1.5 Where it is not possible to calculate a contract value the Contract must be treated as above threshold and Officers must seek advice from their Procurement Resource before proceeding.

## 2.2 Procurement Routes

The relevant Procurement Resource will advise Officers whether an existing framework or existing Council corporate contract is available and should be used to demonstrate value for money.

Contract Type	Contract Value		Process	Award Procedure based on	Contract Publication	Documentation
	From	To				
All	£0	£5,000	Request for Quotation	One quotation sought – direct approach to single supplier.	Not required.	Officer to record details  Local supplier to be used where appropriate (or reason for not using recorded).
All	£5,001	£30,000	Request for Quotations	At least two written quotations sought based on a simplified RFQ document with appropriate T&Cs  At least one local supplier to be invited where possible.	Not required	Local supplier to be used where appropriate (or reason for not using recorded).
All	£30,001	PA 2023 Services Threshold (see para 2.3)	Request for Quotation	At least four written quotations (no group relationship) sought based on an RFQ document with appropriate T&Cs	Must be placed on Find a Tender Service first, if in addition wherever the Council chooses to advertise,	Must be based on a written specification with appropriate terms and conditions

Contract Type	Contract Value		Process	Award Procedure based on	Contract Publication	Documentation
	From	To				
				At least two local suppliers to be invited where possible.		
Supplies and Services	Above Services Threshold		Formal tender	Full tender process	Find a Tender Service, Pro-Contract Specialist publication, if appropriate, after advertised on Find a Tender Service	As required by the PA 2023 and detailed in the CPPR's
Works	Services Threshold (£214,904)	Works Threshold (£5,372,609)	Request for Quotation	At least five quotations based on an ITT document with appropriate T&Cs At least two local suppliers to be invited where possible.	Find a Tender Service, Pro-Contract, and Contracts Finder Specialist publication if appropriate	Must be based on a written specification with appropriate terms and conditions
Works	Above Works threshold		Formal Tender	Full tender process	Find a Tender Service, Pro-Contract, and Contracts Finder Specialist publication if appropriate	As required by the PA 2023 and detailed in the CPPRs



## 2.3 Legal Thresholds

2.3.1 The Thresholds that are prescribed by the Public Contracts Regulations 2015 are:

Type	Threshold
Supplies/ Services	£214,904
Works	£5,372,609
Light Touch Regime (applies to certain social, health, educational services)	£663,540

2.3.2 The PA2023 Schedule 1 Thresholds are updated by the Government every two years, most recently issued during January 2023, via a Procurement Policy Notice (PPN), when changes are made these CPPRs will be updated accordingly.

2.3.3 If the Total Contract Value is above these thresholds, then the Above Threshold process as outlined in this document must be followed. Failure to do so will result in a breach of the Procurement Regulations.

## 2.4 Pre-Procurement Considerations

2.4.1 Before undertaking a procurement, the officer shall:

- Consider all other means of satisfying the need (including recycling and re-use where appropriate);
- Take advice as necessary from the Council's Procurement Resource;
- Consider whether there is a Dynamic Market or Framework Agreement already in place that should be used;
- Engage with the market (see guidance within this document):

# 3 Governance and Exceptions to the Normal Tendering route

## 3.1 Governance

- 3.1.1 Prior to undertaking any procurement activity, the Officer must ensure that all the necessary governance processes have been followed and approvals obtained from Management Team, Commercial Board, Change Management Team or Committee and therefore plenty of time should be allowed for this.
- 3.1.2 Officers must seek advice from the relevant Procurement Resource to determine the correct procurement route.

## 3.2 Exceptions to the Normal Tendering Routes

- 3.2.1 Exceptions are provided for in exceptional circumstances where the Section 151 Officer believes that a normal tendering procedure cannot be followed.
- 3.2.2 If the Procurement Thresholds are exceeded, then an exception may not be legal. There are only limited circumstances where it is permitted to award a contract to a supplier without first running a competitive tendering procedure. Any exception must be discussed with the relevant Procurement Resource before any decision is made.
- 3.2.3 In these exceptional circumstances the authority must be obtained prior to contract award, from the following:

Contract Value		Who Approves	Process
From	To		
Above Threshold		Relevant Committee	Option A - Written Report via MT
£75,000	£214,904	Section 151 Officer in consultation with the Management Team	Option B - Written Report
£0	£75,000	Section 151 Officer	Option C - Written Report

Note: The Options are:

- A. Tendering exercise would not achieve best value, and the value of the contract is above the published threshold value.

- B. Quotation or Tender differs marginally from the original specification, only one potential supplier or contractor, and the value of the contract is between £75,000 and the CCS published threshold value.
- C. Value is below £75,000 , the requirement is of an urgent nature , social value is of high importance there is only one supplier or contractor and there is an unforeseen event.

3.2.4 Advice to be sought from the relevant Procurement Resource prior to submission of any Report for the purpose of an Exception to the normal tendering route. Officers are to send a copy of any exception report to the Business Development Officer Contracts and Procurement to be kept on the Register of Exceptions.

### **3.3 Urgency**

3.3.1 In the event of an unforeseeable urgent or emergency to the normal tendering routes, Section 5 of the Procurement Act 2023 allows for the Direct Award of a contract subject to the urgent emergency protocol criteria being met. These cannot be situations that are attributable to the actions of the Council. If an Officer considers an urgent requirement has arisen, then you must consult the relevant Procurement Resource prior to awarding a contract.

3.3.2 The relevant Procurement Resource must put in place a contract that includes a commercially acceptable set of terms and conditions and a specification.

## **4 Specific requirements for certain types of procurement**

### **4.1 Procuring with External Grant Monies**

4.1.1 If a Contract is being procured that is being funded either entirely or in part by External Grant Monies, then the Officer must ensure that they are operating in accordance with the conditions of those grant monies when undertaking any procurement or contracting activities. Officers should seek support from the relevant Procurement Resource in this regard.

### **4.2 Procuring utilising a Framework Agreement**

4.2.1 The Council encourages the use of Framework Agreements where they offer Value for Money. Officers will be advised by the relevant Procurement Resource when using a Framework Agreement.

4.2.2 When selecting a Framework to use in an above threshold procurement the relevant Procurement Resource shall ensure that the Council is permitted to use the Framework by checking that the Council is named in the Tendering Notice (or Contract Notice if the Framework was established before 24<sup>th</sup> February 2025) and that the Framework provider is a Contracting Authority.

4.2.3 Contracts awarded under a Framework Agreement must always be awarded in accordance with the rules set out within the Framework Agreement Documentation. It is the responsibility of the relevant Procurement Resource to check the Framework Agreement Documentation, and this may need to be requested from the Framework provider.

### **4.3 Procuring utilising a Dynamic Market**

4.3.1 Dynamic Markets can only be established for contract values above the threshold for good and services but below the threshold for works and construction.

4.3.2 The Procurement Resource must lead on any Dynamic Market procurement.

### **4.4 Appointment of Consultants**

4.4.1 The following procedure applies when it is necessary to appoint a consultant to provide services to the Council.

4.4.2 The Officer must obtain approval to use a consultant using the Council's decision-making processes, i.e., through report to Management Team or relevant Board.

- 4.4.3 Consultants should only be used whereby they will be providing advice to fill a knowledge gap by either identifying options and recommendations or advice to implement solutions and therefore will be time limited.
- 4.4.4 If the request is approved the Officer must then comply with the procedural requirements based upon the Estimated Total Contract Value.
- 4.4.5 Payment for the Consultancy Service should be based on the satisfactory completion of defined outputs along with clear terms and conditions.
- 4.4.6 Advice should be obtained from the relevant Procurement Resource prior to entering a contract with a consultant.
- 4.4.7 All Consultancy contracts must be added to the Council's Contracts Register regardless of the value.
- 4.4.8 For Agency appointments the Officer must refer to the HR Manager for direction.
- 4.4.9 The Officer must not engage with any agency to secure CVs, without prior engagement with the Human Resources Service, and without a full understanding of the agency's terms and conditions.

NOTE: Some agencies require you to accept their terms and conditions prior to receipt of CVs. These terms and conditions may include clauses regarding 'introductory fees' which may be payable even if no appointment is made through that agency. These fees are often substantial and pose significant financial risk to the Council.

## **4.5 Concession Contracts**

- 4.5.1 A concessions contract is an agreement between the Council and a Supplier where the Supplier is given the right to exploit works or services provided for their own gain. This may still be the case even if the Council contribute some income.
- 4.5.2 If you consider that a contract may be a concession contract, then you must seek advice from PL.

## **4.6 Subsidy Control**

- 4.6.1 A subsidy (previously known as State Aid) is any advantage granted by a public authority through state resources on a selective basis to any organisation that could potentially distort competition. The definition of subsidy is very broad because "an advantage" can take many forms. It is anything which an organisation engaged in economic activity could not get on the open market.
- 4.6.2 Subsidy Control rules can (amongst other things) apply to
  - a) Grants

- b) loans
- c) guarantees
- d) tax breaks
- e) the use or sale of state assets for free or less than market rate

**4.6.3** Officers must seek advice from the PL who will seek advice from the Legal Resource before continuing with a procurement where there is any potential subsidy.

# **Below Threshold Procurements**

## **5 Below threshold procurements**

### **5.1 Principles of Below Threshold Procurement**

- 5.1.1 Below threshold procurements are not subject to the all the requirements of the PA 2023. The specific legal requirements relating to below threshold procurements are listed in 5.2 below.
- 5.1.2 Even though below threshold procurements are not subject to full legislative requirements they must still follow the Council's processes as outlined in this section.

### **5.2 Requirements of the Procurement Act 2023**

- 5.2.1 Proportionate to the value of the contract, the Procurement Resource should complete an appraisal of the market to assess Supplier interest, and advise as to whether conducting Pre-Market Engagement would benefit both the Council and the supply markets.
- 5.2.2 Within an open or below threshold tendering opportunity, Officers must not include an assessment of a bidder for the purpose of de-selection of bidders (i.e. short listing). The only exception to this is for works contracts that are above the supplies and services threshold but below the works threshold which can include a shortlisting stage.
- 5.2.3 Proportionate to the subject matter of the Contract, the procurement may assess a Bidders legal status; financial capacity or technical ability for performing the contract within an overall assessment.
- 5.2.4 Officers shall be mindful of the barriers that small and medium size enterprises (SMEs) may face when responding to opportunities and must take reasonable steps to remove these barriers. This might include requesting proportionate levels of insurance and experience.
- 5.2.5 The Procurement Resource must publish a Contract Details Notice on Find a Tender Service for all Contracts with a Total Contract Value of £30,000 (including VAT) and above.
- 5.2.6 All Contracts with a Total Contract Value of £5,000 or above shall be recorded on the Council's Contract register.

### **5.3 Advertising Contracts**

- 5.3.1 Procurements below £30,000 are not required to be advertised on the Find a Tender Service.
- 5.3.2 In the interest of achieving value for money the Business Development Officer Contracts and Procurement may advise the advertising of a particular activity.



5.3.3 If the RFQ is valued at above £30, 000 the Procurement Resource must ensure it is advertised on Find a Tender Service before being advertised anywhere else.

## **5.4 Request for Quotations (RFQ) process**

5.4.1 As outlined in this document, RFQs are the Council's preferred method of undertaking procurements that are below threshold.

5.4.2 The Business Development Officer Contracts and Procurement will work with the service area representative to ensure completion of standard format templated RFQ documents. The RFQ must state that the Council is not bound to accept any quotations received.

5.4.3 RFQs must contain:

- a) A specification which describes clearly the Council's Requirement in sufficient detail to enable the submission of competitive offers and to enable the Council to hold the supplier to account.
- b) Relevant terms and conditions that are proportionate to the requirement
- c) Simplified award criteria that outline how the RFQ will be evaluated.
- d) Instructions on the performance and management of the contract.

5.4.4 For all RFQs the Council's electronic tendering platform must be used to invite suppliers and publish the RFQ documents. All Suppliers invited to quote must be issued with the same information at the same time and subject to the same conditions.

5.4.5 Records of the RFQ process including evaluation of the RFQ must be retained by the Business Development Officer Contracts and Procurement.

# **Above Threshold Procurements**

## **6 Above threshold procurements**

### **6.1 Pre-market Engagement**

- 6.1.1 Officers should consult with the relevant Procurement Resource before engaging with the market. Before any discussions take place with any potential supplier(s) then a Preliminary Market Engagement Notice must be published on Find a Tender Service.
- 6.1.2 Throughout any market engagement all steps should be taken to ensure that suppliers are treated equally and fairly and that no advantage and disadvantage is afforded to any supplier.
- 6.1.3 Full records of pre-market engagement must be kept using the template provided by the Procurement Resource, ensuring that the process is fair and transparent. To avoid distorting competition Officers shall communicate to all Bidders any relevant information exchanged, in the context of, or resulting from any pre-market engagement when publishing the tender documentation.
- 6.1.4 Where pre-market engagement has taken place, but a Preliminary Market Engagement Notice was not published prior, the rationale for this must be recorded in your Contract Details Notice.

### **6.2 Selecting a procurement procedure**

- 6.2.1 Under the PA 2023 there are 2 procurement procedures that can be used for above threshold procurements outside of an existing corporate contract, framework agreement or dynamic market:
  - i. Open procedure – Single stage where no shortlisting of suppliers take place
  - ii. Competitive Flexible Procedure – Multi-stage process where shortlisting of suppliers can take place.
- 6.2.2 To obtain the best commercial outcome and to ensure the process is proportionate the Competitive Flexible Procedure should only be conducted by an officer from PL.

### **6.3 Invitation to Tender (ITT)**

- 6.3.1 Procurement Lincolnshire's template documents should be used for all above threshold procurements which are accessible through the Procurement Resource.

### **6.4 Communication with markets during a tender process**

- 6.4.1 Officers will ensure that all communication with potential suppliers is fair and transparent and does not afford any suppliers an advantage or disadvantage.

- 6.4.2 During a live tender communication with any supplier must be in writing via the Council's e-tendering portal unless alternative communication is permitted under the competitive flexible procedure. Any communication outside the Council's e-tendering portal must be done in conjunction with the relevant Procurement Resource assigned to the procurement by PL and a detailed log kept of such communication.
- 6.4.3 Officers will bear in mind obligations around conflicts of interest and if an actual or perceived conflict of interest develops then the officer will consult with the assigned Procurement Resource who will consider what steps can be taken to avoid or remove conflicts of interest including the use of ethical walls agreements.

## **6.5 Conditions of Participation**

- 6.5.1 Information about a Bidder's business standing, model and any exclusion grounds will be obtained by the Procurement Resource from the Central Digital Platform using the Supplier Information functionality. The platform is managed by the Crown Commercial Service and is designed so that Suppliers can submit and keep updated their business information, and it will then be available for all public bodies nationally to access.
- 6.5.2 The assigned Procurement Resource must ensure that this system is used and not use any local forms or processes. The use of the Supplier Information System is mandatory for all above threshold procurements.
- 6.5.3 The Officer assigned will ensure that Conditions of Participation are relevant to the subject matter of the contract and be proportionate.

## **6.6 Standards and Award Criteria**

- 6.6.1 The Award Criteria is used to determine which of the Bidders will be awarded the contract and they are assessed as part of the ITT.
- 6.6.2 Public Contracts must be awarded based on the Most Advantageous Tender (MAT).
- 6.6.3 All Award Criteria and sub-criteria must be weighted, and these weightings must be set out in the Procurement Documentation.
- 6.6.4 Award criteria must provide for international equivalents for any British standards.
- 6.6.5 When determining the process that will be used to supplement an ITT there should be caution on the use of bidder presentations. This should only be assessed where presenting is a material part of the contract delivery or where a product demonstration is required. If an Officer considers the use of a presentation is necessary advice should be sought from the assigned PL Officer who shall coordinate proceedings during any such presentation.

## **6.7 Publishing the ITT**

- 6.7.1 The ITT documentation should all be made available to all suppliers at the same time as publishing the Tender Notice on the councils e-tendering system. If this is not likely to be possible then advice must be obtained from the assigned Procurement Resource on how to manage the risk associated with this.
- 6.7.2 Suppliers must be given an adequate period to prepare and submit a Tender consistent with the urgency and or complexity of the contract requirements. Minimum timescales outlined in the PA 2023 must be complied with.
- 6.7.3 Late tenders will not be accepted unless approved by the assigned Procurement Resource and only if it is not in breach of the Procurement Act 2023.
- 6.7.4 Any Tender amendments, changes to instructions or clarifications should be issued in writing to all bidders unless the clarification is confidential to a specific bidder. Officers must review the Tender Notice to see if that also requires amendment. A Tender Notice amendment must be published if there are changes to the timescales for the return of the tender.
- 6.7.5 ITTs must not be amended following the submission of final bids.

## **6.8 Evaluation**

- 6.8.1 Tenders must be evaluated, recorded and awarded in accordance with the published Award Criteria. The basis on which the tender will be evaluated must be determined before tenders are invited and must be included as part of the tender information.
- 6.8.2 The overall basis for any award of contract must be the 'most advantageous tender' (MAT).
- 6.8.3 Evaluation panels should be established with members of the panel being those who have a good level of knowledge of the requirement and the award criteria.
- 6.8.4 Prior to bids being received by the evaluation panel they must be asked to confirm, or reconfirm if they have already done so, that there are no conflicts of interest.
- 6.8.5 A meeting must be held as part of the evaluation process either to score or to agree a consensus score and this meeting should be ideally chaired by the assigned Procurement Officer who is not permitted to be an evaluator. The role of the Procurement Officer is to ensure that the scoring or consensus takes place transparently in accordance with the tender documentation.
- 6.8.6 Evaluating Officers are required to reach consensus and produce an agreed narrative detailing the reasons for the final agreed score(s) and the score(s).
- 6.8.7 As per this document if presentation or product demonstrations are used then Officers must ensure contemporaneous notes are made detailing all the questions, responses and points raised or full auditory records are kept.

6.8.8 Bids must be kept confidential.

## **6.9 Clarification of bids by Evaluators**

6.9.1 If the Evaluation Panel determine that there are areas of ambiguity or lack of clarity, then consideration should be given to clarifying these issues with the Bidder(s). Clarifications must be sought in writing, using the Council's e-tendering platform unless an alternative process for clarification has been detailed in the ITT as part of the Competitive Flexible Procedure.

6.9.2 Clarifications requested of Bidders during the evaluation process shall not be an opportunity for Bidders to enhance their already submitted bids. Rather this should be an opportunity to clarify a specific element included in their already submitted bid.

6.9.3 Officers should seek the support of the assigned Procurement Resource where necessary and always in the event of a Competitive Flexible Procedure being used.

6.9.4 The clarification process must ensure that all Bidders are treated equally and fairly.

## **6.10 Assessment Summaries and Standstill**

6.10.1 The assigned Procurement Resource will ensure that Assessment Summaries are completed using the standard Council template.

6.10.2 The assigned Procurement Officer will issue a Contract Award Notice to commence an 8 working day mandatory or voluntary Standstill Period prior to awarding a Contract.

6.10.3 Unless the award of the contract falls within the delegated authority of the Section 151 Officer, approval should be sought in line with the Council's Constitution.

## **6.11 Due diligence**

6.11.1 Prior to awarding a Contract the assigned Procurement Resource will verify any standards that a Bidder has self-certified through a procurement process. This includes but is not limited to any professional qualifications, required internal standards and insurance levels.

6.11.2 Advice must be obtained from the relevant Procurement Resource to determine if the Bidder must be excluded from the process. The Procurement Resource must check the debarment list prior to any selection stage and/or the award of a Contract.

# 7 Light Touch Regime (LTR) and Provider Selection Regime

## 7.1 Light Touch Regime

- 7.1.1 The Light Touch Regime is for certain services contract in social, health and education services and are subject to more flexible procurement rules. For a contract to be a light tough contract the Common Procurement Vocabulary (CPV) code must be listed in Schedule 1 Procurement Act 2023.
- 7.1.2 Officers must seek advice from the relevant Procurement Resource prior to undertaking a LTR tender.
- 7.1.3 A different threshold exists for LTR contracts.
- 7.1.4 LTR contracts do still have to follow some of the provisions of the PA 2023 but have greater flexibility and freedoms.
- 7.1.5 LTR contracts must be advertised using a tender notice unless a direct award justification applies.
- 7.1.6 The Procurement Resource must determine if Bidders are excluded or excludable and consider Conflicts of Interest before awarding a contract.
- 7.1.7 The Procurement Resource will ensure transparency obligations through the publication requirements, by completing a contract award notice and a contracts details notice when a contract is over £5,000,000.
- 7.1.8 The Procurement Resource shall consider whether the requirement can be broken into lots and the services supplied under more than one contract.
- 7.1.9 The Procurement Resource will use either the open, competitive flexible procedure or direct award where justified. There are no mandated timescales for LTR contracts, but officers will ensure that the time scales are reasonable, taking into account the nature of the requirement and the complexity of the contract.
- 7.1.10 Officers should apply a voluntary standstill period to LTR contracts.
- 7.1.11 Contract managers are required to set and publish 3 KPIs for contracts with a Total Contract Value of above £5,000,000.
- 7.1.12 Contract Managers are permitted to amend LTR contracts if amendments are in accordance with the objectives outlined in this document. LTR contracts do not require the publication of Contract Change notices.

## 8 Other Considerations

These considerations apply to above and below threshold procurements.

### 8.1 Information Assurance and Data protection

- 8.1.1 The relevant Procurement Resource must consider the information assurance requirements of the Contract if they anticipate any Personal Data is to be processed as part of the contract.
- 8.1.2 Where personal data may be processed as part of the contract, officers must seek further advice from the Data Protection Officer.

### 8.2 Sustainable Commissioning

- 8.2.1 For all above Threshold contracts then consideration must be given as to how the Contract might improve the economic, social and environmental wellbeing of Lincolnshire, as required by the Public Services (Social Value) Act 2012. This duty also relates to Light Touch Regime (LTR) as described in section 7.1, where the Estimated Total Contract Value exceeds the Services PCR 2015 Threshold.
- 8.2.2 The Council must consider in the form of a Social Value appraisal, whilst recognising the principle of Proportionality:
  - a) How, what is proposed to be procured, might improve the economic, social and environmental well-being of the relevant area.
  - b) How, in conducting the process of procurement, it might act with a view to securing that improvement; and
  - c) Whether to carry out any consultation in relation to the above matters.

### 8.3 TUPE

- 8.3.1 Where TUPE may apply the relevant Procurement Resource should seek advice from their Monitoring Officer.



# **Contract Formation**

## **9 Contract Formation**

### **9.1 Contract Formation**

- 9.1.1 The Section 151 Officer has the responsibility to ensure that a Scheme of Delegation is in place, and contracts should be signed in accordance with this scheme.
- 9.1.2 The Procurement Resource is responsible for securing signature of the contract by both parties prior to commencement of the contract.
- 9.1.3 Where the value of the contract exceeds £75,000, legal advice should be obtained as to whether the contract is executed under hand or under seal.

### **9.2 Contracts signed under hand**

- 9.2.1 The Procurement Resource must ensure that when a contract is signed under hand (by either wet or electronic signature) the signatory has authority to do so.
- 9.2.2 Contract signed under hand are generally contracts with a total contract value under the FTS threshold.
- 9.2.3 The limitation period for a claim is 6 years from the date of the breach.

### **9.3 Contracts signed under seal**

- 9.3.1 Where contracts are completed by each side adding their formal Seal, the fixing of the Council's Seal must be witnessed by or on behalf of the Chairman of the Council.
- 9.3.2 Every Council sealing will be consecutively numbered, recorded and signed by the person witnessing the Seal. The Seal must not be affixed without the authority of the Chief Executive Officer, a duly authorised Committee, or the Chairman of the Council.
- 9.3.3 A contract should be sealed where:
  - a) The Council may wish to ensure a limitation period of 12 years from the date of the breach;
  - b) Where the Council has paid no consideration for goods or services, or the carrying out of works; or
  - c) Legal advice has been provided to this effect.

### **9.4 Contract Publication**

- 9.4.1 Where a contract is above £5,000,000 or if a works contract above the works threshold, then a redacted version of the Contract must be published in a notice.
- 9.4.2 Contract publication and redaction must be conducted by the relevant Procurement

Resource.

## 9.5 Document Retention

9.5.1 All relevant documentation must be kept in accordance with the Council's document retention policy.

## 9.6 Bonds And Parent Company Guarantees

9.6.1 The Officer must consult the Director of Corporate Services to identify whether a Parent Company Guarantee or Bond is needed;

a) When a Contracted Supplier is a subsidiary of a parent company as to the necessity of a Parent Company Guarantee when any of the following conditions are satisfied:

- i. The Total Contract Value exceeds £500,000, or
- ii. Award is based on evaluation of the parent company, or
- iii. There is some concern about the financial stability of the Contracted Supplier; and

b) To identify whether a Bond is needed:

- i. Where it is proposed to make substantial staged or other payments in excess of £500,000 and there is some concern about the financial stability of the Contracted Supplier, and there is no Parent Company Guarantee available.

## 9.7 Prevention Of Corruption

9.7.1 All Officers must comply with the Code of Conduct and must not invite or accept any gift or reward in respect of the award or performance of any contract:

- a) It will be for the Officer to prove that anything received was not received corruptly;
- b) High standards of conduct are obligatory, and a failure to reach the required standards may lead to disciplinary action. Staff involved in procurement should be aware **that** the Council's counter fraud and whistleblowing policies apply equally to these procedures, as they do to other Council activities. Criminal sanctions for action of corruption are possible under the Bribery Act 2010.

9.7.2 The relevant Procurement Resource must ensure that all bidders sign an anti-collusion statement which will be in the template procurement documentation and require bidders to complete a declaration of good standing confirming that they have not met any grounds for mandatory exclusion.

9.7.3 All Officers involved with a procurement will comply with the Procurement Conflict of Interest Process which is managed by the relevant Procurement Resource.

## **9.8 Contract and Risk Management**

- 9.8.1 Duly nominated and authorised contract managers must fully adhere to the Council's contract and risk management guidelines, as detailed in the Council's Contract and Risk Management Guidance Notes.

## Appendix 1 – Glossary

Term	Definition
Award Criteria	<p>The criteria used by the Council to evaluate the Bidder's tender against the needs identified within the specification to determine the successful tender. Such criteria may comprise for example –</p> <ul style="list-style-type: none"> <li>a) Price, or total cost;</li> <li>b) Quality including technical merit, aesthetic and functional characteristics, accessibility, design for all users, social, environmental and innovative characteristics and trading and its conditions;</li> <li>c) Organisation, qualification and experience of staff assigned to performing the contract, where the quality of the staff assigned can have a significant impact on the level of performance of the contract (and not already evaluated at SQ stage); or</li> <li>d) After-sales service and technical assistance, delivery conditions such as delivery date, delivery process and delivery period or period of completion.</li> </ul>
Bidder(s) / Tenderer(s)	Potential Suppliers who are actively involved in a procurement process.
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 insurer the sum of money specified in the Bond (often 10% of the Total Contract Value). A Bond is intended to protect the Council against a level of cost arising from the Economic Operator's failure.
Call off without competition	<p>A mechanism within an existing framework that allows for a contract to be awarded without competition because the framework is either for a single supplier or because there is a mechanism within the framework that allows for it. As long as the terms of the framework are complied with this is permitted.</p> <p>Not to be mistaken for Direct Award or Exception to the Normal Tendering route.</p>
Chief Officer S151	The Officers defined as such in the Constitution.
Code of Conduct	The code regulating conduct of Officers and Members is defined in the Constitution.
Committee	A Committee, which has power to make, decisions for the Council, for example a joint Committee with

Term	Definition
	another local authority but not a scrutiny committee.
Constitution	<p>The constitutional document approved by the Council which:</p> <ul style="list-style-type: none"> <li>• Allocates powers and responsibilities within the Council and between it and others;</li> <li>• Delegates authority to act to the Executive, Committees, Executive Councillors and Officers; and Regulates the behaviour of individuals and groups through rules of procedure, codes and protocols.</li> </ul>
Consultant(s)	<p>Someone contracted for a specific length of time to work to a defined project brief with clear outcomes to be delivered usually relating to a business change or transformation. The individual(s) will operate outside of the Council’s organisational structure and payment is based on the delivery of defined outputs. The individual(s) should not be working in a Business-as-Usual environment (such as advising on legal risk and technical matters) these contracts should usually be classified as Professional Services.</p>
Contract Register	<p>An electronic register that must be populated, with key information about contracts, for all contracts awarded as required by these procedures.</p>
Contracted Supplier / Sub-contracted Supplier	<p>A Supplier who is currently contracted to provide services.</p>
Contracting Authority	<p>The organisation letting the contract in question. Contracting Decision - Any of the following decisions;</p> <ul style="list-style-type: none"> <li>• Composition of Approved Lists</li> <li>• Withdrawal of Invitation to Tender</li> <li>• Whom to invite to submit a quotation or tender shortlisting</li> <li>• Award of contract</li> <li>• Any decision to terminate a contract</li> </ul>
Corporate Contract	<p>A contract let or approved by the Procurement Team to support the Council’s aim of achieving Value for Money.</p>
Council	<p>For the purposes of these Contract and Procurement Procedure Rules, “Council” refers to West Lindsey District Council.</p>
(Common) Seal	<p>The seal that may be, and in the case of the Council is, attached to a document by a corporate body when executing a Deed.</p>

Term	Definition
Conditions of Participation	<p>A component of the evaluation process set out to assess the Bidders capability to provide the requirements identified in the ITT. This is not an evaluation of how they will provide the requirements requested, more an evaluation of their organisation's intrinsic ability to provide those services.</p> <p>Conditions of Participation may only relate to:</p> <ul style="list-style-type: none"> <li>• Suitability to pursue a professional activity</li> <li>• Economic and Financial standing</li> <li>• Technical and Professional ability</li> </ul>
Contract Manager	Officer who is responsible for the management and administration of a contract. This includes where it is part of an Officers role even if not mentioned in their job title.
Convertible Contract	A contract where, at the time that it is awarded, the estimated total contract value is below threshold but during the lifetime of the contract it is modified so the total contract value is above threshold.
Concession Contract	A contract where at least part of the scope allows the supplier to exploit works or services and the Supplier is exposed to the real operating risk involved with operating those works or services. An example would be the opportunity to run a café.
Conflict of Interest	a personal, professional or financial interest or perceived interest that may compromise, or have the appearance of, or potential for, influencing or compromising professional judgement and the integrity if the procurement, directly or indirectly.
Ethical Wall Agreement	Mechanism agreed between 2 or more parties to avoid conflicts of interest.
Direct Award	An award that is made to a single supplier with limited competition. These are permitted in very limited circumstances under PA 2023 and should not be made without an Exception to the Normal Tendering Route approval and consulting your Commercial Resource.
Deed	A signed and sealed instrument containing some legal transfer, bargain, or contract.
Dynamic Market	A fully electronic compliant 'Approved List', where Suppliers can join at any point while the DM is open,

Term	Definition
	and they meet the Conditions of Participation.
Exception to the Normal Tendering Route	<p>A method of procurement that is contrary to these rules but the necessary permission has been obtained in accordance with this document.</p> <p>Not to be mistaken with Direct Award</p>
Electronic Tendering	A secure means to store and transmit all Procurement Documentation via a secure electronic vault (Pro-Contract).
Estimated Total Contract Value	The estimated value of a procurement as defined in this document.
Evaluating Officers	Members of the Evaluation Panel
Evaluation Panel	A group of relevant Officers of the Council, or appropriate stakeholders, who have the technical knowledge and experience to judiciously evaluate bids received in response to a procurement exercise.
External Grant Funding	Funding that is provided to the Council from an external body to deliver a specific requirement. This is <u>not</u> where the Council provides grant funding to third parties.
Financial Regulations	The financial regulations outlining officer responsibilities for financial matters, issued by the Executive Director of Resources forming part of the Constitution.
Framework Agreement(s)	An agreement between one or more Contracting Authorities and one or more Economic Operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
Framework Supplier(s)	An Economic Operator who has successfully secured a place on a public framework contract.
Have Regard to	To consider the objectives and see what weighting if any they should have.
Invitation to Tender (ITT)	A key document within the Procurement Documentation which must contain or reference, the instructions for Bidders, specification, evaluation model and other relevant materials to allow the procurement activity to be concluded successfully.
Key Decision	An executive decision taken by the Council which is likely to result in



Term	Definition
	<p>e) the relevant local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or</p> <p>f) to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority.</p>
Legal Support	The Councils nominated Legal resource.
Local	Where the supplier is based or established in Lincolnshire and has substantive business operations in Lincolnshire. In this context, this means having a registered office, factory or other permanent base and staff in that location through which meaningful business operations have been conducted for at least 12 months.
'MAT'	Most Advantageous Tender, whereby a combination of price, quality, social value, environmental impact and other relevant factors as appropriate specific to the contract rather than focusing solely on cost
Officer	The officer of the Council with responsibility for undertaking a procurement or commissioning activity.
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, they can require the parent company to do so instead.
Personal Data	As defined in UK General Data Protection Regulations 2018
Procurement Documentation	The full suite of procurement documents required to undertake a compliant procurement process. Includes but not limited to: SQ, Specification, ITT, Terms and Conditions and Form of Tender
Procurement Objectives	Objectives that are set out in the Procurement Act 2023:
Procurement Resource	Those in the Procurement Teams charged with providing direction and advice to secure compliance and Value for Money for procurement activities.
Request for Quotation (RFQ)	A simplified version of a tender documentation with a more streamlined and efficient process. As a minimum it should include a statement of requirements, terms

Term	Definition
	and conditions and details of how the quotes will be assessed and awarded.
Small and Medium sized Enterprise (SME)	A business that has fewer than 250 staff and has a turnover of an amount less than or equal to £44 million, or a balance sheet total of an amount less than or equal to £38 million.
Specification	a document which sets out the detailed requirements and scope of goods, services or works to be provided by the supplier. The specification should be written in a contractually enforceable manner.
Substantial Modification	Any change to the tender, or contract, that would or could, foreseeably change the interest of Economic Operators in the procurement or contract. In practice this means that any change that might result in additional Economic Operators interested in the procurement activity or contract.
Supplier	Any person who offers on the market supplies, services or works and who sought, who seeks, or who would have wished to be the person to whom a public contract is awarded. In this document Economic Operators are not yet active in the procurement process. If they are active in the process they will be named Bidders in this document.
Standstill Period	A period of time between the publishing of a Contract Award Notice and the award of a contract that must be observed.
Terms and Conditions	Special and general arrangements, governing laws, rules, requirements, standards etc. forming integral parts of a contract. To be provided by Legal Services Lincolnshire.
Total Contract Value	The total value of the successful Bidders' response which will be, or has been, formed into a contract with the local authority.
TUPE	Transfer of Undertakings (Protection of Employment) - TUPE refers to the Transfer of Undertakings (Protection of Employment) Regulations, 1981. These regulations were introduced to ensure the protection of employees when, for example, a business is taken over by another organisation. Broadly, TUPE regulations ensure that the rights of employees are transferred along with the business.
Value for Money	Where quality and cost combine to produce a service

<b>Term</b>	<b>Definition</b>
	which meets technical and customer requirements, at an acceptable level of expenditure in the prevailing budgetary constraints, for an acceptable level of quality.