

## Section 6 - Contracts Procedure Rules

### 4.6.1 Introduction

- 4.6.1.1 The primary objective of the Council's Contract Procedure Rules is to ensure that all contracts for works, goods and services are entered into in a manner that secures value for money and is demonstrably free from impropriety.
- 4.6.1.2 The Council's Contract Procedure Rules also ensure that:
- a Contract selection and award procedures are conducted fairly, in a properly regularised manner and in accordance with relevant legal requirements
  - b Strategic service delivery and supply partners are used wherever possible to ensure value for money is obtained and the cost to procure is minimised
  - c Local firms are employed whenever they offer as good value for money as other firms and their selection is in accordance with the Council's legal obligations, for example in relation to European procurement rules
  - d The Council's strategic policies are taken into account, for example in promoting the economic development of Herefordshire and in relation to protecting the environment
  - e Alternative methods of procurement compatible with the objectives of the Contract Procedure Rules have been considered
  - f Procurement procedures are kept under review in order to ensure continuous improvements to services and provide best value to the community of Herefordshire
  - g Procurement of ICT equipment is achieved using the Council's on-line procurement system.
- 4.6.1.3 The Deputy Chief Executive has overall responsibility for the preparation of the Council's Contract Procedure Rules. The senior Procurement Officer appointed by the Deputy Chief Executive has delegated responsibility for implementing the Council's Contract Procedure Rules.
- 4.6.1.4 The senior Procurement Officer works very closely with the Monitoring Officer due to the significant legal issues involved in contracting and procurement activity.
- 4.6.1.5 It should be noted that the Council's Contract Procedure Rules should be read in conjunction with the Functions Scheme (Part 3), Budget & Policy Framework Rules (Part 4 section 3) and Financial Procedure Rules (Part 4 section 7) in the Constitution.
- 4.6.1.6 Wherever it is mutually advantageous to do so, the Council should seek tenders in collaboration with other public bodies, for example either or both of our partners in Herefordshire Public Services (HPS) – NHS Herefordshire and The Herefordshire Hospital Trust. In the case of HPS it

must be noted that each Partner will need to comply with their own Contract Rules, which have key differences to the Council Rules – not least due to the European Procurement Directive governing Health Authorities having different thresholds to those applicable to Local Authorities. In the event that Contracts are to be established applicable to two or more partners the Contract Rules of each partner must be adhered to, and it is likely that separate contractual documents will have to be established for each Partner as they are separate legal entities. Officers must ensure the Rules and Governance procedures of each partner are followed throughout the procurement process. Where costs are to be shared between collaborating authorities it is advised that a formal agreement detailing such arrangements is drawn up between the Partners. Legal Services can provide assistance.

- 4.6.1.7 It should also be noted that failure to observe the Council's Contract Procedure Rules could lead to disciplinary action.
- 4.6.1.8 All financial limits outlined in this document exclude Value Added Tax (VAT).

## **STANDARDS OF CONDUCT**

### **4.6.2 Declarations of Interest**

- 4.6.2.1 Members and Officers must ensure that they comply with the provisions of the relevant Code of Conduct including on the Declaration and Registration of Interests and the Disclosure of Financial Interest requirements in Part 5 (sections 1 and 13) of the Constitution.

### **4.6.3 Gifts and Hospitality**

- 4.6.3.1 Any offer of gift, favour or hospitality made by any person or firm doing or seeking to do business with the Council must be treated with extreme caution.
- 4.6.3.2 Any such offers must be noted on the appropriate form and reported to the Monitoring Officer who shall maintain and make available to the Council's internal and external auditors a register of such matters.
- 4.6.3.3 Acceptance of gifts and hospitality must be in accordance with the Council's Code on such matters (part 5 section 9).

### **4.6.4 Honesty**

- 4.6.4.1 All Members must follow the Members' Code of Conduct (Part 5 section 1).
- 4.6.4.2 All employees must follow the Employee Code of Conduct (Part 5 section 13).
- 4.6.4.3 All officers must make sure that employees involved in an in-house tender for a contract do not take part in the preparation of tender documentation or the decision on the award of such a contract.

## **OFFICER RESPONSIBILITIES**

### **4.6.5 Chief Executive's Responsibilities**

- 4.6.5.1 The Chief Executive is responsible for resolving issues concerning the operation of the Council's Contract Procedure Rules, seeking advice as necessary from the Deputy Chief Executive **and** the Monitoring Officer.

### **4.6.6 Directors' Responsibilities**

- 4.6.6.1 All Directors are responsible for:
- a Monitoring compliance with the Council's Contract Procedure Rules in relation to contracts funded by their Directorate budget.
  - b Appointing Contract Monitoring Officers (paragraph 4.6.8) and ensuring they support them in their role and obtain regular briefings from them.
  - c Appointing a senior member of staff to the Corporate Procurement Group (paragraph 4.6.9).

- d Establishing, maintaining and utilising Approved Contractors Registers for their Directorate in accordance with section 4.6.11 of the Council's Contract Procedure Rules.
- e Bringing the provisions of the Council's Contract Procedure Rules to the attention of their staff.
- f Ensuring that the contracts within their Directorate are legal, comply with Contract Procedure Rules and Financial Procedure Rules (Part 4 section 7) and protect the Council's interests fully.
- g Ensuring that the Council's Criminal Records Bureau policies and procedures are followed.

4.6.6.2 The Deputy Chief Executive has overall responsibility for the preparation and review of the Council's Contract Procedure Rules but must do so in agreement with the Monitoring Officer.

#### **4.6.7 Monitoring Officer Responsibilities**

4.6.7.1 The Monitoring Officer is responsible for:

- a Providing legal advice and guidance to Members and officers on the operation of the Council's Contract Procedure Rules and all contracting and procurement activity.
- b Working with the Deputy Chief Executive on the preparation and review of the Contract Procedure Rules.
- c Assisting the Chief Executive with the resolution of questions regarding the interpretation of the Council's Contract Procedure Rules.
- d Advising on the preparation of contract documentation.
- e Maintaining a Central Procedures Exemption Register.
- f Informing relevant officers of any information received that calls into question the suitability of a contractor, consultant, agency or any other person carrying out work for the Council.

4.6.7.2 The senior officer responsible for the Corporate Procurement function provides the professional lead on all the non-legal aspects of contracting and procurement relating to works, goods and services. This officer is also responsible for supervising the Corporate Procurement Group's activities (paragraph 4.6.9) and maintaining a Contracts Register, which will be published on the Council website for public viewing.

4.6.7.3 All Heads of Service are responsible for providing Corporate Procurement with the information required to maintain a Contracts Register. The Contracts Register will include all contracts for purchases in total valued £10,001 and above and the name of the Contract Monitoring Officer or responsible officer.

#### **4.6.8 Contract Monitoring Officers' Responsibilities**

- 4.6.8.1 Directors shall appoint one or more Contract Monitoring Officer(s) to take responsibility for contracts with an estimated total value (excluding VAT) in excess of £10,001. Directors shall nominate a Contract Monitoring Officer for each contract and nominate one of their Contract Monitoring Officers to be responsible for the overall reporting and maintenance of contract records within the Directorate. A responsible officer shall be appointed for all contracts below £10,000.
- 4.6.8.2 Contract Monitoring Officers are responsible for liaising fully with Corporate Procurement and Legal Services on all matters relating to contracting and procurement.
- 4.6.8.3 Contract Monitoring Officers are responsible for agreeing exemptions from the formal tendering procedures with the senior Procurement Officer **and** the Monitoring Officer. All exemptions are to be approved in writing and reported in line with the requirements of 4.6.18 of the Council's Contract Procedure Rules.
- 4.6.8.4 Contract Monitoring Officers are responsible for liaising with officers administering contracts regarding any reports concerning failures by contractors to comply with contractual obligations or otherwise satisfactorily complete work.
- 4.6.8.5 Contract Monitoring Officers are responsible for advising the senior Procurement Officer and Monitoring Officer of any concerns they receive regarding the suitability of a supplier to carry out work for the Council.
- 4.6.8.6 Contract Monitoring Officers are responsible for maintaining records of the:
- a Contractors included in their Approved Contractor Registers
  - b Contracts awarded including the nature and value of contracts and the names of successful tenderers
  - c Total value of contracts awarded to each successful tenderer during each financial year
  - d Names of unsuccessful tenderers and reasons why their tenders were not accepted if the reason is other than price
  - e Details of any failure by a tenderer to comply with instructions to tenderers
  - f Details of the reasons for any tenders being withdrawn
  - g Details of failures by contractors to submit tenders after having requested and been invited to do so
  - h Contractors' performance
  - i Reasons for opening late tenders (paragraph 4.6.13)
  - j Reasons for exceptions to tendering procedures (paragraph 4.6.18)

- 4.6.8.7 The lead Contract Monitoring Officer appointed by the Director is responsible for keeping their Director briefed on contract and procurement issues within the Directorate.

#### **4.6.9 Senior Procurement Officer's Responsibilities**

- 4.6.9.1 Working to the Deputy Chief Executive, the senior Procurement Officer is responsible for providing advice on all aspects of the Council's Contract Procedure Rules save for the legal issues. The responsibility for the legal aspects of the Council's Contract Procedure Rules rests with the Monitoring Officer.

- 4.6.9.2 The senior Procurement Officer is responsible for chairing the Council's Corporate Procurement Group. Each Director shall appoint a senior officer to be a member of the Corporate Procurement Group and the membership shall include the Monitoring Officer or their nominated representative.

- 4.6.9.3 The Council's Corporate Procurement Group will meet at least quarterly in order to fulfil the following responsibilities:

- a Continually reviewing the Council's Procurement Strategy and making recommendations on appropriate enhancements to the Deputy Chief Executive to take forward in consultation with the Monitoring Officer for approval in line with the Council's arrangements for decision making as set out in the Constitution
- b Maintaining a register of current contracts
- c Monitoring compliance with the Council's Contract Procedure Rules and reporting non-compliance to the Deputy Chief Executive and Monitoring Officer for appropriate action
- d Preparing an annual report on the operation of and compliance with the Council's Contract Procedure Rules as a basis for the Deputy Chief Executive, in consultation with the Monitoring Officer, to report to the Audit & Governance Committee
- e Continually reviewing the Council's Contract Procedure Rules to ensure they keep pace with developing best practice and advising amendments as necessary
- f Prescribing the information needed from Contract Monitoring Officers and maintaining a central record of the information notified by Contract Monitoring Officers
- g Reviewing the Contract Procedure Rules Exemption Register and preparing an annual report on the exemptions recorded for the Monitoring Officer
- h Providing training and support for employees involved in procurement activities.

#### **4.6.10 Responsibilities of all Officers**

- 4.6.10.1 All officers are responsible for:

- a Following the Council's Contract Procedure Rules and any codes of practice, guidance or instructions provided by Corporate Procurement and the Monitoring Officer
- b Following all relevant English and European procurement laws
- c Seeking advice from Corporate Procurement and the Monitoring Officer in the case of any uncertainty
- d Ensuring that any departure from these Contract Procedure Rules is agreed with the senior Procurement Officer **and** the Monitoring Officer
- e Following the Council's Employee Code of Conduct (Part 5 section 13)
- f Following the Council's Financial Procedure Rules and the systems and procedures that are in place to control budgets properly
- g Declaring any interest that could influence their judgement in contracting matters to their Director and the Monitoring Officer
- h Not taking part in **any** decisions relating to the procurement of work, goods or services if they are part of a formal in-house bid for that work
- i Reporting any suspected fraudulent, corrupt or other irregularity to the Chief Internal Auditor
- j Ensuring that value for money is evidenced through the procurement process

## **APPROVED CONTRACTOR REGISTERS**

### **4.6.11 Introduction**

- 4.6.11.1 Approved Contractor Registers are very useful for some types of works, goods or services contracts and can be an efficient way of identifying suppliers.
- 4.6.11.2 Use of an Approved Contractor Register is particularly useful for low-value procurements such as building repairs for Council and school buildings, where tradesmen can be vetted formally in advance. Such a Register, however, must not be used for awarding contracts in excess of £50,000, where formal tendering procedures must be used to ensure best value is obtained (unless covered by a strategic service delivery partner).
- 4.6.11.3 Approved Contractor Registers should not be confused with Framework Agreements, which are a means to formally qualify single or multiple suppliers for a single type, or range of goods or services. Framework Agreements put in place the contractual terms and conditions that will apply to any awards under the Agreement, and are one of the methods that comply with European Procurement Directives. If the aggregate value of expenditure on any particular product, services or works is likely to exceed EU Procurement thresholds then advice should be sought from Corporate Procurement, as a process compliant with European procurement law may need to be followed. If an Approved Contractor Register exists and it is appropriate to use it – the value involved being clearly below both the European thresholds and the Council's threshold for formal tendering - then the Register should be used. All contractors will be subject to ongoing risk assessment.

- 4.6.11.4 When a valid Approved Contractor Register or Framework Agreement is used and there is therefore no need to advertise for potential bidders, then the procurement does not need to be posted on the Business Portal referenced in 4.6.13.24.
- 4.6.11.5 Contractors shall be added to an Approved Contractor Register by successfully completing a written application provided by the Council relevant to the specific Register they are applying for, which shall be subject to a written set of acceptance criteria. All Contractors applying to be added to the Register shall be treated equally and shall be subjected to an identical process. All Contractors shall be informed of the result of their application promptly in writing and, if unsuccessful, reasons for their failure are to be given. All applications and related correspondence are to be maintained on file during the life of the Register. All Approved Contractor Registers must be reviewed at least every two years, and Contractor details updated.

#### **Managing an Approved Contractor Register**

- 4.6.11.6 When establishing an Approved Contractor Register for the first time or reviewing an existing Register, Contract Monitoring Officers must advertise and invite applications from potential suppliers to be added to an Approved Contractor Register for the specific type of contract for works, goods or services that is required. Once a Register is in place they must also assess applications from any Contractors who approach the Council from time to time. Should the number of Contractors on an Approved Contractor Register reach a limit beyond which it would be too difficult to ensure each Contractor receives a reasonable number of opportunities for business, or would be generally unmanageable, then further applicants should be advised that the register is closed, but at the next Review Date they will be invited to apply and the Register will be re-assessed. At such Review Date, which shall be no more than two years apart for each specific Approved Contractor Register in accordance with 4.6.11.5, all applicants, including previous incumbents, shall be assessed and a new Register created. If a maximum number of Contractors are to be allowed onto the Register then applicants should be informed, and the highest-scoring ones selected.
- 4.6.11.7 Advertisements inviting applications from potential suppliers to be included in an Approved Contractor Register should be placed in the relevant local and trade press, the Business Portal, and if necessary, the EU Journal (OJEU).
- 4.6.11.8 When considering whether to include a contractor on an Approved Contractor Register, officers must look at each contractor's:
- a Past performance on similar contracts (quality and costs)
  - b Technical capacity
  - c Specialist experience in the type of products and services being procured
  - d Financial situation
  - e Public and employer's liability insurance arrangements



- f Health and safety arrangements
- g Equalities policy
- h Written references on the contractor's reputation.

4.6.11.9 Officers may add other criteria to help them select suppliers for inclusion on an Approved Contractor Register providing the additional criteria are relevant, do not prevent fair competition and do not illegally discriminate between suppliers. The Contract Monitoring Officer must establish the minimum standard required for each criterion before inviting applications for inclusion on the Approved Contractor Register.

4.6.11.10 An Approved Contractor Register must state the value of work that can be placed with each supplier at any one time.

4.6.11.11 All suppliers and contractors on an Approved Contractor Register must be given an equal chance of obtaining business for the duration of the register. This may necessitate adopting a system of rotation in seeking quotations, when there are a relatively large number of contractors on the register. In this case the policy and procedure should be in writing, and use of the procedure recorded, so that it can be demonstrated that it is being followed.

4.6.11.12 An Approved Contractor Register should normally contain at least five suppliers. Advice and guidance must be sought from Corporate Procurement where fewer than five suppliers qualify for inclusion as this might indicate that an Approved Contractor Register is not the most suitable route for the works, goods or services in question.

4.6.11.13 Officers must review their Approved Contractor Registers at least every two years using the criteria set out in 4.6.11.8 and 4.6.11.9 to assess whether a supplier should remain on the Register. The review should also consider whether the value of work that can be placed with each supplier at any one time should be revised.

4.6.11.14 Officers should consider suspending or removing suppliers from an Approved Contractor Register at any time if there are grounds to do so such as poor performance, disputes or poor financial standing. See 4.6.12 below for guidance on how to suspend or remove a supplier from an Approved Contractor Register.

4.6.11.15 All contracts let using an Approved Contractor Register must comply with the Council's Contract Procedure Rules in every respect. Corporate Procurement or the Monitoring Officer are able to advise on any aspect of the Council's Contract Procedure Rules.

#### **4.6.12 Suspending or Removing a Supplier from an Approved Contractor Register**

4.6.12.1 If an officer receives a materially adverse report concerning a contractor's performance or compliance with tendering procedures that suggests they should no longer be on an Approved Contractor Register, the officer must

seek advice from Corporate Procurement who will, in consultation with the Monitoring Officer, advise what further action is necessary.

- 4.6.12.2 If Corporate Procurement determines, after consultation with the Monitoring Officer, that the supplier should be suspended or removed from an Approved Contractor Register, the officer shall follow this advice and amend the Register accordingly. The officer shall also include the contractor in a List of Suspended and Removed Contractors and notify the contractor accordingly.
- 4.6.12.3 An officer must seek approval as outlined in 4.6.12.1 and 4.6.12.2 to lift a suspension on a supplier or re-admit a supplier to an Approved Contractor Register.
- 4.6.12.4 If an officer concludes as a result of a routine review of an Approved Contractor Register that a supplier should be removed from that Register, then they must seek advice as outlined in 4.6.12.1 and 4.6.12.2.

## **FORMAL QUOTATION AND TENDERING PROCEDURES**

### **4.6.13 Introduction**

- 4.6.13.1 West Mercia Supplies (WMS) should be used for all purchases of office supplies and consumables, janitorial supplies and personal protective equipment. Photocopiers, Multi-Functional Devices and basic desktop printers should be sourced from the Council contract with Altodigital. (More specialist printers and related standalone equipment may need to be sourced elsewhere, and ICT will provide advice on these). All other mandatory supply contracts with strategic service partners, (as described in 4.6.13.5), such as Amey Herefordshire, that the Council establishes from time to time, must be used for applicable items, and details of such arrangements shall be advised via routine communication channels and details maintained on the Council Intranet by Corporate Procurement.
- 4.6.13.2 Proposals to use an alternative supplier for such goods must be approved prior to an order being placed using a form prepared by the senior Procurement Officer.
- 4.6.13.3 Requests to use an alternative supplier to WMS will be approved or otherwise by Corporate Procurement.
- 4.6.13.4 Failure to comply with the Council's policy on the use of WMS will lead to a corresponding budget reduction equivalent to the total price of the supply.
- 4.6.13.5 The Council, sometimes in conjunction with NHS Herefordshire, will engage with external suppliers to create large-scale strategic service delivery partnerships. This form of commissioning will become more common as the Council seeks to secure longer term efficiency gains and it is likely that it will involve larger amounts of more complex services within each contract's scope. Officers must use Council approved strategic service delivery partners if the work required is within the scope of the Council's service delivery contracts. Should officers be unclear of the scope of such contracts, they should seek advice from the Corporate

Procurement Section prior to proceeding with any procurement exercise. Corporate Procurement maintains details of the current service delivery partners on the intranet.

- 4.6.13.6 Procurement of ICT equipment must be achieved using the Council's online ICT procurement system accessed via the intranet.
- 4.6.13.7 The following procedures must be followed for all other types of procurement:
- a **Purchases in total valued up to £1,000** – no requirement for formal quotations or tenders but officers must be able to demonstrate value for money has been obtained and that all other relevant aspects of the Council's Contract Procedure Rules have been followed.
  - b **Purchases in total valued between £1,001 and £10,000** – at least two formal quotations must be obtained (see 4.6.13.11 to 4.6.13.19)
  - c **Purchases in total valued between £10,001 and £50,000** – at least three formal quotations must be obtained (see 4.6.13.11 to 4.6.13.19)
  - d **Purchases in total valued between £50,001 and up to relevant EU limit (£156,000)** – formal tendering arrangements must be followed (see 4.6.13.18 to 4.6.13.86)
  - e **Purchases in total valued in excess of relevant EU limit (currently circa £156,000 for goods and services)** – European procurement rules must be followed (see 4.6.14 of the Council's Contract Procedure Rules).
- 4.6.13.8 As the value, size and complexity of the contract increases, the degree of risk to the Council will also increase. Where contract values exceed £50,000, a formal risk assessment must be undertaken and a managed risk register maintained throughout the procurement process. Advice may be sought from the Council's risk and insurance officers.
- 4.6.13.9 It is important to respect confidentiality in quotation and tendering processes. Officers must not therefore disclose any information they have about potential suppliers to other persons/ suppliers potentially competing for the same contract
- 4.6.13.10 Official orders should be raised for works, goods and services in line with the Council's Financial Procedure Rules.

#### **Formal Quotation Procedure**

- 4.6.13.11 The requisite number of formal quotations must be obtained for all purchases (other than those with WMS or within the scope of a strategic service delivery contract) where between £1,001 and £50,000 in total (see 4.6.13.7).
- 4.6.13.12 A quotation is a written estimate of the cost to execute works or supply goods, materials or services.
- 4.6.13.13 Officers must produce a description of the goods or specification of the services required before seeking quotations. This will enable a fair comparison of prices. The level of detail in the description or specification

will depend on the value and type of goods or services being purchased. Advice can be obtained from Corporate Procurement.

4.6.13.14 Formal quotations should contain as a minimum the following information:

- a Date and reference number
- b Supplier company details
- c Council officer/department name
- d Item/part number
- e Description specification
- f Quantity required
- g Unit/service cost
- h Total cost
- i Delivery information
- j Payment details
- k Any special requirements
- l Details of any discounts/rebates.

4.6.13.15 An appropriate Approved Contractor Register should be used if available to select the suppliers that will be asked to provide a quotation, when the contract value will be less than £50,000.

4.6.13.16 Every person or firm who makes a quotation must be treated fairly. Selection of the preferred supplier from the quotations received must be done in accordance with the principles set out in the formal tendering procedures (4.6.13.20 to 4.6.13.86).

4.6.13.17 Any departures from the formal quotation procedures must be discussed with Corporate Procurement who will agree or otherwise any exception in consultation with the Monitoring Officer. A record must be kept of the reasons for, and approval given for, departing from the formal quotation procedure.

4.6.13.18 Formal quotations for contracts up to £50,000 should be kept for a minimum of two years after the contract has been awarded.

4.6.13.19 When Council Officers are engaging in procurement activity on behalf of schools, or other third parties who will be the actual contracting entity, and the Council is therefore acting as the agent of the school or other party, they must adhere to the Council Contracts Procedure Rules, recognising that the Council may be held liable for any complaints or challenges relating to the process. The documents sent to bidders in such cases must contain a disclaimer saying that the Council will not be held liable should the contracting entity not follow the Council's recommendation in making an award. The Council must provide a written recommendation to the school or third party regarding making the award, pointing out that if they make a different choice to that recommended it will be at their own risk. Advice on wording can be obtained from Corporate Procurement.

### **Formal Tendering Procedure**

- 4.6.13.20 Formal tendering procedures apply to all contracts with a total value between £50,001 and the prevailing European procurement limit for supplies and services except for those with WMS or any other Council approved strategic service delivery contract. To ensure that European procurement rules are properly applied, including aggregation rules, Officers should liaise with Corporate Procurement before commencing any procurement with an estimated value in excess of £50,000. Aggregation rules also apply to Council formal tenders, so that requirements must not be artificially split to fall below the £50,000 threshold to avoid the need to follow the correct process. Advice should be sought from Corporate Procurement if uncertain.
- 4.6.13.21 It is important to respect confidentiality during all stages of the formal tendering process. Officers must not therefore disclose any information they have about potential suppliers to others persons/suppliers potentially competing for the same contract.
- 4.6.13.22 Advice and guidance on how to describe the works, goods or services required for formal tendering purposes can be obtained from the Strategic Procurement Manager.

#### **Selecting Potential Tenderers**

- 4.6.13.23 Potential suppliers must be sought by placing advertisements in the most appropriate media, in addition to the Business Portal, in accordance with 4.6.13.24.
- 4.6.13.24 Advertisements for potential suppliers may be placed at the officer's discretion in relevant trade or professional journals, local and national newspapers, the Council's website, or national websites administered by responsible bodies, and **must** be placed in the EU Journal (OJEU) if the contract is likely to exceed the relevant EU threshold. All contracts with a potential value exceeding £5,000 must be advertised on the Portal provided for that purpose via the Council's website, in addition to any discretionary advertising by other means. Where advertisements are published in OJEU such publication must **precede** their appearance on the portal, or any other supplementary means of advertising, to comply with EU regulations. Note, for clarity, publication is still required on the Portal if OJEU is used, and must quote the specific OJEU Reference for the contract, which suppliers should be asked to quote in their application.
- 4.6.13.25 The only occasions when procurements do not need to be advertised on the Portal is when the contract value will be less than £5,000, or if an existing Approved Contractor Register or Framework Agreement is to be used to source suppliers and advertising is therefore not required. Note that use of an Approved Contractor Register to source suppliers is limited to procurements where the value is below £50,001.
- 4.6.13.26 For formal tenders (values in excess of £50,000), the minimum number of tenderers required is three, and for tenders compliant with European law the minimum is normally five. In the event that officers find that they have less than the minimum number of applications they must consult with Corporate Procurement before they proceed further. Procurement will

advise on whether it may be possible to attract further applicants or if an Exemption needs to be sought in accordance with 4.6.13.34.

- 4.6.13.27 The method for collecting the information needed from potential suppliers to assess whether to invite them to submit a formal tender and the method of assessment must be agreed before the selection process begins.
- 4.6.13.28 The entire process of advertising, selecting suppliers to tender, through to final award, is highly prescribed under European law for all procurements over the relevant threshold. Advice needs to be sought from Corporate Procurement before commencing a procurement in excess of EU thresholds (including ensuring sufficient time is allowed to carry out a compliant process, which can take several months). For procurements below the European thresholds, the advice in clauses 4.6.13.20 to 4.6.13.86 applies.
- 4.6.13.29 A standard business questionnaire may be used to collect information from the potential suppliers but the same questionnaire must be used for all potential suppliers. Alternatively, information may be gathered by inviting potential suppliers to express an interest in writing covering the specifics identified by the officer in the advertisement or letter of invitation. Market testing can be carried out to find market interest, including approaching suppliers directly, but pre-selection of suppliers for potential contract award must not commence until the market testing process has been completed and the actual formal procurement process begun. In the case of procurements above the EU thresholds, highly-prescribed processes apply. Further advice can be obtained from Corporate Procurement.
- 4.6.13.30 The method for selecting tenderers must:
- a Treat all tenderers in the same way
  - b Keep the process clear and simple
  - c Record all the selection decisions.
- 4.6.13.31 Officers must consider the following when selecting suppliers to be invited to tender for a particular contract:
- a Past performance on similar contracts (quality and costs)
  - b Technical capacity
  - c Specialist experience in the type of products and services being procured
  - d Financial situation
  - e Public and employer's liability insurance arrangements
  - f Health & safety arrangements
  - g Equalities policy
  - h Written references on the contractor's reputation
  - i Environmental policies.

- 4.6.13.32 Officers may also use information from referees and from company searches to assess which persons or firms to invite to submit a tender.
- 4.6.13.33 At least three suitable suppliers should be invited to tender. If there are only three suitable suppliers (e.g. due to the number of suppliers responding to an advertisement) they must all be invited to tender.
- 4.6.13.34 If there are only one or two suppliers indicating they wish to be considered then an exemption from the Contract Procedure Rules **must** be sought from the senior procurement officer and Monitoring Officer and their approval given before proceeding. The names or details of suppliers must not be passed on to anyone at any time during the tendering process.

#### **Inviting tenders**

- 4.6.13.35 Each potential supplier should be sent an invitation to tender, the contract documents, a tender form and a return label bearing the name of the contract and the word 'Tender', together with instructions on when and how the tenders should be returned. They must be instructed to return their tender in a plain envelope addressed to the officer who has been approved by the Monitoring Officer to receive the tenders. There should be no marks or writing on the envelope, other than the address and the return label, such that the identity of the tenderer cannot be discerned from the envelope. Tenderers must be advised not to use a franking machine if they propose posting their tender. Alternatively, officers may use electronic means to despatch and receive tenders, as long as the process is deemed at least as secure as the paper process described in this clause. Such electronic means may include, for example, HM Government's Buying Solutions Online Procurement System. Any such electronic method must be approved for use by Corporate Procurement and Legal Services.
- 4.6.13.36 A copy of the Council's standard contract terms should also be included so that the tenderer is aware of the terms and conditions that will form part of the final contract. When an industry standard contract is used advice should be sought from the Monitoring Officer on which of the standard clauses to incorporate.
- 4.6.13.37 Tenderers must be told exactly how and when tenders shall be returned and that tenders sent by other means, or received after the deadline, will not be accepted.
- 4.6.13.38 Tenders can be returned by hand or by post to the Monitoring Officer, Brockington, 35 Hafod Road, Hereford, HR1 1SH or to the officer and address otherwise approved by the Monitoring Officer. Tenderers should be advised to use postal services that provide them with proof of postage and the time of sending. Alternatively, tenders can be returned by an electronic method approved by Corporate Procurement and Legal Services.
- 4.6.13.39 Tenderers should be advised that tenders will be opened at the same time and no advantage is secured by seeking to delay submission until the last moment.

- 4.6.13.40 The invitation to tender **must** state that the Council does not bind itself to accepting the lowest or any tender.
- 4.6.13.41 The invitation to tender needs to explain how the Council will deal with any mistakes it identifies in the tender documentation submitted (see Assessing Tenders below).
- 4.6.13.42 The invitation to tender **must** set out the criteria that will be used to select the preferred supplier. The assessment criteria must not prevent fair competition or discriminate between tenderers in any way. They must also comply with relevant legislation.
- 4.6.13.43 The tender assessment criteria should include:
- a Price
  - b Technical standard
  - c Experience and skills
  - d Financial proposals
  - e Financial standing
  - f Contract management arrangements
  - g Quality management proposals
  - h Delivery proposals
  - i Employment practices
  - j Environmental considerations
  - k Diversity issues.
- 4.6.13.44 If an officer wants to know whether the supplier has received an invitation to tender, they must enclose a 'Tender Received Confirmation Form' with the invitation to tender documentation. They must not contact the potential supplier to check they have received the documentation.
- 4.6.13.45 During the period allowed for preparing tenders, all communications with tenderers must be recorded. All communications should go through the Contract Monitoring Officer who can obtain the information requested from others if necessary. If a tenderer raises a query during this period, it must be passed on to all other tenderers, together with the reply. The identity of the tenderer who has raised the query **must not** be revealed.

### **Receiving Tenders**

- 4.6.13.46 The original tender return date should be fixed and unchanged except in appropriate and necessary circumstances. Any extension should not provide either advantage or disadvantage to any of the tenderers. Any proposal to extend the closing date must be agreed by Monitoring Officer.
- 4.6.13.47 Should it be necessary to extend the time limit for the submission of tenders all potential tenderers should be informed of the new date in good time before the original submission date.



- 4.6.13.48 Tenders should be recorded in a register that shows the time, date and name of the contract as they are received. Tenders delivered by hand should be acknowledged with a written receipt and the time, date and name of the contract similarly recorded in the register. All tender envelopes must be date stamped on receipt with the time of receipt written on the envelope and countersigned by the receiving officer.
- 4.6.13 49 Tenders must not be opened until the final deadline for receiving them. Tenders must be stored securely until it is time for them to be opened. The storage used should be locked and access to it available only to those officers in Legal Services, or approved by the Head of Legal Services, responsible for handling tenders, and they must ensure that keys are secure at all times. For tenders received electronically opening should be password-protected and opened under independent witness, and details recorded in the same way as for paper submissions.
- 4.6.13.50 A Legal Services officer, or an officer delegated to that role by the Monitoring Officer, shall be responsible for opening the tenders for a contract in the company of the Contract Monitoring Officer\responsible officer and an independent witness (an officer from a different Directorate). The Legal Services officer (or delegate) must ensure the number of tender envelopes to be opened tallies with the number recorded in the tender register and shall sign the register to indicate that this is the case.
- 4.6.13.51 If a tender is opened by mistake before the deadline, a record of how this has happened should be attached to the packaging. The tender should be re-sealed immediately and its contents kept confidential.
- 4.6.13.52 If fewer tenders are received than expected, officers should not contact tenderers to ask whether they have sent one in.
- 4.6.13.53 In exceptional circumstances, officers, in consultation with and the approval of the Monitoring Officer, can accept a late tender (see the section "Late Tenders" below).

#### **Opening & Recording Tenders**

- 4.6.13.54 All tenders relating to a contract must be opened at the same session and opened one at a time. Each officer present must sign, date and write on the tender form the time that the tender was opened.
- 4.6.13.55 The key documents submitted by each tenderer must be recorded on a tender return form along with value. Each officer must check, sign and date the form.
- 4.6.13.56 The Contract Monitoring Officer must sign each page of the tender document unless it is very long. In this case, they may only sign the pages that include pricing information.
- 4.6.13.57 Once the tenders have been opened, they should be held in a secure place by the Contract Monitoring Officer.

## **Late Tenders**

- 4.6.13.58 The Monitoring Officer must reject tenders that are received after the deadline unless none of the tenders submitted on time have been opened or there is proof that the tender was posted in enough time to meet the deadline (for example, the postmark date is the day before the deadline for a first class delivery or is three days before the deadline for a second class delivery) or other exceptional circumstances exist which the Council, in exercising reasonable discretion, deems sufficient to allow acceptance. The core principle is that tenders should not be rejected if the delay is due to the actions of the Council, a third party, or force majeure.
- 4.6.13.59 If the Monitoring Officer decides to accept a late tender, they must treat that tender in the same way as all other tenders. The full details of the decision to accept the late tender must be recorded.
- 4.6.13.60 If the late tender is rejected, it should be returned to the tenderer and a record of posting kept on file for two years with the other documents from the tender opening. The tender should be opened, under the same conditions as the other tenders, merely to ascertain the return name and address. The tenderer should be informed in writing of the date and time the tender was received.

## **Assessing Tenders**

- 4.6.13.61 The Contract Monitoring Officer will ensure the tenders are assessed in accordance with the advice provided by Corporate Procurement.
- 4.6.13.62 Before assessing the tenders, the Contract Monitoring Officer needs to check that each part of them meets the requirements of the specification. The responsible officer also needs to make sure that there are no mistakes and that nothing is missing
- 4.6.13.63 If there are substantial omissions of data or documentation that make it impossible to assess the tender, this should be fully recorded and the tender rejected.
- 4.6.13.64 The accuracy of the figures in each tender must be checked. If mistakes are found that do not affect the overall price of the goods or services, the tenderer must be contacted and asked to confirm the correct figures in writing.
- 4.6.13.65 A record of all mistakes must be kept and attached to the tender documents together with any corrections agreed with the tenderer.
- 4.6.13.66 The correct tenders can then be assessed in accordance with the assessment criteria that have previously been agreed in accordance with these formal tendering procedures.
- 4.6.13.67 The assessment criteria used for the tender evaluation must be the same in all respects as the criteria advised to prospective suppliers at the beginning of the process.
- 4.6.13.68 Assessment details are strictly confidential and must not be passed on to anyone else. During the course of the assessment, tender documentation

must be kept secure and confidentiality preserved. If, in a major tendering exercise, the documentation is going to be copied or divided to aid the assessment process, a record should be maintained to identify those to whom such documents have been issued and the date returned.

- 4.6.13.69 The Contract Monitoring Officer shall retain a complete set of documents in a secure place in case any parts of the documentation go missing.
- 4.6.13.70 Once the assessment has been completed the responsible officer should produce a report showing:
  - a The result of the assessment of each tender
  - b A comparison of assessment results
  - c The recommendation on which tenderer should be offered the contract.

### **Accepting and Rejecting Tenders**

- 4.6.13.71 The Contract Monitoring Officer should accept the tender that is:
  - a The lowest tender that meets the evaluation criteria; or
  - b The tender that will be of most economic benefit to the Council.

Where this is not the lowest tender, the Contract Monitoring Officer should explain in writing, giving objective reasons why that tender is preferred, and seek approval from Corporate Procurement and the Monitoring Officer to proceed to appoint. A note should be placed on file to show that Corporate Procurement and Monitoring Officer has reviewed the evaluation process and agreed with the outcome.

- 4.6.13.72 The Contract Monitoring Officer should always consider whether their recommendation for awarding the contract should be put before a Cabinet Member, the Cabinet or Council for formal approval **before** contacting the successful tenderer. The Functions Scheme (Part 3) sets out the Council's procedures for making decisions. If in doubt, seek advice and approval from Corporate Procurement and the Monitoring Officer. Tenderers should be told at the outset if Cabinet or Council approval will be needed.
- 4.6.13.73 The officer should write to inform the successful tenderers of the decision as soon as possible **after all necessary approvals have been received**.
- 4.6.13.74 Care should be taken when issuing letters informing the tenderer that they have been successful as an unqualified acceptance of the tender may create a binding contract before the formal documentation has been completed and signed by the appropriate authorised signatories. In the case of an EU-compliant process the contract cannot be formally awarded until the losing bidders have been informed and the Mandatory Standstill Period has elapsed without any challenges arising from the bidders.
- 4.6.13.75 Unsuccessful tenderers should be informed at the same time that the successful tenderer is notified. If unsuccessful tenderers ask why their tender was not successful then general feedback should be given on the

areas of their tender that scored poorly. The Contract Monitoring Officer should not become involved in detailed arguments or discussions in order to justify their decision. If the tenderer requires more detailed information the officer should advise them to put their request in writing and seek appropriate advice before responding in writing. In the case of EU – compliant processes, a detailed scheme of requirements means a comprehensive briefing on the results of the tender has to be provided to all bidders. With the increasing tendency for losing bidders or third parties to ask for such information under the Freedom of Information Act, it is essential that full details are recorded and can be supplied easily for all tender exercises, both above and below the EU thresholds.

### **Negotiating**

4.6.13.76 The Contract Monitoring Officer must comply with the following conditions when negotiating on price with tenderers:

- a Guidance must be sought from Corporate Procurement who will consult with the Monitoring Officer as necessary before advising on the appropriate course of action
- b The Contract Monitoring Officer must be accompanied by another officer during negotiations with tenderers and a full written record of all discussions should be made and signed by both officers. The results of the negotiation process must be shared with Corporate Procurement
- c All negotiations must be carried out at the Council's offices
- d Officers must not discuss one tenderer's detailed prices, conditions or terms with another tenderer
- e Officers must respect the confidentiality of information provided by tenderers
- f If negotiations lead to a material change in the description of the work, goods or services or other terms, the officer must invite everyone who has provided a tender to re-tender on the basis of the revised contract. If this is the case, the whole process should start again.

4.6.13.77 If there is an in-house tender for a contract, negotiations must not take place without permission from the Corporate Procurement as outlined in 4.6.13.76 a above.

### **Awarding a Contract**

4.6.13.78 Before awarding any contract, the officer responsible must first obtain the approval of their Director or their authorised representative with confirmation of:

- a The competency of the proposed contractor and the adequacy of any necessary insurance
- b The prices quoted by the proposed contractor
- c The consistency of the procedure followed and the proposed action with the objectives and requirements of the Council's Contract Procedure Rules, including European Procurement Law if applicable

- d The financial stability of the proposed contractor
- e A satisfactory credit check if the Council has not dealt with that contractor for more than two years for contracts in excess of £50,000. A credit check should be carried out on all short listed tenderers for contracts in excess of the European procurement limit for supplies and services.

Where necessary advice should be sought from a specialist in the appropriate function: Accounts; Insurance and Risk; Procurement; or Legal.

- 4.6.13.79 Once this approval has been granted, the officer needs to complete the contractual arrangements. The documents should clearly set out the name of the supplier, what the contract is for, and the terms and conditions of the contract. They should also show that there is suitable insurance to protect the Council's interests. Advice on insurance matters is available from the Council's Insurance and Risk Manager. Where an official purchase order is used and where it makes reference to the Council's General Terms and Conditions for Services, Supplies and Works those terms will apply to the contract. If this is not the intention and a specific set of contractual terms and conditions has been provided, this must be made clear in the body of the purchase order. If in any doubt with the contract documentation, advice should be sought from the Monitoring Officer.
- 4.6.13.80 All contracts must be signed by the Monitoring Officer or their delegated officer. The Monitoring Officer will only sign contracts if the relevant Director has given written authority for them to do so and written assurance that the Council's Contract Procedure Rules have been complied with in all respects. The relevant Director must also sign all contracts where European Procurement Rules apply.
- 4.6.13.81 Officers are responsible for seeking advice from Legal Services if they are not clear about the form of contract to be used or changes are needed to the standard form of contract used by the Council.
- 4.6.13.82 The Contract Monitoring Officer must inform Corporate Procurement of the contract and must record the details of all contracts in the Contracts Register.
- 4.6.13.83 Officers must keep written records of each contract, including all the quotes and letters they have received and notes of telephone calls and meetings about selecting suppliers. These records must be made available to internal or external audit as required by them.

#### **Publication of Contract Details**

- 4.6.13.84 Officers must not give tenderers or suppliers any information about the bids or affairs of any other tenderer or contractor unless the law requires it. All information relating to tendering and contracting procedures is confidential.

- 4.6.13.85 The only information officers should make public is the name of the successful tenderer. However, this information must not be released until the contract has been awarded and signed.
- 4.6.13.86 If information is published on the amounts of the other bids received, the names of the unsuccessful tenderers must not be disclosed. Officers should ensure that all tenderers are aware that this information will or may be published when they are invited to tender and that the Council will need to meet its obligations under the Freedom of Information Act.

## **EUROPEAN PROCUREMENT RULES**

### **4.6.14 Introduction**

- 4.6.14.1 Whilst European Procurement Rules prevail, officers are expected to follow the principles set out in the Council's Contract Procedure Rules.
- 4.6.14.2 The European Procurement Rules are complex with significant penalties if the legislative requirements are not strictly adhered to. All officers are therefore responsible for seeking advice and guidance at all stages of the process from Corporate Procurement and the Monitoring Officer.

### **European Limits**

- 4.6.14.3 The following table sets out the public sector thresholds for 1 January 2010 to 31 December 2011:

	<b>Supplies</b>	<b>Services</b>	<b>Works</b>
Public Sector Contracting Authorities	£156,442	£156,442	£3,927,260
Indicative Notices	£607,935	£607,935	£3,927,260

- 4.6.14.4 The figures are revised every two years on 1st January and officers should check with the Monitoring Officer for the latest values.
- 4.6.14.5 If a contract for supplying goods or services will be worth more than the limits set out in the table above, the contract is likely to be governed by EU Directives and English Regulations. Note that calculation of the value of the contract is to be as detailed in 4.6.14.7.
- 4.6.14.6 The value limits apply to individual contracts and groups of contracts with similar characteristics that are to be agreed in the same year. Contracts with similar characteristics have to be added together to see whether they have reached the value limits. This is to prevent organisations packaging similar contracts into small units to avoid the rules.
- 4.6.14.7 Individual contract values are calculated as follows:
- a If the contract is part of a series or is renewable, its value will be:
    - i The value given in the previous financial year (over a 12-month period);

or

- ii The estimated value over the next 12 months from the date the goods, work or service is first provided
  - b If the contract is for a fixed term of less than four years, the value will be the total value of the contract
  - c If the contract has no end date or is for a fixed term of more than four years, the value will be the monthly value of the contract multiplied by 48.
- 4.6.14.8 If more than one of the above applies, the method that gives the highest value must be used. Again this is to prevent organisations by-passing the rules by choosing a calculation that puts a contract or group of contracts below the value limit.
- 4.6.14.9 Once the value of each contract has been calculated, it must be added to the value of other contracts with similar characteristics. If the value of a contract or group of contracts with similar characteristics is greater than the value limit, European procurement rules must be followed. To ensure that the aggregation rules are properly applied, Contract Monitoring Officers should liaise with Corporate Procurement for all contracts in excess of £50,000.
- 4.6.14.10 Before going any further with a European procurement process, officers must discuss the next steps with Corporate Procurement and the Head of Legal Services.

#### **Awarding Contracts Subject to European Procurement Rules**

- 4.6.14.11 Before issuing an award notification, or if contact is made by an unsuccessful tenderer at any time during the standstill period, contact Corporate Procurement or your external procurement consultants for advice.
- 4.6.14.12 To ensure compliance with European procurement rules there must be a **minimum** standstill period of 10 calendar days between advising all tenderers of the award decision and the actual award of the contract. This 10 day standstill period incorporates other specific deadlines that can result in the standstill period being extended.
- 4.6.14.13 The standstill period is to allow unsuccessful tenderers an opportunity to challenge any award decision. Where a legal challenge is made within the 10 day standstill period, the contract cannot be awarded until the outcome of the application to court is known. **It is imperative that any correspondence amounting to an acceptance letter is not issued during this period.**
- 4.6.14.14 The written notification to the unsuccessful tenderers which triggers the standstill period **must** contain:
- a The award criteria
  - b The tenderer's score (where appropriate)
  - c The winning tenderer's score (where appropriate)
  - d The name of the winning tenderer.

4.6.14.15 The European procurement rules require tender results to be published in the Official Journal within 48 days of the date a contract is awarded. This must be done in consultation with the Monitoring Officer.

4.6.14.16 Corporate Procurement and the Monitoring Officer must be consulted on all EU procurements.

#### **4.6.15 FRAMEWORK CONTRACTING**

4.6.15.1 Framework contracting involves selecting a contractor from a list of contractors on an approved "Framework" for given works, goods or services. The contractors are included on the Framework following a tendering exercise to establish capability, quality and value. The tendering procedures will have had to comply with any relevant English or European law.

4.6.15.2 Purchasers can enter into subsequent 'call-off' contracts from a Framework. Framework contracting is becoming increasingly prevalent in an attempt to avoid bureaucracy and achieve best values via economies of scale.

4.6.15.3 Frameworks can be externally formed (for example. by Government) or internally formed (for example. by the Council). The number of approved contractors on a Framework can vary but the minimum number should be three. Frameworks should not be confused with internal Approved Contractor Registers.

4.6.15.4 When an external Framework is formed general terms and conditions are agreed between the Framework contractors and the Framework organiser. These pre-agreed terms and conditions will form a major part of any purchaser's 'call-off' contract and contractors are not obliged to agree to any amendments to them.

4.6.15.5 From 1 January 2006, **EU Procurement Directive 2004/18/EC** has governed the process under which contracts under Frameworks are to be awarded and in the interests of competition has placed a maximum duration of 4 years on any Framework (unless special justification can be made for a longer period).

4.6.15.6 Officers must take the following steps to ensure compliance with EU Procurement Directive 2004/18/EC when using a Framework contract created since 1 January 2006:

- a All the contractors on a Framework that are capable of meeting the purchaser's specification must be allowed to submit a bid against that specification.
- b The reasons for selecting a smaller number of contractors on a Framework must be clearly evidenced.



- c Award of contract must be on the basis of the criteria for the Framework as set out in the Framework agreement itself, that is, within the original tender documentation setting up the Framework.

4.6.15.7 Corporate Procurement and the Monitoring Officer must be consulted on all Framework contract procurements.

#### **4.6.16 OTHER PROCUREMENT PROCEDURES**

4.6.16.1 There are a number of other procurement procedures that may be available in particular circumstances:

- a Design contests, particularly in the fields of planning, architecture, civil engineering and information technology.
- b Public housing schemes where the size and complexity of schemes necessitate the close collaboration between the Council and contractors.
- c Concession contracts where contractors derive income from the completed work, for example a toll bridge.

4.6.16.2 Corporate Procurement and the Monitoring Officer must be consulted regarding any proposals to follow any such procedures.

#### **4.6.17 CONTRACTS UNDER SEAL**

4.6.17.1 All contracts for building, engineering, property repairs and property maintenance works excluded from the Council contract with Amey Herefordshire, with an estimated value in excess of the European procurement limit for supplies and services (currently £156,000), shall be sent to the Monitoring Officer for execution under the Council's seal.

#### **4.6.18 EXEMPTIONS FROM THE COUNCIL'S CONTRACT PROCEDURE RULES**

4.6.18.1 Exemptions from the Council's Contract Procedure Rules are only allowed in exceptional circumstances such as there being insufficient suppliers for the goods, works or services being procured. Permission must be obtained for any exemption from the senior Procurement Officer **and** Monitoring Officer. Major contracts may be subject to the European Procurement Rules and the Monitoring Officer cannot provide an exemption from those requirements.

4.6.18.2 A written application for an exemption from the Council's Contract Procedure Rules must be made to the Monitoring Officer setting out the reasons for the application. The Monitoring Officer must respond within 21 days. If agreed by the Monitoring Officer, the exemption must be approved in accordance with the Council's Constitution.

4.6.18.3 The normal procedure for the completion of Exemption Forms is for the responsible officer to obtain the signature of their Director on the form to demonstrate their approval of the request, then forward the form to the

senior Procurement Manager for their approval. If the senior Procurement Manager is satisfied they will forward to the Monitoring Officer or their deputy for final approval and signature. A copy bearing all three signatures will be filed by Legal Services and copies also returned to the responsible officer and Corporate Procurement for their records.

- 4.6.18.4 Tenders need not be invited in accordance with the provisions of the Council's Contract Procedure Rules if an urgent decision is required, for example for the protection of life or property or to maintain the functioning of a public service. Wherever possible though, at least two quotations must be obtained and any decision made or contract awarded shall be reported to the relevant Director, Cabinet Members and Local Members. Such emergency contracts should be let for as short a period as possible to allow their replacement with a contract that is fully compliant with the Contract Procedure Rules at the earliest practical opportunity.