



Buckinghamshire
Fire & Rescue Service
Making a difference together

STANDING ORDERS RELATING TO CONTRACTS

CONTRACT PROCEDURE RULES

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1 Procurement Overview

1.1 Background

- 1.1.1 In these rules, **Contracting Authority** means Buckinghamshire & Milton Keynes Fire Authority
- 1.1.2 These rules set out how the **Contracting Authority** will contract their various requirements and how suppliers wishing to work for the **Contracting Authority** can access those opportunities.
- 1.1.3 Public sector procurement is the process of acquiring goods, services and works as needed to deliver our services.
- 1.1.4 Depending on the nature of the procurement, the value, and any specific social interests that the contract may attract, the procurement process must be designed to facilitate competition, optimise quality, and deliver value for money across the whole life cycle of the contract.
- 1.1.5 To ensure delivery of the above, all procurements must be carried out within a specific legal framework and based on principles of equal treatment, transparency, and non-discrimination.

1.2 Governing Legislation

- 1.2.1 These **Contract Procedure Rules** ("Rules") set out how the **Contracting Authority** will deliver against this obligation.
- 1.2.2 All Procurements for Contracts, by **Contracting Authority** staff or members (including where managed by an external organisation or public body on the **Contracting Authority's** behalf), MUST comply with these **Rules**, the **Contracting Authority's** Financial Regulations, **Applicable Public Procurement Legislation** and all other relevant UK Legislation; with '**applicable**' relating to the date on which the procurement is commenced/ advertised, the Framework/ / Dynamic Market was established or where no competitive process is required, a purchase order is raised.
- 1.2.3 Where there is a discrepancy between these rules and the **Applicable Public Procurement Legislation** the officers are to comply with the legislation
- 1.2.4 Where there is a conflict between the **Applicable Public Procurement Legislation** and any other relevant legislation (as identified during procurement planning) the **Monitoring Officer** must be consulted immediately to carry out a legal, project risk assessment.
- 1.2.5 The **Contracting Authority** will follow Procurement Policy Notes (PPNs) and the National Procurement Policy Statement (NPPS).
- 1.2.6 Non-compliance with any of these rules may constitute grounds for disciplinary action.

1.3 Application of the Rules (Regulated Procurements)

- 1.3.1 These rules govern:
 - (a) any contract for the supply, of goods, services or works, (not exempt/ excluded under 1.4 below) regardless of value,
 - (b) using Frameworks or Dynamic Purchasing Systems, or Dynamic Markets
 - (c) collaborative procurements,
 - (d) consultancy requirements,

- (e) equipment hires or lease through rental agreements,
- (f) disposal of assets.

1.4 Excluded/ Exempted Contracts (Not Regulated)

- 1.4.1 These rules do not apply to contracts that are classified as excluded/ exempted, as defined by the **Applicable Public Procurement Legislation**; including but not limited to:
 - (a) **Contracting Authority to Contracting Authority** (Subsidiary) arrangements, vertical or horizontal – subject to approval by the Director of Finance & Assets.
 - (i) **Vertical** - The **Contracting Authority** exercises a parent or similar control or joint control with other **Contracting Authorities** on the entity as it does with its own departments, the entity carries out more than 80% of its activities for the controlling **Contracting Authorities** and there is no private sector money in the entity.
 - (ii) **Horizontal** - **Contracting Authority** to **Contracting Authority** co-operation – to achieve objectives which the **Contracting Authorities** have in common, through an arrangement that is solely for the public interest, and no more than 20% of the activities envisaged by the arrangement are intended to be carried out for reasons other than for the purposes of their public functions.
 - (b) Subject matter exemptions:
 - (i) Certain types of legal advice e.g., relating to judicial proceedings and/ or dispute resolution
 - (ii) Certain types of financial advice e.g., funding or financing arrangements, investment services
 - (iii) Employment contracts
 - (iv) Purchases made at public auction or of goods sold due to insolvency.
 - (v) Land contracts (including leases, licences, and transfers)
 - (vi) Grants of money, these cannot be contracts as there is no consideration and they are not services required to be delivered by the Authority.
- 1.4.2 Any other arrangements excluded by the **Applicable Public Procurement Legislation**.

1.5 Procurement Objectives

- 1.5.1 Procurement aims and objectives cover not only those objectives set out in the **Applicable Public Procurement Legislation**, but also those set out in the NPPS and the **Contracting Authority's** own procurement policies; these objectives should be used to determine the contract specific outcomes to be achieved by a specific procurement during the planning process.
- 1.5.2 These objectives may include, but not be limited to, all or any of the following and their inclusion should be informed by and tailored to the subject matter of the contract (legal, technical and commercial requirements).
 - (a) Delivering Value for Money
 - (b) Maximising public benefit (such as delivering Social Value)
 - (c) Sharing Information
 - (d) Equal Treatment (non-discrimination), unless justified.

- (e) Removing Barriers for Small and Medium Enterprises (SMEs)
- (f) Acting (and being seen to act with) Integrity (inc. accountability)
- (g) Fair and transparent (effective) competition

1.6 Roles & Responsibilities

- 1.6.1 The **Procurement Manager** (and function) is responsible for all procurement process and compliance, including; ownership of procurement option appraisals and process design, procurement training, procurement process management (including responsibilities for all notices up to the publication of the **Contract Award Notice**, ownership of e-tendering portal, ownership and provision of all procurement templates (including **Contracting Authority's** standard form contracts)), completion/ approval of procurement template and reports, and oversight of all activities relating to waivers, contract modifications or termination.
- 1.6.2 The **Procurement Manager** (and function) is responsible for supporting the planning for and management of all contracts allocated to the individual Officers (regardless of how they are procured); specifically, feeding into procurement documents relating to contract management requirements, managing all applications for waivers, exemption or modification requests, owning the contract register (ensuring that information is kept up to date and that copies of contracts are attached) and forward planning for re-procurement of cyclical requirements, supporting Project Officers with contract management including financial and quality performance reporting, ensuring compliance with the **Contracting Authority's** Governance requirements, publication of all mandatory and optional notices as required post the publication of the **Contract Award Notice**, ensuring all contract subject to the Gateway Process report in accordance with the stated procedures.
- 1.6.3 The **Project Lead/ Lead Officer** is responsible for all pre-procurement governance and budgetary approvals, overseeing all technical document creation, organising any legal documents that are required, supporting all stages of the procurement process, co-ordinating the resourcing of tender evaluation and moderation sessions, completing any procurement related reports and any pre-contract governance requirements and working with Procurement Manager & Legal to finalise contracts all in accordance with this document, relevant procurement legislation and other associated legislation.
- 1.6.4 The **Monitoring Officer/ Director of Finance and Assets** is responsible for all legal decisions and activities; whether delegated to legal representatives or being actioned on behalf of the Service.
- 1.6.5 The **Chief Fire Officer and Chief Executive** must have delegated powers for the contract or ensure that the project has the formal approval of the Executive Committee or the Fire Authority; ensure there is full budgetary provision for the contract and the sources of funding are fully detailed before starting the contract process; ensure that expenditure is fully contained within the approved budget/cash limit unless prior approval has been obtained from the Executive Committee or the Fire Authority; ensure that he or she has given written delegation of the role that the appropriate Officer may take in the contracting process on behalf of the Authority; ensure that his or her staff complies with these Standing Orders relating to Contracts.

1.7 Separation of Duties

- 1.7.1 As part of the commitment to transparency, accountability, and service integrity, an individual that conducts a procurement, raises a purchase order, or requests a waiver cannot also approve one.

1.7.2 All requests and approval/ awards therefore should be raised by one individual and approved by a different individual and in accordance with the decision value and this document.

1.8 Conflicts of Interest

1.8.1 **Public Procurement Legislation**, as part of ensuring that all processes are managed fairly and with integrity, require all individuals (officers and members) and suppliers involved in any stage of the contract life cycle to both identify/ disclose and mitigate any perceived, potential and/ or actual conflicts of interest.

1.8.2 Compliance with this requirement will include carrying out a conflict-of-interest assessment whenever anyone new gets involved in the procurement, approval and/ or contract management.

1.8.3 All conflict-of-interest assessments must be recorded on a conflicts of interest register and kept under review during the whole life cycle of the contract. The assessment must also include details of any mitigations taken/ to be undertaken to mitigate potentially unfair outcomes; e.g., use of Ethical Wall agreements, use of alternative evaluators, etc.

1.8.4 The **Procurement Manager** will own the register and in conjunction with the **Monitoring Officer/ Director of Finance and Assets**, advise on appropriate mitigations and risks.

1.9 Community Risk Management Plan (CRMP)

1.9.1 The **Contracting Authority** has established a **Community Risk Management Plan (CRMP)**. This strategy framework forms the foundation for our Annual Delivery Plan.

1.9.2 Officers are required to align their procurements to these plans; with guidance available from the **Procurement Manager**.

1.10 Procurement Policy & Social Value

1.10.1 The **Contracting Authority** is committed to delivering social value through their procurements, where legislation is applicable to the Contracting Authority, this being in consideration of the **Applicable Public Procurement Legislation**, the **Public Sector (Social Value) Act 2012** and associated **Procurement Policy Notes** relating to delivering social value, and the **Social Value Model** (PPN 06/20).

1.10.2 The **Contracting Authority's** commitments relate, where possible, to *creating opportunities to support the local economy, local jobs, training opportunities, as well as ensuring the wellbeing of both the staff and the communities in which we work*.

1.10.3 Where Social Value is included within a procurement, it must be related to the subject matter of the contract and must not increase costs.

1.11 Partnership Arrangements

1.11.1 The **Contracting Authority** has entered into a number of arrangements with partner **Contracting Authorities** for the purchase of goods and services; officers must therefore liaise with procurement before commencing a new procurement for similar/ additional requirements to ensure that those arrangements are not breached or cause relationship problems across the **Contracting Authorities** partners.

1.12 Corporate Contracts

1.12.1 Where the **Contracting Authority** establishes a number of corporate contracts, including but not limited to; stationery, treasury, insurance, and ICT services.

Officers must liaise with procurement before carrying out a separate/additional procurement for such requirements.

1.13 Use of Consultants

1.13.1 Where the **Contracting Authority** requires the technical input of industry experts/ consultants to either resource and/or manage a procurement or inform a specification, or deliver a particular process, officers are required to ensure the following is applied:

- (a) The service is for a discrete (or multiple discrete) piece of work and/or is not backfilling a **Contracting Authority** post.
- (b) The consultants are procured in accordance with these Rules.
- (c) The consultant is experienced in and fully understands all **Applicable Public Procurement Legislation** and agrees to be bound by them.
- (d) There is a clear specification of requirements and responsibilities set out in their appointment, including adherence to these rules and relevant legislation and that this is documented in the form of contract used.
- (e) Consultants must not make any decision to award a contract.

1.14 Working with SMEs

- 1.14.1 The **Contracting Authority** is committed to making contracting opportunities accessible to all interested suppliers; and where appropriate (and not disproportionate to do so) remove barriers to SMEs participating in the procurement.
- 1.14.2 Officers, when designing a procurement, must consider the use of Lots, encouraging consortia bids, structuring the documents to be SME friendly, and setting financial participation thresholds to the minimum needed to manage performance risk/ failure.

1.15 Excluding Suppliers & Subcontractors

- 1.15.1 The **Contracting Authority** may exclude a supplier where they or one of their proposed subcontractors have exhibited behaviours that are unacceptable to the **Contracting Authority**.
- 1.15.2 Details of when and for what (mandatory and discretionary grounds) a supplier may/ must be excluded is available in the **Applicable Public Procurement Legislation**.

1.16 Identifying Opportunities

- 1.16.1 All advertised procurements must be advertised initially on the **Central Digital Platform** in line with the contract value and the **Applicable Public Procurement Legislation**. It will also be advertised on and managed through the **Contracting Authority's** e-tendering Portal.
- 1.16.2 Suppliers wishing to bid for **Contracting Authority** contracts should register on both the **Central Digital Platform** and the referenced e-tendering portal <https://sell2.in-tend.co.uk/blpd/home>

1.17 Contracts Register

- 1.17.1 All current contracts are included on the **Contracting Authority's Online Contract Register**. This includes details of the current supplier(s), contract value, and the current contract expiry date along with details of any options to extend.
- 1.17.2 The **Online Contract Register** is updated with details of all new contracts

2 Procurement – Planning, Design, Timings & Documentation.

2.1 Overview

- 2.1.1 The activities detailed in this section applies where the spend is not exempted from these rules under Section 1.4 above.
- 2.1.2 No procurement may proceed without an Officer having properly completed the **Project Initiation Document (PID)** and evidencing that they have considered all of the planning, documentation and process considerations detailed in this document and that they have all the required approvals in place, (e.g., value, duration, lots, budget, risk, authority to procure/ award) all in accordance with the **Contracting Authority's** governance.

2.2 Contract Types and Regimes

- 2.2.1 All spend must be classified by type and regime before a procurement process can be designed; this is due to different types and regimes having different financial thresholds and obligations. The types and regimes include.
- 2.2.2 **Types - Goods** (supplies or products), **Services** (labour, consultants, or technical resources); or **Works** (Construction Projects);
- 2.2.3 **Regimes - Utilities** (Gas, electric, Water,), **Light Touch** (legal services), **Concession** (Supplier risk/ paid by service users), **Exempt/ Excluded** (Not covered).

2.3 Contract Durations

- 2.3.1 Before a procurement process can be designed/ commenced, officers need to decide both the initial and maximum contract durations (including any optional extension) and what might be the justification to apply those extensions.
- 2.3.2 Depending on the value and nature of the contract being procured, the duration may be limited by the **Applicable Public Procurement Legislation**. Officers must check with procurement and legal before finalising this decision.

2.4 Estimating Contract Values

- 2.4.1 The estimated contract value must include ALL monies that could be paid over the maximum life span of the contract (or Framework/ Dynamic Market), to the successful tenderer(s) regardless of the source; e.g., all planned and potential costs, additional requirements, fees/ commissions, contract extensions and/ or prizes/ participation costs plus any contingencies, whether funded by the authority, other grants or paid by service users. The total must also include VAT.
- 2.4.2 This value must not be artificially inflated or disaggregated as it will feed into various decisions, including route to market, and assessing whether a supplier has the capacity to deliver the contract.
- 2.4.3 The calculated value, calculations and assumptions must be documented in the **Project Initiation Document**.

2.5 Duty to Consider Lots

- 2.5.1 When considering the above, officers must consider the use of Lots and the potential benefit of working with (local) SMEs (e.g., reduce overhead costs, local knowledge, public benefit) with the opportunity to achieve economy of scale discounts, manage market uncertainty, and the potential contract management benefits of appointing a single supplier.
- 2.5.2 In considering how to make opportunities accessible to SMEs, officers MUST ensure that they do NOT disaggregate, or sub-divide like or similar requirements

purely for the sole purpose of avoiding the rules for above threshold/ public contracts. They must also ensure that the process for removing barriers for SMEs, does not unfairly advantage them.

2.6 Thresholds

- 2.6.1 Procurement Thresholds are determined by category and sector (regime); they determine which routes to market are available and what rules must be followed.
- 2.6.2 The Thresholds come from the **Applicable Public Procurement Legislation** (and updated by **Procurement Policy Notes**) and are based on the **Government Procurement Agreement** (GPA); these values being updated every other year.
- 2.6.3 The rules and available routes to market are determined by whether the estimated contract value is deemed to be 'Above Threshold' (Covered Procurements/ Public Contracts) or 'Below Threshold.' See [Procurement policy notes](#).
- 2.6.4 For Below Threshold spend, the following table sets out a number of routes to market and the estimated value (**which include VAT**) and category/ sector rules for when a route is available for use.

Table 1 – Below Threshold procurement processes

Category/ Sector (Regime)	Level 1 - Single Quote	Level 2 - Request for Quotes	Level 3a & b Simple Tender
Goods (G)	£0 to £29,999	£30,000 to £99,999	£100,000 to Goods £GPA (3a)
Services (S)	£0 to £29,999	£30,000 to £99,999	£100,000 to Services £GPA (3a)
Consultancy Services	£0 to £99,999	£100,000 to £GPA	
Licences	£0 to £99,999	£100,000 to £GPA	
ICT Goods & Services	£0 to £99,999	£100,000 to £GPA	
Works (All regimes)	£0 to £99,999	£100,000 to £499,999	£500,000 to Works £GPA (3b)
Light Touch Service	£0 to £99,999	£100,000 to £299,999	£300,000 to Light Touch £GPA (3a)
Concession (ALL)	£0 to £99,999	£100,000 to £499,999	£500,000 to £GPA(3a)
Utilities	£0 to £99,999	£100,000 to £499,999	£500,000 to £GPA(3a)
Frameworks	In accordance with Framework Rules (direct award up to £199,999 (where permitted) with further competition above £200,000)		

- 2.6.5 Regardless of the minimum obligations, Officers may choose (or may be instructed by procurement) to conduct a procedure in line with a higher level, including one which is for Above Threshold/ Covered Procurement; including issuing a Tender Notice to invite interested suppliers to submit a tender/ participate in the procurement.
- 2.6.6 **The Procurement Manager** may also mandate such a process where the estimated contract value is very close to the relevant £GPA Threshold, or the contract is high profile/ of public interest, or where it is a condition of the funding that a specific process must be applied.

2.7 Risk Assessments

- 2.7.1 Officers are required to carry out a risk assessment as part of the project initiation and planning process, and at the very least, in the following situations:

- (a) where the procurement is of strategic importance to the Authority and/or Above Threshold (a Covered Procurement) AND/ OR
- (b) is establishing a new Framework or Dynamic Market with multiple suppliers.
- (c) includes a Special Purpose Vehicle,
- (d) is for a contract duration in excess of five years,
- (e) includes design liabilities and/ or collateral warranties,
- (f) involves intellectual property,
- (g) involves a significant Health & Safety consideration,
- (h) is likely to be subject to significant inflation risks, or
- (i) where the spend relates to substantial direct awards or contract extensions that carry risks under ***the Applicable Public Procurement Legislation***.

2.7.2 The outcome of the risk assessment must both be:

- (a) documented in the Project Initiation Document as it will feed into the process design and governance/ approval process; and
- (b) added to the relevant Risk Register for monthly monitoring by the Project Lead, where appropriate.

2.8 Preliminary Market Engagement

2.8.1 Officers are required as part of designing both the **Competitive Tendering Procedure** and the **Associated Tender Documentation** to consider running a **Preliminary Market Engagement Event**. Such events should be used where a contract has been assessed as high value, high profile, complex or specialist in nature, the market is saturated, made up of SMEs, or is suitable for a consortia delivery model; or as otherwise directed by Procurement. This decision and reason are to be recorded in the **Tender Record**.

2.8.2 Where a **Preliminary Market Engagement Event** is to be used, it must be advertised using an appropriate notice, and the **Contracting Authority** must take reasonable steps to ensure that participants at an event do not have an unfair advantage in the subsequent procurement; this to be assessed using the **Conflict-of-Interest Assessments** and documented in the **Tender Record**.

2.8.3 All information shared before, during or after a **Preliminary Market Engagement Event** must also be included within the subsequent Associated Tender Documents (tender pack).

2.9 Routes to Market, Document Requirement & Timescales

2.9.1 The minimum process/ route to market is determined by the category and value;

2.9.2 The **Contracting Authority** has decided that procurements should be let in accordance with Table 1

2.9.3 For “below threshold” procurements, the table 2a sets out the stages, activities, and documents required for each of the three levels set out in table 1 above. An exception being where a framework is being used to procure the requirements, in which case the rules of the framework apply.

Table 2a – Document and Process Requirement Checklist

	Below Threshold			
	Level 1	Level 2	Level 3a	Level 3b

Stages	Activities/ Documents	Single quote	Request for Quotes	Simple Tender (G&S)	Simple Tender (Works)
Process for identifying/ inviting suppliers to quote/ tender	Identify suitable supplier(s)	Yes	Yes	X	X
	Include at least 1 local supplier	Yes	Yes	X	X
	Invite all Suppliers to tender	X	X	X	X
	Advert on e-tendering Portal	X	X	Yes	Yes
	Advert on Central Digital Platform	X	X	Yes	Yes
Communication methodology	Manage by email	Yes	X	X	X
	Manage on e-tendering portal	X	Yes	Yes	Yes
Suitability assessment	Excluded/ Excludable Check	Yes	Yes	Yes	Yes
	Due Diligence Form - Capacity & Capability	Yes	Yes	Yes	X
	SQ- Capacity & Capability (single Stage)	X	X	X	X
	SQ- Common Assessment Standard – single stage – concise form (Works only)	Yes	Yes	X	Yes
	SQ- Common Assessment Standard – separate stage – intermediate form (Works Only)	X	X	X	Yes
Documentation to be provided	Specification	Yes	Yes	Yes	Yes
	Contract	Yes	Yes	Yes	Yes
	RFQ/ Tender Response Document	X	Yes	Yes	Yes
	Form of Tender	X	X	Yes	Yes
	Tender Instruction inc. timescales	X	X	Yes	Yes
	RFQ Instructions inc. timescales	X	Yes	X	X
Evaluation Methodology	Price Only Evaluation model	Yes	Yes	X	X
	Quality & Price Evaluation model	X	Yes	Yes	X
	Quality, Social Value & Price Evaluation model	X	X	Yes	Yes
Review/ negotiation opportunity	Acceptability Review	Yes	X	X	X
	Opportunity to Negotiate	Yes	X	X	X
	Opportunity to refresh (ALL Suppliers)	Yes	Yes	X	X
process considerations	Min Number of evaluators	1	2	3	3
	Estimated timescales for process	2-4 weeks	4-6 weeks	6-10 weeks	12-14 weeks
Outcome notifications	Condition of Participation Outcome Letters	X	X	X	Yes
	Award/ Outcome Letters to all suppliers				Yes
	Contract Award Notice – Standstill				Discretionary
	Contracts Detail Notice (above £30k) on the Contracts Finder/ Central Digital Platform				Over £30k incl. VAT

2.9.4 For Procurements that are Above Threshold (**Covered Procurements**) the table 2b sets out the stages, activities, and documents to be included in the design of the procurement by Officers.

2.9.5 Where using a framework, officers must, in addition to the rules below, comply with the framework rules; where there is a conflict, the framework rules take precedence.

Table 2b – Document and Process Requirements Checklist

		Above Threshold			Any Value	
		Level 4	Level 4	Level 4	Level 4	Level 4
Stages	Activities/ Documents	Open Procedure	Competitive Flexible Procedure	Direct Award	Use Existing Framework	Using Existing DPS/ DM
Process for identifying/	Identify suitable supplier(s)	X	X	Yes	X	X
	Include at least 1 local supplier	X	X	X	X	X

inviting suppliers to quote/ tender	Invite all Suppliers to tender	X	X	X	Yes	Yes
	Advert on e-tendering Portal	Yes	Yes	X	X	X
	Advert on Central Digital Platform	Yes	Yes	X	X	X
Communication methodology	Manage by email	X	X	Yes	X	X
	Manage on portal	Yes	Yes	Yes	Yes	Yes
Suitability assessment	Excluded/ Excludable Check	Yes	Yes	Yes	Yes	Yes
	SSQ- Capacity & Capability Check (single stage)	Yes	Yes	Yes	Yes	Yes
	SSQ- Condition of Participation / limit suppliers	X	Yes	X	X	X
Associated Tender Documents to be provided	Specification	Yes	Yes	Yes	Yes	Yes
	Contract	Yes	Yes	Yes	Yes	Yes
	Award Criteria & Assessment Methodology Document	Yes	Yes	Yes	Yes	Yes
	Pricing Documents	Yes	Yes	Yes	Yes	Yes
	Form of Tender	Yes	Yes	Yes	Yes	Yes
	Tender Instruction inc. timescales	Yes	Yes	X	Yes	Yes
Evaluation Methodology	Price Only Evaluation model	X	X	Yes	X	X
	Quality & Price Evaluation model	X	X	X	Yes	X
	Quality, Social Value & Price Evaluation model	Yes	Yes	Yes	Yes	Yes
Review/ negotiation opportunity	Acceptability Review	X	X	Yes	X	X
	Opportunity to Negotiate	X	Yes	Yes	X	Yes
	Opportunity to refresh (ALL Suppliers)	X	Yes	Yes	X	Yes
process considerations	Min Number of evaluators	3	4	2	2	3
	Estimated timescales	14–18 weeks	over 26 weeks	2 weeks	4-12 weeks	4-12 weeks
Outcome notifications	Condition of Participation/ Limiting Suppliers Letters	X	Yes	X	N/A	
	Standstill Letters*/Assessment Summaries**/ outcome Letters	Yes	Yes	X	Yes	Yes
	Contract Award Notice (On Contracts Finder and Find a Tender Service */ Contract Award Notice/ Standstill on Central Digital Platform**)	Yes	Yes	Yes	optional	optional
	Contract Details Notice (On Central Digital Platform**)	Yes	Yes	Yes	Yes	Yes

* For procurements commenced before 28th October 2024

** for procurements commenced after 28th October 2024

2.10 Legal Considerations

2.10.1 Contracts

- (a) All contracts must be completed either in hardcopy or electronic form before contract commencement.
- (b) The contract may be a standard form, an amended standard form, a bespoke/ project specific contract, or a set of Heads of Terms; and these may be provided either in a finalised or draft form (depending on the route to market being used).
- (c) The agreed form of contract must be made available to suppliers as part of the **Associated Tender Documents** before they are required to submit a price/ tender.

2.10.2 Bonds & Guarantees

- (a) The Procurement Manager, taking advice from the Monitoring Officer and Director of Finance and Assets, will consider the appropriateness of requesting a Performance Bond and/or a Parent Company Guarantee where there are concerns about the financial performance of the tenderer. .
- (b) Where a bond or guarantee is deemed necessary this should be in a form acceptable to the **Contracting Authority**

2.10.3 **Non-Procurement Legislation**

- (a) The design of any procurement must take into account all relevant legislation; as applies to the **Contracting Authority**, the project, and the supply chain.
- (b) In the event that there is an incompatibility identified between two or more relevant pieces of legislation; this must be escalated to the **Monitoring Officer Director of Finance and Assets** for advice and a decision on how to manage the conflict.

2.11 Procurement Programme

- 2.11.1 In addition to the indicative timescales included in Tables 2a and 2b above, Officers will also need to plan for and include time allowances for complying with the **Contracting Authority's** approvals and reporting requirements. This being particularly significant where a procurement is of strategic importance and/ or is to be monitored through the Programme ispo.
- 2.11.2 Officers should work with the appropriate **Head of Service** and the **Procurement Manager** to create a procurement programme against which resource requirements can be managed.

3 Procurement Documentation

3.1 Overview

- 3.1.1 The procurement document required will depend on the selected route to market, the stages, and the activities to be completed; Tables 2a & b above set out the minimum information, process and notification requirements that must be adhered to.

3.2 Notices

- 3.2.1 The publication of the various notices is a legal requirement both to create effective competition and ensure transparency in the spending of public funds, the most commonly used notices and reasons for use are detailed below:
- 3.2.2 **An Early Market Engagement Notice** – A notice inviting suppliers to engage in an Early Market Engagement Event.
- 3.2.3 **A Tender Notice** – A notice inviting suppliers to submit a tender or a request to participate – minimum 25 days (unless urgency).
- 3.2.4 **Procurement Termination Notices** – used to inform the market that the Contracting Authority is terminating the procurement/ not making an award.
- 3.2.5 The **Contracting Authority** may also be required to publish other notices in relation to their plans, events, and/ or other decisions depending on the **Applicable Public Procurement Legislation**, to the decision – advice should be sought from the **Procurement Manager** as part of designing the procurement.

3.3 Instructions

- 3.3.1 Officers must ensure that they effectively and transparently communicate with all suppliers' details of the Competitive Tendering Procedure. This could include excluding suppliers, conditions of participation, tender rounds (including

intermediate rounds) and/ or negotiation stages), how long it should take and what is required from the supplier at each stage to enable them to progress/ have a chance to be awarded the contract.

3.3.2 This document must also detail the procedural rules including providing detail as to how the **Contracting Authority** will manage clarification, incomplete tenders or other rules, the breach of which could amount to their being excluded from the procurement process.

3.3.3 In addition, communications must make clear whether there is scope to modify the procurement after the Tender Notice has been published (this also needs to have been stated in the Tender Notice).

3.3.4 It must also detail how suppliers should communicate with the **Contracting Authority** during the procurement process and the various rounds/ activities.

3.4 Due Diligence / Standard Selection Questionnaire/ Conditions of Participation

3.4.1 It is essential that the **Contracting Authority** only appoint suppliers to deliver public sector contracts that are deemed suitable (meet the legal, ethical, and social standards) as set out in the **Applicable Public Procurement Legislation**.

3.4.2 Equally, it is important to check that they have the capability, capacity, and experience needed to deliver the specific technical requirement; and this is to be checked regardless as to the value of the contract. (noting that this can only be as a discrete/ separate stage where the contract is over a specific value for the specific category).

3.4.3 When procuring works, this capability, capacity, and experience assessment should, where appropriate be based on the **Common Assessment Standard** either in full or a modified version which as a minimum, meets the requirements of the Selection Questionnaire (SQ) to be used for non-works procurements.

3.5 Award Criteria (Evaluation Methodology)

3.5.1 Officers are required to design and effectively communicate the evaluation/ assessment methodology that will be applied to the tender responses submitted by suppliers.

3.5.2 This must include detailing whether the **Assessment Methodology** will be based on **lowest price** (where permitted in the tables above), **Price per Quality Point** method or a **price : quality ratio**. In either case, the following will apply.

(a) For quality and social value - the detailed questions include specific response guidance, the scoring methodology/ matrix, and the importance/ weighting to be applied to each question.

(b) For Price – details on how the value will be calculated and then how it will be evaluated (e.g., the weighting allocated to the price as a whole or parts therein or divided by the quality score).

3.5.3 Once the Tender Notice has been published, this Award Criteria cannot be amended; unless specifically allowed for in the Tender Notice, the amendment is not substantial, and the change is implemented before the last chance to submit tenders as per the **Applicable Public Procurement Legislation**.

3.6 Form of Tender

3.6.1 All Suppliers will be required to sign a disclaimer when submitting their tender; specifically relating to their conduct during the procurement, their adherence to the condition of tendering, the acceptance of the contract terms and their agreement to hold their price open for a specific amount of time.

3.7 Document Format

3.7.1 All documentation and communication will be issued and returned electronically, the documents may, therefore, be issued as attachment in Microsoft or Adobe formats (unless otherwise explicitly stated) or built into and answered in the e-tendering portal.

4 Procurement Process & Contract Management

4.1 Procurement Launch

4.1.1 The **Contracting Authority** is required to publish a full set of procurement/ Associated Tender Documents when they publish the Tender Notice. Table 2a & b above state when a notice is required and where it must be published.

4.1.2 Suppliers can access these opportunities on Central Digital Platform and the Authority's e-Procurement Portal.

4.2 Process Management

4.2.1 All competitive procedures (level 2 and above) must be managed through the **Contracting Authority's** e-tendering Portal; including all of the following activities.

(a) Communication with Suppliers

(i) All communication with suppliers should be, as far as practicable, via electronic means; e.g., the e-tendering portal.

(b) Clarifications

(i) The **Contracting Authority** reserves the right to clarify any omissions, ambiguities, or errors as part of its procurement procedure.

(ii) All clarifications (by suppliers and the **Contracting Authority**) must be raised and managed through the e-tendering portal.

(iii) Where a supplier asks a question, the questions and responses must be shared with all suppliers; an exception being where the supplier specifies that the question is commercially sensitive, and the **Contracting Authority** accepts this.

(iv) Where, as part of the evaluation process, the **Contracting Authority** identifies something that appears erroneous, needs to be clarified or was omitted, this must also be raised through the e-tendering portal.

(v) A record of all clarifications must be maintained.

4.3 Evaluation Process

4.3.1 The **Contracting Authority** will identify a team of Suitably Qualified and Experience Persons (SQEP) to carry out individual evaluations of their allocated question(s) in accordance with the Conditions of Participation/ Award Criteria questions as set out in the procurement documentation. All evaluators will then be required to attend a moderation session.

4.3.2 At some/ multiple points in the procurement, the **Contracting Authority** will/ must check a Supplier (and their supply chain's) suitability to deliver the contract. Where a supplier is assessed as **Excluded or Excludable** (mandatory or discretionary exclusion grounds) the supplier will/ may not be permitted to continue within the process.

4.3.3 At **Conditions of Participation** stage, depending on the route to market, the **Contracting Authority** may limit the number of suppliers to invite through to the

next round, depending on how the Competitive Tendering Procedure has been designed.

4.3.4 Additionally, at intermitted tender stages, the **Contracting Authority** may, through evaluation, limit the number of suppliers to invite through to the next round.

4.3.5 **At Award Stage**, in all covered procurements, the quality evaluation will be carried out by members of the panel independently of each other Before coming together for moderation. Price will be evaluated by Procurement.

4.3.6 The **Contracting Authority** has the right (but is not obliged) to seek clarification on the submissions as part of the evaluation process. Where this prerogative is utilised, all suppliers will be treated equally.

4.4 Negotiations

4.4.1 Negotiations will only be permitted where this is expressly stated in the procurement documentation, and this will be carried out in compliance with the stated process.

4.4.2 If a supplier attempts to negotiate a contract post award, where this is not permitted, the **Contracting Authority** may disregard the supplier and award the contract to the next ranked compliant supplier.

4.5 Preferred Supplier Identification & Assurance

4.5.1 Once a preferred supplier has been identified, the supplier suitability checks referenced above must be refreshed to ensure that they are still a suitable (not excluded) supplier.

4.6 Award Decisions and Approvals

4.6.1 Tender Record (Audit Trail)

(a) Throughout the life of the procurement, all decisions must be documented in a Project Tender Record; including the recommendation to award.

(b) This includes where a Direct Award is made.

4.7 Award Governance

4.7.1 Before suppliers can be notified of the recommendation, the decision to award must be approved in accordance with the **Contracting Authority's** scheme of delegation.

4.8 Supplier Notifications

4.8.1 Once the recommendation is approved, and before the Contract Award Notice is published, the **Contracting Authority** will collate and provide each supplier with an Assessment Summary (supplier feedback).

4.8.2 This summary must include the scores and the reason for those scores, for each of the award criteria, in consideration of the assessment methodology as set out in the procurement/ associated tender documents. Unsuccessful suppliers must also be provided with the same information relating to the successful supplier.

4.9 Standstill Period & Contract Notices.

4.9.1 For all Above Threshold/ Covered Procurements, the Authority must apply a **standstill period** before entering into the contract. (Excluding Utilities, Light Touch or contracts awarded under a framework, in which cases a standstill period is optional)

- 4.9.2 A **Contract Award Notice** must be published in accordance with **Applicable Public Procurement Legislation**.
- 4.9.3 Additionally, where required under the **Applicable Public Procurement Legislation**, the **Contracting Authority** may be required to publish a **Contract Details Notice** within 30 days on entering into the contract.

4.10 Contract Execution (Thresholds/ Approval)

- 4.10.1 All contracts must be signed or executed in accordance with the following rules:
- 4.10.2 A record of the contract and a copy of all executed contracts must be added to the Contract Register (with physical copies of contracts executed as a deed stored securely).
- 4.10.3 All Works contracts must be executed as a Deed, regardless of Value
- 4.10.4 All contracts over £1,000,000 will bear the common seal of the Authority
- 4.10.5 Any contract under £1,000,000 shall be signed by the Director of Finance & Assets or an Officer with written delegated authority to sign in accordance with approved levels, or may be executed by affixing the seal of Authority in accordance with SOA15 (SOA 15 – Standing Orders for the Authority and its Committees)

5 Contract Management

5.1 Overview

- 5.1.1 Contracts must be managed in accordance with the **Applicable Public Procurement Legislation** under which they were procured and the **Contracting Authority's** Contract Management Guidance Document.

5.2 Meetings & Performance Management

- 5.2.1 The **Procurement to Contract Management Handover Document** will be provided to the responsible Officer who will, where required, set up a series of meetings to kick off, administer and manage delivery of the contract. These meeting will as a minimum monitor and report on.
 - (a) **Supplier & Supply Chain Suitability** – ensure the **Contracting Authority** is not contracting directly or indirectly with unsuitable (Excluded/ Excludable) suppliers.
 - (b) **Key Performance Indicators** – delivery against the agreed levels.
 - (c) **Contract Performance** – e.g., satisfactory delivery of the contract.
 - (d) **Contracting Authority Payment Performance** –the **Contracting Authority** is required to pay the Supplier within 30 days of receiving a valid/ undisputed invoice.
 - (e) **Supplier Payment Performance** - the Supplier is required to pay their supply chain within 30 days of receiving a valid/ undisputed invoice.
 - (f) **Supplier Contracts** – the supplier is required to enter into a legally binding agreement with suppliers on whom they are relying on to meet the technical, legal, or financial **conditions of participation**.
 - (g) **Modifications** – all modifications to a contract must be documented, along with their value and justification.

5.3 Contract Modifications

5.3.1 All modifications must be managed in accordance with the contract and in compliance of what is permitted under the **Applicable Public Procurement Legislation**.

5.4 Termination

5.4.1 In the event that any performance requirements are not being met, the **Contracting Authority** may terminate the contract in accordance with the stated contract clauses. Where required, this to be reported in accordance with the **Applicable Public Procurement Legislation**.

5.5 Notices

5.5.1 Where required under the **Applicable Public Procurement Legislation**, the **Contracting Authority** may be required to publish a notice. These notices which may be required include.

- (a) **Contract Performance Notice** – used to report on KPIs and whether the contract is being delivered to the required standards.
- (b) **Payment Compliance Notice** – used to publish the **Contracting Authorities** payment performance.
- (c) **Contract Modification Notice** – used to publish detail of a proposed modification to a contract where there is an increase or decrease in the estimated contract value over a specific value.
- (d) **Contract Termination Notice** – used where the **Contracting Authority** terminates a contract in full.

6 Other Procurement Considerations

6.1 Waivers & Exemption Approvals

6.1.1 Where an officer seeks to deviate from the requirements of this document an Exemption must be completed and approved in accordance with at least one of the following rules.

6.1.2 Competitive quotes or tenders are not required where any of the following apply:

- a) effective competition is prevented due to government control;
- b) the supply or service is unique to a single supplier such as proprietary or patented goods or is deemed necessary due to the requirements of operational alignment and there is no satisfactory alternative;
- c) the service or works are of a specialist nature and can only be carried out by one supplier;
- d) the emergency requirements are brought about by events that could not have reasonably been foreseen;
- e) if the goods or services are not procured there is a risk of danger to life or property or a major impact on the Authority or the public.
- f) the market is such that effective competition does not exist and it can clearly be demonstrated that the proposed award represents best value for the Authority.

6.1.3 A waiver/exemption of up to £100,000 can be approved by the Director or Deputy Director of Finance & Assets, or Chief Fire Officer/Chief Executive, using the standard Exemption form which is to be retained by Procurement Manager.

- 6.1.4 Waivers/Exemptions of more than £100,000 up to the relevant thresholds as set out in Procurement Act 2023 can only be approved by the Executive Committee or the Fire Authority.
- 6.1.5 Waivers/Exemptions are not permitted over the relevant threshold although the Procurement Act does permit exceptions in very limited circumstances: Schedule 2 – Exempted contracts: <https://www.legislation.gov.uk/ukpga/2023/54/2024-05-23>
- 6.1.6 Where a contract is awarded under a waiver/exemption and is over £30k Inc. VAT, a Notice must be published on in accordance with **Applicable Public Procurement Legislation**.
- 6.1.7 Where an Officer deems that the proposed expenditure is exempt from these rules, the Officer must complete a procurement exemption form regardless of value and/or category/sector. Procurement and Legal must approve this.

6.2 Collaborative Procurements

- 6.2.1 Where the **Contracting Authority** is required under its own powers or at the request of a partner authority to procure on its behalf, those procurements must comply with **Applicable Public Procurement Legislation**, and other relevant legislation more generally,
- 6.2.2 Each **Contracting Authority** must comply with their own rules with regards Financial, Procurement and delegated authority requirements; and then equally, their own scheme of delegation for contract signature.
- 6.2.3 The Procurement team will review all new procurement requirements, ensuring that all opportunities to collaborate with partner organisations are exploited where they offer benefits to the Authority and collaborate with partners to develop new joint contracts.

6.3 Purchase Cards

- 6.3.1 The **Contracting Authority** operates a purchase card facility; these are used for low value or one-off incidental spend where it is not efficient to add a supplier to the finance system and carry out a competitive procurement process. They may not be used as a means to disaggregate or bypass these rules.

6.4 Community Right of Challenge

- 6.4.1 Section 81 of the Localism Act 2011 permits relevant bodies to submit Expressions of Interest to provide Authority Services.

6.5 Disposal of Goods & Assets

- 6.5.1 **Land and Buildings** owned by the **Contracting Authority** shall not be disposed by lease or freehold without the prior approval of the Executive Committee or the Fire Authority.
- 6.5.2 Prior to approval being sought the following information must be provided:
 - a) a complete description of all the land and/or property to be included in the disposal;
 - b) confirmation that the title of land and/or property is owned by the Authority;
 - c) the reason for the sale and any restrictions this may impose;
 - d) a report on any information which is held by the Authority in the previous use of the land which may affect the value (e.g. If the site was contaminated).
 - e) the estimated value of the land and/or property together with evidence of comparable properties in the location or by reference to other recent similar Authority transactions;

- f) in cases where land and/or property is being sold as potential housing development, evidence that planning applications will be obtained prior to the completion of the disposal in order to obtain the best possible price for the land;
- g) recommendations on the following:
 - i. issues that need to be resolved before marketing the land and/or property can commence;
 - ii. the preferred method of disposal (private treaty/ public auction/ formal tender);
 - iii. the title to be transferred, and;
 - iv. the minimum price the Authority is prepared to receive together with an asking price.

6.5.3 **Asset Disposals (other than Land/Property)**, If a corporate policy or contract is in place for disposal of the asset, this should be used.

6.5.4 Where the net book value of the goods is no more than £25,000 the disposal will be authorised by the Director of Finance & Assets. If the value exceeds £25,000 the disposal must be approved by the Executive Committee or the Fire Authority.

6.5.5 Except in circumstances in which the Director of Finance & Assets is authorising disposal in accordance with 6.5.4 in which case a donation to a charity approved by the Authority can be considered, disposal must be either by public auction or by obtaining three quotes from suitable contractors.

6.5.6 The Officer responsible for the disposal must ensure the Authority is receiving value for money, except in circumstances where the Director of Finance & Assets is authorising the disposal in accordance with 6.5.4; that the contractor is reputable; and the necessary anti-money laundering checks are in place by reference to the Director of Finance & Assets.

6.6 Grants

Application Process

- (a) The **Contracting Authority** is the recipient and administrator of funding from central government and potentially, other funders.
- (b) Where this funding is to be granted to organisations to deliver specific aims and objectives for the **Contracting Authority's** community, this will be administered through a formal process in accordance with the Authority's Financial Regulations..

6.6.2 Grant Agreements

- (a) Where a grant is issued, it must be awarded in accordance with the **Contracting Authority's** process for advertising, selecting, and awarding grants.
- (b) All grants must include:
 - (i) Details of what the applicant has committed to provide for the funding.
 - (ii) Payment details including any payment conditions and frequency; and
 - (iii) Any flow-down requirements relating to obligations that apply to the **Contracting Authority**, including where relevant, reporting and clawback options.
 - (iv) All grants which include clawback options **MUST** be executed as a Deed.