

Part 3 – Contract Procedure Rules

1 BACKGROUND

- 1.1 The Contract Procedure Rules (**CPR**) are made pursuant to Schedule 21 of The Localism Act 2011 and are intended to ensure that the Corporation procures the supply of works, goods and services, and the letting of concessions, in accordance with its lawful powers and this Constitution, and in a proportionate, transparent and fair manner that encourages competition.
- 1.2 Subject to the exceptions set out in paragraph 4 below, these rules apply to all procurement activity where the Corporation is to procure supplies, services or the execution of works, irrespective of the origin of funding to pay for such supplies, services or works.
- 1.3 These rules must be read together with the remainder of the Constitution, and in particular with the Financial Procedure Rules and the Scheme of Delegation.
- 1.4 The Board (or a committee of the Board) shall monitor compliance by the Corporation with these rules and undertake an annual review of procurement activity in light of the provisions of these rules, the Financial Procedure Rules and the Scheme of Delegation, and may present recommendations for amendments to these rules from time to time. Approval of such recommendations is subject to the rules elsewhere in the Constitution relating to the amendment of the Constitution.

2 DEFINITIONS

- 2.1 In these rules, capitalised terms shall have the meaning given in Part 1 of the Constitution, unless otherwise defined.
- 2.2 The following capitalised terms shall have the following meanings:

Authorised Officer means the officer of the Corporation with authority under the Scheme of Delegation (or their delegate) to undertake procurement activity;

Objectives means the objectives of the Corporation set out in paragraph 2 of Part 1 of the Constitution;

3 BASIC PRINCIPLES

3.1 Effective procurement can be a powerful tool in the achievement by the Corporation of its Objectives.

3.2 The Corporation, its members and officers shall observe the following overarching principles in conducting its procurement activity:

3.2.1 transparency;

3.2.2 proportionality;

3.2.3 non-discrimination; and

3.2.4 equality of treatment.

4 CONTRACTS TO WHICH THESE RULES DO NOT APPLY

4.1 These rules do not apply to:

4.1.1 employment contracts;

4.1.2 loans and grant funding agreements;

4.1.3 contracts for the acquisition or disposal of land and property; or

4.1.4 contracts for the provision of legal services in connection with, or in contemplation of, legal proceedings.

4.2 In addition to the exceptions set out above, the Authorised Officer may apply for the exemption of specific procurement activity from the application of these rules if:

- 4.2.1 the arrangement is a permitted exemption from the requirement for competition under United Kingdom law;
 - 4.2.2 the relevant works, supplies or services are required in circumstances of extreme urgency or unforeseeable emergency;
 - 4.2.3 there is only one supplier of the relevant works, supplies or services;
 - 4.2.4 the Authorised Officer can demonstrate there is no genuine competition in respect of the relevant works, supplies or services.
- 4.3 In any case in which an Authorised Officer seeks an exemption from these rules of any procurement activity, the Authorised Officer must provide full details to the Corporation Solicitor and the Finance Director. The Finance Director and Corporation Solicitor must determine whether any request for an exemption from these rules satisfy the requirements for an exemption.

5 **PRE-PROCUREMENT**

- 5.1 The Authorised Officer must conduct an options appraisal which is proportionate in all the circumstances to determine the appropriate route to market (including the applicable regulatory regime) for the supplies, services and/or works in question considering:
- 5.1.1 the value of the contract and the thresholds at which different regulatory regimes apply, having regard to the fact that the Corporation is a Contracting Authority within the meaning of the Public Contracts Regulations 2015;
 - 5.1.2 the classification of the contract as a works, services, supply, concession or mixed contract;
 - 5.1.3 the required specification of supplies, services and works;
 - 5.1.4 the requirement for the expenditure and its priority relative to other expenditure of the Corporation;
 - 5.1.5 the identification and management of risk associated with the supply of the

relevant goods or services, or the execution of works;

- 5.1.6 the market for provision of the relevant goods or services, or the execution of works; and
- 5.1.7 the relative merits of different procurement methods in achieving the objectives of the procurement.
- 5.2 The Authorised Officer may consult potential bidders or tenderers in general terms in relation to the nature, volume and standard of supply and other relevant matters in order to gain information that will assist in designing a competition to provide the supplies, services and/or works, provided that in so doing, the Authorised Officer does not prejudice any potential bidder or tenderer.
- 5.3 If there is any doubt as to the regulatory regime applicable to the procurement, or the procedure to be followed in connection with the procurement, the Authorised Officer shall seek advice from the Corporation Solicitor.
- 5.4 Social value must be included in any specification, whether done through formal tender or by approval to purchase from an Authorised Officer or by any other way. It must be clearly evidenced how a contract will deliver its social value commitments and how this will be monitored post contract award.

6 **THRESHOLDS AND AWARDS**

- 6.1 The Authorised Officer must calculate the total value of the contract as calculated pursuant to paragraph 6.2.
- 6.2 The Corporation must not split Contracts in order to avoid public procurement rules or calculate the value of Contracts in such a way as to deliberately avoid exceeding the Regulation Thresholds or any threshold identified in these Rules. Therefore unless otherwise agreed by the Corporation Solicitor all Contracts should be dealt with according to their total value and all Authorised Officers must calculate the total value (excluding VAT) of any Contract. The value of a Contract should be calculated as follows and applies to the aggregate value of the Contract:

Yearly contract value X contract period in years (including any option to extend) = Total value.

- 6.3 Procurement activities (including initiation of procurement activities, selection of procurement and advertising procedure, opening and acceptance of tenders or quotations, the award of contracts and the placement of orders under frameworks) shall be approved in accordance with the following thresholds:

Total Value	Award Procedure
£0 - £4,999.99	Minimum one quote
£5,000 - £24,999.99	Minimum three quotes
£25,000 – EU Threshold	Invitation to Tender by advertisement to at least three candidates (the opportunity must also be advertised on the UK Government Contracts Finder website within 24 hours of the opportunity being advertised in any other way)
Above EU Threshold	EU Procedure (where advertisement required under EU Procedure the opportunity must also be advertised on UK Government Contracts Finder website)

- 6.4 The approval to award the Contract must be given in accordance with the Corporation's Scheme of Delegation.

7 LEGAL ADVICE

- 7.1 The Authorised Officer should seek the advice of the Corporation Solicitor in relation to:
- 7.1.1 the application of procurement and/or concession contract regulatory regimes to any procurement activity;
 - 7.1.2 the application for any exemptions from the provisions of these rules; and
 - 7.1.3 the application of the regulatory regime to any contractual modifications proposed to any contract entered into under these rules during its term.

8 CONTRACT PROVISIONS AND CONTRACT FORMALITIES

8.1 Contract Provisions

- 8.1.1 All Contracts must be in writing and must set out the parties' obligations, rights and risk allocations. Advice must be sought from the Corporation as to the appropriate form of Contract to be used.
- 8.1.2 All contracts, irrespective of value, shall, where appropriate, clearly specify as a minimum:
- (a) What is to be supplied (i.e. the works, materials, services, matters or things to be furnished, had or done)
 - (b) The provisions for payment (i.e. the price to be paid and when)
 - (c) The time, or times, within which the contract is to be performed
 - (d) The provisions for the Corporation to terminate the contract and break clauses.
 - (e) The provision for collateral warranties from sub-contractors.

8.2 Contract Formalities

- 8.2.1 Once a decision to award has been made in accordance with paragraph 6.4, the Contract must be either be signed by the Officer authorised to award the contract under the Corporation's Scheme of Delegation or by Seal and in accordance with paragraph 8.3.2.
- 8.2.2 Where the Contract is to be in writing, the Authorised Officer must arrange for the Contract including all schedules and appendices to be signed by all parties.

8.3 Contracts under Seal

- 8.3.1 A Contract must be sealed where:
- (a) The Council wishes to extend the liability period under the contract and enforce its terms for up to 12 years; or
 - (b) The price to be paid or received under the contract is a nominal price and does not reflect the value of the supplies or services; or
 - (c) There is any doubt about the authority of the person signing for the other contracting party; or

(d) The contract value is £250,000 or above.

8.3.2 The seal must be affixed in accordance with the provisions of the Corporation's Constitution.

9 RETENTION OF DOCUMENTS

All documents and records in relation to the procurement and entry into contracts shall be stored by the Corporation and shall be made available for inspection by the Board at its reasonable request. Copies of fully signed contracts shall be retained for (a) six years post contract where entered into as a simple contract; (b) twelve years post contract where entered into as a deed; or (c) for any such longer period of time as the relevant contract stipulates.