

## **PART D10 – Contract Rules**

### **Rules of Procedure**

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### **SECTION 1 – GENERAL COMPLIANCE AND SCOPE**

#### **1. COMPLIANCE**

- 1.1 Each contract entered by the Authority shall be entered into pursuant to or in connection with the Authority's functions and shall comply with:
  - 1.1.1 All relevant legislation, statutory guidance and codes ("the Legislation");
  - 1.1.2 The relevant UK procurement rules and the National Procurement Policy Statement;
  - 1.1.3 The Authority's Constitution including these Contract Procedure Rules ('Contract Rules'), the Authority's Financial Procedure Rules and Scheme of Delegation;
  - 1.1.4 The Authority's strategic objectives, Council Plan, Procurement Strategy and relevant policies
- 1.2 The policy of the Authority, and the objective of these Contract Rules, is to ensure that all works, supplies and services:
  - 1.2.1 Are obtained with probity, and propriety to the ensure the proper expenditure of public funds;
  - 1.2.2 Are appropriate for the purpose for which they are obtained;
  - 1.2.3 Deliver Value for Money;

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- 1.2.4 Maximise public benefit while acting with integrity, fairness and equal treatment;
- 1.2.5 Sharing information for the purposes of allowing Suppliers and others to understand the Authority's procurement policies and decisions;
- 1.2.6 Remove or reduce barriers for SMEs where possible

## **2. SCOPE**

- 2.1 These Contract Rules apply to any arrangement made by, or on behalf of the Authority for the carrying out of works, the provision of services or the supply of supplies.
- 2.2 These Contract Rules do not apply to:
  - 2.2.1 contracts of employment which make an individual a direct employee of the Authority;
  - 2.2.2 the acquisition, disposal or transfer of land (which must be carried out by an Officer with delegated authority) except where services or works are required by the Authority as part of the land transaction e.g. development agreements;
  - 2.2.3 contracts relating to the placement of deposits or raising of loans under the treasury management strategy;
  - 2.2.4 purchases made at public auction;
  - 2.2.5 the giving of grants.
- 2.3 Any procurements commenced, and all contracts entered into before 24 February 2025 are subject to the Public Contract Regulations 2015 ('the 2015 Regulations'). Any contracts or call-offs awarded following those procurements, even if commenced on or after 24 February 2025 will be subject to the 2015 Regulations throughout their term. New procurements

will be governed by the requirements of the Procurement Act 2023 (“the 2023 Act”).

## **SECTION 2: COMMON REQUIREMENTS**

### **3. CALCULATION OF CONTRACT VALUES**

- 3.1 Unless otherwise stated, the calculation of the estimated value of a procurement shall be based on the total amount payable in pounds sterling **inclusive of VAT**, as estimated by the Authority over the entire contract period, including any proposed extension to the initial contract period.
- 3.2 The Estimated Total Contract Value of a framework agreement or dynamic market shall be the total value of all of the call-off contracts that may be awarded under that framework Agreement or Dynamic Market.
- 3.3 The estimated value is to be calculated as at the date the contract is first advertised or Suppliers are contacted, whichever occurs first.
- 3.4 If the Authority is unable to estimate the value of a contract in accordance (for example because the duration of the contract is unknown), the Authority must treat the estimated value of the contract as an amount of more than the threshold amount for the type of contract being procured.
- 3.5 Contracts must not be artificially under or overestimated or divided into two separate contracts where the result is to avoid the application of these Contract Rules or the Legislation.
- 3.6 The estimated value of a concession contract is the maximum amount the Supplier could expect to receive under or in connection with the contract including, where applicable, amounts already received.

The amount a Supplier could expect to receive includes the following:

- 3.6.1 amounts representing revenue (whether monetary or non-monetary) receivable pursuant to the exploitation of the works or services to which the contract relates (whether from the Authority or otherwise);

- 3.6.2 the value of any goods, services or works provided by the Authority under the contract other than for payment;
- 3.6.3 amounts that would be receivable if an option in the contract to supply additional services or works were exercised;
- 3.6.4 amounts that would be receivable if an option in the contract to extend or renew the term of the contract were exercised;
- 3.6.5 amounts representing premiums, fees, commissions or interest that could be receivable under the contract;
- 3.6.6 amounts received on the sale of assets held by the supplier under the contract.

#### **4. THRESHOLD VALUES**

- 4.1 The UK Government biennially sets Threshold Values for the purposes of applying the Legislation. There are different Threshold Values for services and supplies, light touch services, works and concessions (services and works) contracts.
- 4.2 The Authority will take the Threshold into account when determining how to conduct a procurement.

#### **5. SPEND CATEGORY DEFINITIONS**

- 5.1 Services – the provision of any type of service other than those which fall within the definition of a works contract or other specific services contract.
- 5.2 Supplies – the purchase, lease, rental or hire purchase (with or without an option to buy) of goods or products, which may also include, incidental to the supply, the siting or installation of the product.
- 5.3 Works – the execution or design and execution of construction, civil engineering, demolition, building installation and building completion works.
- 5.4 Light Touch Services – the provision of certain health, education, social, religious, hospitality, legal, security, community and prison related services.

- 5.5 Concession Contracts– the supply, for financial interest, of works or services where at least part of the consideration for that supply is a right for the Supplier to exploit the works or services and where the Supplier is exposed to real operating risk.
- 5.6 Relevant Health Care Services - any service that has a direct effect on the health of the service user accessing it. Covered by the Healthcare Services Provider Selection Regime Regulations 2023 (PSR)

## **6. AUTHORISED OFFICERS AND THEIR RESPONSIBILITIES**

- 6.1 In support of these Contract Rules, the Authority may issue internal guidance, procedures and standard documents. Procurement and contract management processes must be conducted in accordance with the relevant Legislation and any internal guidance.

Authorised Officers are persons responsible for carrying out a procurement and who have received corporate training on these Contract Rules and the Legislation.

Authorised Officer key responsibilities include (but are not limited to):

- To act in accordance with these Contract Rules and not exceed the limits of their authority.
  - To maintain ongoing knowledge and awareness of the Contract Rules and guidance to ensure compliance.
  - To take all appropriate measures to effectively identify, remedy and prevent any conflicts of interest which may arise to avoid any distortion of competition and ensure equal treatment of Suppliers.
  - To comply with the Authority's Code of Conduct for Employees
  - All Officers, agents of the Authority or other stakeholders having access to information or documentation about the procurement will be bound by the confidentiality requirements set out. The Authority will consider any requirements for the disclosure of information under the Regulations, Freedom of Information Act and any other requirement or permission that is applicable under the law.
- 
- To appraise the need for the expenditure and its priority
  - To consider which procurement procedure is most likely to achieve the commissioning and procurement objectives,

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- To assess and manage any risks associated with the procurement process and contract management.
- To publish Transparency Notices where required by the Legislation
- To develop high quality specifications and Key Performance Indicators (KPIs), including having regard to relevant Authority policies
- To identify and consider whether any barriers to the participation of SMEs can be removed or reduced (e.g. Lotting)
- To consider Social Value (Social Value Act 2012) within the procurement process to improve the economic, social and environmental well-being of the geographical area
- Where the procurement involves a potential change to services must ensure compliance with the Authority's duty to consult under Section 3 of the Local Government Act 1999 and,
- the Authority's duties under the Equality Act 2010
- To consult users as appropriate about the proposed procurement procedure, contract standards and performance and user satisfaction monitoring;
- To produce and maintain adequate records and a clear audit trail
- To manage supplier debarment, disputes, late tenders and missing materials
- To develop appropriate and proportionate award criteria
- To ensure the evaluation and moderation process is carried out in a fair, transparent and consistent manner.
- To manage award notifications and standstill periods.
- To ensure effective management of contracts
- To ensuring sufficient budget to sustain the contract for the life of the contract;
- To use appropriate terms and conditions for the contract and liaising with the Head of Legal Services where required.
- To raise a purchase order for the contract

### 6.2 Any procurement that is:

- Over budget or
- Involves the transfer of staff either to or from the Authority

shall be referred to the Executive for decision, unless otherwise stated elsewhere in the Authority's Constitution.

## 7. CONTRACT VALUES

### Below Threshold Procurements

7.1 The appropriate route to market as identified in Table 1, considering the value, risk and complexity of the contract and market capacity.

### Above Threshold Procurements

7.2 The Authority will use only those procedures permitted under the Legislation. The procurement team will establish the appropriate route to market considering the value, risk and complexity of the contract and size of the market. This includes the use of Frameworks and Dynamic Markets which the Authority is eligible to access and where the procurement can be undertaken in accordance with the specific call-off process.

The 2023 Act/ the 2015 Regulations (where this still applies to legacy contracts) compliant procedures – include, but are not limited to:

- Open Procedure
- Competitive Flexible Procedure
- Frameworks and Open Frameworks
- Dynamic Markets (and any legacy Dynamic Purchasing Systems)
- Direct call offs and mini competitions run in line with the terms of the 2023 Act/ the 2015 Regulations complaint framework agreements procured by the Authority or other contracting authorities.
- Compliant Direct Awards
- Horizontal and Vertical contracting arrangements (Schedule 2 of the 2023 Act).

7.3 Before carrying out a procurement process, Authorised Officers shall establish whether there is a suitable framework agreement, dynamic market or existing contract to which the Authority is a party that provides a mechanism for ordering goods, services and works and, if so, consider whether it's use is appropriate, legal and adheres to the principles of Best Value. Where there is no suitable framework agreement, dynamic market or existing contract the Authorised Officer must follow the relevant process identified below.

### Table 1: Contract Values

<b>Estimated Total Contract Value</b>	<b>Procurement Procedure</b>
<p>Less than £30,000 (figures <b>inclusive</b> of VAT)</p>	<p>The Budget Holder can purchase from the source that offers the Best Value for Money to the Authority.</p> <p>This could be demonstrated by obtaining two written Quotes where possible and via the e- procurement system where appropriate.</p> <p>Wherever possible the quotations should be from a local supplier, with a particular preference to SMEs.</p> <p>Contracts shall be by purchase order with the relevant standard terms and conditions attached or otherwise drawn to the attention of the Supplier.</p> <p>If over £5,000 Budget Holder must register the completed contract with the Procurement Team in order to meet the Authority's transparency obligations.</p> <p>A waiver will be required if best value cannot be demonstrated.</p>
<p>= &gt; £30,000 but less than £60,000 (figures <b>inclusive</b> of VAT)</p>	<p>Minimum of three quotes through the Authority's e-procurement system using the Request for Quote Template</p> <p>Wherever possible the quotation(s) should be from a local supplier, with a particular preference for SMEs.</p> <p>Contracts drafted or approved by the Head of Legal Services must be used</p> <p>Budget Holder must register the completed contract with the Procurement Team in order to meet the Authority's transparency obligations.</p>

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= > £60,000 but less than relevant Threshold (figures <b>inclusive</b> of VAT)	<p>Advertised competitive Invitation to Tender process through the Authority's e-procurement system.</p> <p>A formal written contract prepared or approved by the Head of Legal Services must be used.</p>
Above relevant Threshold (figures <b>inclusive</b> of VAT)	<p>Advertised competitive Invitation to Tender process through the Authority's e-procurement system</p> <p>The Authority will use only those procedures permitted under the Legislation. The Procurement Team will establish the appropriate route to market considering the value, risk and complexity of the contract and size of the market.</p> <p>A formal written contract prepared or approved by the Head of Legal Services must be used. Any framework terms and conditions must be agreed and approved.</p>
Disposal of assets (other than land)	<p>Where the Authority is selling or disposing of assets without the provision of services then the Authority's obligation is to achieve the best value for the items. This could be achieved by obtaining quotes or conducting a full tender, where suitable. Any disposal must be in accordance with the Authority's Financial Procedure Rules</p>
Disposal of Land	<p>These Contract Rules apply where the Authority is disposing of or acquiring land and there is an element of services or works required by the Authority as part of the transfer (e.g. development agreements)</p>

## 8. WAIVERS

8.1 Subject to the written approvals referred to in Contract Rule 8.3 below, waivers of any of these Contract Rules shall only be given in the following exceptional circumstances: -

8.1.1 Where the supplies, works or services are of a unique or specialised nature or are identical or similar to or compatible with existing provision so as to render only one or two sources of supply appropriate, including:

- an upgrade
- where the contract concerns, wholly or mainly, repairs to or the supply of parts for existing proprietary machinery, plant or equipment and the repairs to or the supply of parts cannot be carried out practicably by alternative Suppliers;

or

8.1.2 The supplies to be purchased are proprietary articles or are sold only at fixed prices; or

8.1.3 The price of services or supplies to be purchased is controlled by trade organisations, or if for other reasons there would be no genuine competition; or

8.1.4 Where the Authorised Officer in consultation with the Section 151 Officer and the Head of Legal Services considers that the services to be provided or the work to be executed or the supplies or materials to be purchased are urgent, subject to the action being reported to the next Executive Meeting; or

8.1.5 Specialist consultants, solicitor, barrister, agent, artist or professional advisers are required and

- there is no satisfactory alternative; or
- Evidence indicates that there is likely to be no genuine competition; or

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- It is, in the opinion of the Authorised Officer, in the Authority's best interest to engage a particular consultant, solicitor, barrister, agent, artist or adviser; Or
- 8.1.6 Where the Authority is purchasing property, or is taking a service back in house, which has associated contracts and in the opinion of the Authorised Officer it is in the Authority's best interests to acquire those contracts; or
- 8.1.7 The works to be executed or the supplies or materials to be purchased can only be carried out or supplied by a statutory body.
- 8.2 Exemptions to the application of these Contract Rules for above Threshold Contracts will only be considered where a Direct Award (as defined by the 2023 Act) is permitted under the Legislation and the specific circumstances under which the Direct Award can be undertaken are met.
- 8.3 Where it is possible to waive these Contract Rules, any such waiver must be agreed by:
- 8.3.1 Executive for contracts above £100,000 or the Head of Paid Service in consultation with the Leader of the Authority, the Section 151 Officer and the Head of Legal Services if the matter requires an urgent decision and a meeting of the Executive cannot be called: or
- 8.3.2 The Budget Holder (if authority to do so has been delegated to them in accordance with the protocol for sub delegation contained in Appendix D of the Constitution) or a Director, Chief Executive, in consultation with the Section 151 Officer and the Head of Legal Services if the contract does not exceed £100,000.
- 8.4 The decision to waive Contract Rules and the reasons for it shall be recorded on the waiver form and were made under Rule 8.3.2 or the urgency procedure under Rule 8.3.1, the waiver shall be kept by the Head of Legal Services.
- 8.5 For above Threshold contracts, the decision to Direct Award and the reasons for it shall be recorded on the Direct Award Justification Report and were made under Rule 8.3.1 and permitted by the Legislation. The Report shall be kept by the Head of Legal Services.
- 8.6 Contract terms approved or drafted by the Head of Legal Services must be used for contracts let using waivers and Direct Awards.

### **SECTION 3: PROCUREMENT PROCESS: PRE-PROCUREMENT ADVERTISING, EVALUATION AND AWARDING**

#### **9. PROCUREMENT PROCESS**

- 9.1 The Authority's Tender templates will be used for all above Threshold procurements to ensure compliance with Legislation and consistency for Suppliers, other than where use of a Framework Agreement or Dynamic Market requires use of specific Tender documents.
- 9.2 The Authority's below Threshold templates will be used for below threshold procurements where it is appropriate to do so, subject to the nature and complexity of the Contract, to provide consistency for Suppliers.
- 9.3 The Tender/ Quotation documents must specify the requirement, award criteria, evaluation process, the clarification process and timescales for submission.

#### **10. PRE-PROCUREMENT CONSIDERATIONS**

- 10.1 Pre procurement considerations should follow internal guidance and templates.
- 10.2 For covered procurements:
  - 10.2.1 Pre-market engagement must be considered to help develop the requirements and process, with details published in the relevant transparency notices.
  - 10.2.2 The Authority has a duty to consider Lots and whether the goods, services or works to be supplied could reasonably be provided under more than one contract.
  - 10.2.3 If the Authority determines that Lots are not appropriate then you must provide reasons for not doing so in the tender notice.
  - 10.2.4 Conflict of interest assessments must be undertaken for each procurement and regularly reviewed throughout the procurement and

contract management process with details published in the relevant transparency notices.

## **11. SELECTION CRITERIA**

### **Covered Procurement– Conditions of participation and Grounds for Exclusion**

- 11.1 Conditions of participation are not mandatory for Covered procurements (covered procurements meaning the award, entry into and management of a public contract); however, where used, the Authority can confirm certain aspects of the supplier's suitability or ability to deliver the contract. Conditions of participation can include a suppliers legal and financial capacity, and technical ability to perform a contract.
- 11.2 The assessment 'gateway' for mandatory and discretionary exclusions (indicating excluded and excludable suppliers) must be adhered to including the use of the debarment list.
- 11.3 Regulated below threshold procurement cannot restrict the submission of tenders by reference to suppliers' selection criteria but the Authority may ask for this information and assess at award stage if it wishes.

## **12. AWARD CRITERIA**

- 12.1 The evaluation criteria will be proportionate and applicable to the nature, value, level of risk and complexity of the Contract and cover both selection criteria (where applicable) and award criteria.
- 12.2 Award Criteria must be directly linked to the subject matter of the Contract and consider an assessment of quality, price and social value.
- 12.3 The Authority can take a broad view of what can be included in the evaluation methodology of tenders or quotes in assessing value for money. Internal policies such as carbon reduction, social value and supply chain security should be considered when agreeing award criteria, where relevant to the opportunity being tendered.

This means contracts do not have to be awarded on the basis of the lowest price or that price must always be weighted higher than quality. Contracts, as

appropriate, and in accordance with Legislation and internal guidance may be made on the basis of

- price;
- quality, or
- best price-quality ratio

The most advantageous tender could be the lowest price if for example off the shelf goods are being procured.

### **13. ADVERTISING AND TRANSPARENCY NOTICES**

13.1 Procurement must be carried out electronically through the e- procurement system where the Contract is above Threshold, including where competition is restricted (e.g. Framework further competitions and Dynamic Market call-offs).

13.2 Procurement must be carried out electronically through the e- procurement system where the Contract is below Threshold where the contract value is £30,000 or above unless otherwise permitted by these Contract Rules or by the Procurement Team and the Section 151 Officer.

13.3 All relevant 2023 Act transparency notices must be published as required during the process on Find a Tender service.

### **14. SUBMISSION AND OPENING OF TENDERS AND QUOTES**

14.1 The manner and deadline for submissions will be set out in the Invitation to Tender or Request for Quote documents.

14.2 The Authority will only accept Tenders submitted in accordance with the Tender/ Quote requirements.

14.3 No Tenders or Quotes received after the specified date and time for receipt shall be accepted or considered by the Authority unless the Authorised Officer, after consulting with the Procurement Team the Section 151 Officer and the Head of Legal Services, is satisfied that there is sufficient evidence that technical difficulties with the e- procurement system prevented the Tender or Quote from being submitted before the closing time.

14.4 Where there are errors or discrepancies within a Supplier's Tender response the Authority will give the Supplier the opportunity to rectify the errors or discrepancies only if it is determined the Supplier will not gain an unfair advantage.

14.5 The Authority must follow key requirements when assessing public contracts following a competitive tendering procedure:

- If a supplier does not satisfy the conditions of participation, the Authority **must** disregard the tender
- If a supplier is not a United Kingdom supplier or a treaty state ("as defined by the 2023 Act") supplier, or intends to subcontract the performance of all or part of the contract to a supplier that is not a United Kingdom supplier or treaty state supplier, the Authority **may** disregard their tender
- If a supplier submits a tender which breaches a procedural requirement set out in the tender notice or associated tender documents, then the Authority **may** disregard their tender
- If a supplier submits what the Authority considers to be an abnormally low-priced tender the Authority **may** disregard their tender. Before disregarding, the Authority must notify the supplier and give it opportunity to demonstrate that it will be able to perform the contract for the price offered.
- must disregard any tender from a supplier that is an excluded supplier
- must consider whether a supplier is an excludable supplier and **may** disregard any tender from an excludable supplier.

## 15. EVALUATION

15.1 Tenders and Quotes shall be evaluated against the criteria set out in the Invitation to Tender or Request for Quote and in accordance with The Legislation (where applicable)

15.2 The criteria shall be strictly observed at all times throughout the contract award procedure by any Officer involved in the tender evaluation

15.3 Evaluations will be conducted by an appropriately skilled and experienced panel.

## 16. AWARDING CONTRACTS

- 16.1 All contracts shall be awarded based on the offer that represents the most advantageous tender ('the MAT'). The MAT or Quote is the one that the Authority considers
- Satisfies its requirements; and
  - Best satisfies the award criteria when assessed by reference to the evaluation methodology
- 16.2 When awarding any contract for goods, services or works whose aggregate value exceeds the relevant threshold prescribed under the Legislation, an Authorised Officer shall adhere to a minimum eight (8) day Standstill Period before entering such contract and follow the transparency notices required.
- 16.3 A contract may only be awarded by an Authorised Officer with the requisite delegated authority to award contracts. Prior to award, the Authorised Officer should ensure the Budget Holder responsible for the contract has sufficient funds in place to sustain the life of the contract i.e. full life cycle costing.

## **17. ASSESSMENT SUMMARIES**

- 17.1 The Authorised Officer shall provide an Assessment Summary to each supplier that submitted an assessed tender as required by the Legislation for all covered procurements.
- 17.2 Assessment Summaries are not mandatory for below threshold procurements or call-off from frameworks (unless the framework terms set out a specific requirement to do so). Although to ensure compliancy with the duty to have regard to the procurement objective of sharing information, it is deemed best practice to provide an assessment summary for all procurements.

## **SECTION 4: CONTRACT FORMALITIES**

### **18. EXECUTION OF CONTRACTS**

- 18.1 All contracts must be formally concluded in writing before the supply, service or work begins.
- 18.2 All contracts not exceeding £50,000 that require execution shall be signed by the Head of Legal Services or any other Officer with delegated authority

to do so, unless the Head of Legal Services requires the contract to be sealed

- 18.3 All contracts exceeding £50,000 shall be signed by the Head of Legal Services unless the Head of Legal Services requires that the contract be sealed.
- 18.4 Electronic signatures may only be permitted as a method of executing contracts with the prior consent of the Section 151 Officer having first obtained advice from the Head of Legal Services.

## **19. RECORDS OF QUOTES, TENDERS, CONTRACTS AND SPEND**

- 19.1 The Procurement Team shall maintain a list of all Tenders and Quotes received over £30,000 (incl. of VAT, typically £25,000 ex VAT). For procurements not exceeding £30,000 (incl of VAT) the Authorised Officer is responsible for keeping records of Tenders and Quotes received in such form as required by the Procurement Team.
- 19.2 Authorised Officers must ensure that details of contracts awarded over £5,000 (incl VAT) are entered on the Contracts Register kept by the Authority and maintained by the Procurement Team.
- 19.3 All contracts with a value of £30,000 (incl VAT) and above shall be kept by the Head of Legal Services and a copy shall be sent to the Procurement Team.
- 19.4 All contracts below £30,000 (incl VAT) shall be kept securely by the Budget Holder in accordance with Authority's retention policy and a copy to the Procurement Team.
- 19.5 Each quarter the Authorised Officer will publish details of payments over £30,000 made under a public contract i.e. contract payment notice as required by Legislation.
- 19.6 Twice annually the Authorised Officer will publish details of performance against 30-day payment terms as required by Legislation.

## **20. BONDS AND PARENT COMPANY GUARANTEES**

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- 20.1 A Bond or Parent Company Guarantee will be required on all works contracts above £1,000,000 unless considered inappropriate by the Section 151 Officer following consultation with the Head of Legal Services.
- 20.2 Bonds or Parent Company Guarantee may be required for any contract if considered appropriate by the Section 151 Officer following consultation with the Head of Legal Services.
- 20.3 Bonds shall be a minimum of 10% of the contract value

### **21. EMBEDDED LEASES AND EMBEDDED DERIVATIVES**

- 21.1 Prior to the award of a contract the Authorised Officer must notify the Section 151 Officer where under the contract
- 21.1.1 the Authority will have use or control of or will be paying for the use of a specific asset or group of assets; or
  - 21.1.2 contains a clause that caps the price the Authority must pay for supplies or services or there is a floor price on the price the Authority has to pay for supplies or services; or
  - 21.1.3 the prices the Authority must pay under the contract, increase the by more than two times the retail price index; or
  - 21.1.4 the prices the Authority must pay, increase by some other form of indices or commodity price.

### **SECTION 5: SPECIFIC TYPES OF TENDERING**

### **22. FRAMEWORK AGREEMENTS, OPEN FRAMEWORK AGREEMENTS AND DYNAMIC MARKETS**

- 22.1 External Framework Agreements, and Dynamic Markets, where the Authority is named as a permitted Contracting Authority, can be used where the Authority wishes to contract for the sourcing of supplies, services or works without conducting a full procurement exercise.
- 22.2 The Framework or Dynamic Market may include within its terms a requirement for abbreviated competitive exercise ("mini competition") between some or all

of Suppliers who are parties to the Framework Agreement and can provide the supplies/services/works being tendered. Other Framework Agreements may allow for a direct award or the choice of either direct award or mini competition. Any purchase from a Framework Agreement or Dynamic Market shall be made in accordance with procedure set out in the Framework Agreement or Dynamic Market.

22.3 The approval of the Procurement Team and Head of Legal Services shall be sought before signing up to new a Framework or Dynamic Market.

22.4 A Call-Off contract as set out in the Framework Agreement or Dynamic Market will need to be entered. If no pre agreed contract is provided for in the Framework Agreement or Dynamic Market, a contract drafted or approved by the Head of Legal Services, shall be entered.

### **23. FRAMEWORK AGREEMENTS, OPEN FRAMEWORK AGREEMENTS AND DYNAMIC MARKETS SET UP BY THE AUTHORITY**

23.1 The Authority may carry out a procurement exercise to set up a Framework, Open Framework or a Dynamic Market to allow it to choose Suppliers who meet its pre-qualification requirements. The Authority can then call off Suppliers from the Framework Agreements or the Dynamic Market.

### **24. COLLABORATIONS AND JOINT PROCUREMENT**

24.1 The Authority may participate in any collaborative or joint procurement with other Local Authorities or public bodies including membership or use of a Purchasing Consortia subject to the prior approval of the relevant Director, Section 151 Officer and Procurement Team.

### **25. PROCUREMENT BY CONSULTANTS**

25.1 Any Consultants contracted by the Authority shall be appointed in accordance with these Contract Rules and the Legislation. The Authorised Officer shall ensure that the consultants' performance is monitored and IR35 legislation is adhered to.

25.2 Where the Authority uses consultants to act on its behalf in relation to any procurement opportunity, then the Authorised Officer shall ensure that the consultant carries out any procurement in accordance with these Contract Rules and the Legislation.

25.3 Consultants may advise the Authorised Officer as to the most suitable candidate. The Authorised Officer can use the advice given by the Consultant to make their recommendation to the Awarding Officer.

25.4 No Consultant shall make the decision on whether to award a contract or to whom a contract should be awarded. The decision rests with the Awarding Officer who shall sign the Tender Acceptance Form or waiver.

## **26. CONTRACT MANAGEMENT**

26.1 The contract manager will conduct regular reviews of the Supplier's performance against the requirements and key performance indicators specified in the Contract and monitor compliance against contractual obligations for the life of the Contract.

26.2 Contract management processes must be conducted in accordance with the relevant Legislation and any internal guidance.

26.3 Legislative key requirements for managing public contracts must be followed and include provision and transparency notices for payment, performance, KPI's (publication and reporting for contracts with a value of more than £5million), modification and termination of contract.

## **27. GROUNDS FOR EXTENDING AND MODIFICATION OF A CONTRACT**

27.1 Contract extensions and modifications may only be considered if the relevant contract contains an extension/ modification option or if there are legitimate grounds as provided by the Legislation. Any such extension/ modification must follow internal procurement guidance and be authorised in accordance with the guidance and the Authority's Scheme of Delegation.

## **Definitions**

<b>Term</b>	<b>Meaning</b>
Above Threshold	Means a procurement with a value equal to or more than the prescribed Threshold
Advertised	Means advertised on the Central Digital Platform

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Assessment Summary	Information about the Authority's assessment of the tender provided to each supplier that submitted an 'assessed tender'
Awarding Officer	The Officer with the delegated authority to award the contract
'The' Authority	Cotswold District Council
Authorised Officer	Authorised Officers are persons responsible for carrying out the procurement.
Best Value for Money	Best solution for the Authority taking into account price, quality and deliverability.
Below Threshold	Means a procurement with a value below the prescribed Threshold
Bond	An insurance policy: if the Supplier does not do what it has promised under a contract with the Authority, the Authority can claim from the insurer the sum, of money specified in the Bond (often 10% of the contract value). A Bond is intended to protect the Authority against a level of cost arising from the Supplier's failure.
Candidate	Any person who may or does submit a Quote or Tender.
Call-Off Contract	Means a contract awarded to a Supplier under a Framework Agreement
Central Digital Platform	The online system referenced in the Procurement Act 2023 and defined in the Procurement Regulations 2024 as the central digital platform. It is available at <a href="http://www.gov.uk/find-tender">www.gov.uk/find-tender</a> . The central digital platform will enable: <ul style="list-style-type: none"> <li>• contracting authorities to publish notices and other information as required under the Act for above and below threshold procurements</li> <li>• suppliers to submit and store certain core organisational information as required by the regulations to participate in above threshold procurements.</li> <li>• anyone to view the notices and access related public procurement data</li> </ul>
Concession Contracts	An agreement where Suppliers are given the right to exploit works or services provided for their own gain.

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Conditions of Participation	A set of conditions which a supplier must satisfy in order to be awarded a public contract following a competitive tendering procedure
Consultant	Someone appointed (but not under a contract of employment) for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role.
Contracting Authorities	Bodies that are subject to the Regulations.
Director	Means the chief officers or a Director for the Authority
Contract Management	The process and approach taken to implement, monitor and review what is being provided under the contract to ensure what has been agreed is being provided to the required standards and all parties to the contract are meeting their obligations
Debarment	The debarment regime enables Ministers to put suppliers on a published debarment list. Inclusion on the list means that the supplier's past behaviour or circumstances mean that it is not, or may not be, allowed to participate in covered procurements or be awarded public contracts.
Dynamic Market	Is a list of qualified suppliers (i.e. suppliers who have met the 'conditions for membership' of the dynamic market) who are eligible to participate in future procurements
e- procurement system	Means the portal used by the Authority to conduct procurements electronically.
Exclusion	A broad term to describe a number of different circumstances where suppliers are not permitted to participate in a covered procurement, to have their tender considered or to be awarded a public contract.
Framework	A contract between a Contracting Authority and one or more suppliers that provides for the future award of contracts by a Contracting Authority to the supplier or suppliers
Open Framework	A scheme of frameworks that provides for the award of successive frameworks on substantially the same terms
Head of Paid Service	Means the officer designated as head of paid service for the Authority under section 4 of the Local Government and Housing Act 1989
Horizontal and Vertical contracting	Contracts between public bodies to co-operate to achieve a common objective with the exercise of public

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arrangements	functions in the public interest (horizontal) and contracts between one or more contracting authorities contract with a 'controlled persons' (e.g. a wholly owned company) that carries out more than 80% of its activities for those public bodies (vertical)
Invitation to Tender (ITT)	Invitation to tender documents in the form required by these Contract Rules.
'The' Legislation	The Procurement Act 2023 ('the 2023 Act') The Regulations means the Procurement Regulations 2024 ('the 2024 Regulations') and all regulations made under the 2023 Act.
Lots	A way to split a larger single procurement into smaller 'chunks' which are then procured under separate contracts with different suppliers (some suppliers may be successful in more than one lot and may be awarded more than one contract).
Most Advantageous Tender (MAT)	The tender that both satisfies the contracting authority's requirements and is the best tender when assessed against the award criteria and the assessment methodology
Parent Company Guarantee	A contract that binds the parent of a subsidiary company as follows: if the subsidiary company fails to do what it has promised under a contract with the Authority, the Authority can require the company to do so instead.
Preliminary market engagement	Takes place before the publication of a tender or transparency notice and helps contracting authorities and the market prepare for the procurement.
Procurement Team	Officers engaged by or on behalf of the Authority to provide procurement services.
Quote	A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
Regulated Below Threshold	Is a below-threshold contract that is not an exempted contract, a concession contract, or a utilities contract
Section 151 Officer .	The Officer of the Authority who has been designated as such pursuant to Section 151 of the Local Government Act 1972.
SME	Small and Medium sized Enterprise.
Standstill period	The Standstill period is the period between the contracting authority announcing its intention to enter

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	into a contract (by publishing the contract award notice) and actually entering into that contract; the contracting authority cannot enter into the contract during the standstill period which is to be no less than 8 working days
Supplier	A person or body of persons providing, or seeking to provide, supplies, services or works to the Authority.
Tender	A suppliers proposal submitted in response to an Invitation to Tender.
Transparency Notices	Notices that are published throughout the procurement lifecycle, providing up to date information on procurement and contracts giving transparency and visibility of data.
Treaty State Supplier	A supplier that is entitled to the benefits of an international agreement specified in Schedule 9 of the Act.
Threshold / Threshold Value	The contract value thresholds (inclusive of VAT) set by the UK government above which the Regulations apply, as amended every two years