

**PROCUREMENT GUIDANCE**

**London Borough of Havering Contract Procedure Rules**

Strategic Procurement Unit

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1	INTRODUCTION	3
2	E TENDERING	4
3	AUTHORITY AND DELEGATIONS	4
4	ACCOUNTABILITY, ROLES AND RESPONSIBILITIES	6
5	CONFLICT OF INTEREST	7
6	PROCUREMENT VALUES	7
7	EUROPEAN PROCUREMENT LEGISLATION	8
8	CHECKPOINT PROCEDURE	8
9	PROCUREMENT ROUTES	9
10	PRE-QUALIFICATION	11
11	PRE-TENDER REPORT	12
12	TENDER PROCESS	12
13	CONSTRUCTIONLINE	14
14	WAIVERS	14
15	PUBLIC SERVICES (SOCIAL VALUE) ACT 2012	16
16	POST-TENDER REPORTS	16
17	EXECUTION OF CONTRACTS	17
18	CONTRACT AWARD	17
19	VARIATIONS, EXTENSIONS AND MODIFICATIONS OF CONTRACTS	19
20	CORPORATE AND FRAMEWORK AGREEMENTS	21
21	CONTRACT MANAGEMENT AND REVIEW	21
22	DOCUMENTATION	22
23	COLLABORATIVE, JOINT COMMERCIAL ENTERPRISES AND PUBLIC SECTOR SPIN OUTS	24
24	BONDS AND GUARANTEES	25
25	GRANT FUNDED EXPENDITURE	26
26	STATE AID	26
	ANNEX 1: PROCURING SUPPLIES, SERVICES AND WORKS	28
	ANNEX 2: GLOSSARY OF TERMS	30

# **1 INTRODUCTION**

- 1.1 For the purposes of these Contract Procedure Rules (CPR), and instructions and guidance issued, procurement means the ordering, commissioning or entering into a contract (which includes the granting of a Concession) whatever the value or nature with a third party for Supply, provision of Services or the carrying out of building construction Works required by the Council.
- 1.2 These Contract Procedure Rules shall be effective from the date of adoption by the Council and will be reviewed periodically as required but in their entirety once every 3 years.
- 1.3 Nothing in this CPR shall override the Council's duties under UK national legislation and European Law.
- 1.4 If an Officer experiences difficulty in following any process or procedure or understanding the meaning of any part of this CPR please contact the Head of Procurement.
- 1.5 Throughout CPR, where any action is initiated and taken and a decision made by an Officer with authority to act it will be recorded in writing (on e-tendering suite).
- 1.6 Members of CMT and Directors of Service are responsible for ensuring that all:
  - 1.6.1 Contracts are awarded in accordance with these Rules
  - 1.6.2 Persons responsible for awarding contracts are familiar with the Council's Procurement Strategy, and attend relevant Council training as appropriate
  - 1.6.3 Contracts over £25,000 are recorded on the Contracts Register maintained by the Strategic Procurement Unit
  - 1.6.4 Contracts over £150,000 shall have a nominated Contract Manager
  - 1.6.5 Contracts over £150,000 shall be signed and sealed by Legal and Democratic Services.
- 1.7 Where possible all spend, collective or individual, must be attained through a present contract or be procured by entering into a new contract.
- 1.8 All Officers of the Council are subject to and will comply with CPR and it is a disciplinary offence if an Officer fails to comply with CPR. All procurement activities carried out by or on behalf of the Council must proceed in accordance with CPR.
- 1.9 CPR will not apply to contracts of employment.
- 1.10 CPR will not apply to contracts relating to any interest in land (such as the purchase of land, sale or grant of a lease or licence) unless the transaction means that the Council will receive the benefit of tangible facilities or other tangible benefits (other than money) the value of which is over the EU Thresholds for Works (£4,104,394) Services or Supply (£164,176) and which might be considered to be subject to mandatory EU compliant tender requirements, in which case the CPRs will apply.

## **2 E TENDERING**

- 2.1 All procurements exceeding £25,000 will be processed through the Council's selected e-tendering suite for the life of the contract.
- 2.2 Authorised Procurement Officers (APOs) will conduct a procurement online through the e-tendering suite. The procedure, which is substantially no different from a paper tendering exercise, consists of:
- i. Pre-registration by the applicants/proposed tenderers on the Council's system;
  - ii. Online Pre-Qualification (PQQ) assessments (above threshold only) and drawing up a select list of tenderers where relevant;
  - iii. Access to soft copies of all PQQ documentation (above threshold only);
  - iv. Online clarifications and messaging;
  - v. Availability of all tender documentation online;
  - vi. Electronic tender submissions, including the making of declarations;
  - vii. Online evaluation of tenders;
  - viii. Online E-Auction via an authorised hosted service where relevant;
  - ix. Online award of contracts;
  - x. Electronic storage of all tender material, final contracts and agreements, including changes to a contract during its life.
- 2.3 The Head of Procurement has the overview of all of the Council's procurement systems and processes including training and issuing instructions and directions on their use.
- 2.4 Whilst procurements will be conducted via the e-tendering suite the requirements of the CPR will still apply without exception or reservation.
- 2.5 Final contract agreements will still be entered into in hard format but, unless previously agreed by the Head of Procurement (or authorised deputy), the specification, pricing and other documents where appropriate and practical will be issued in "read only" disk or other soft format.
- 2.6 Copies of all tender and contract documents will be retained and stored on the e-tendering suite.

## **3 AUTHORITY AND DELEGATIONS**

- 3.1 When there is a need to carry out a procurement, Officers must refer to the Council's Scheme of Delegation to ensure they have sufficient delegated authority to proceed with a procurement activity.
- 3.2 No procurement shall proceed unless a budget has been agreed by the relevant Director (or delegated officer) and expenditure has been fully considered. For the avoidance of doubt, no order will be placed or other commitment made (orally or in writing) unless the authority to spend is in place and there are sufficient funds to cover the commitment.

- 3.3 Where procurements are included in the Checkpoint pilot (CPR 8), the Checkpoint Panel will consider proposed procurements and awards prior to seeking a decision from the Executive, or the Chief Officer Scheme of Delegation where the value exceeds EU thresholds.

### **Authority to Procure**

- 3.4 Subject to the rest of this CPR 3, authorisation to start a procurement on the Council's behalf is granted on the basis that:
- 3.4.1 Any and all proposed Works, Supply or Services are subject to CPR, regardless of value or complexity;
  - 3.4.2 Procurement will benefit and assist the Council in achieving its statutory duties and functions, and/or approved strategies, policies and service objectives;
  - 3.4.3 Full consideration has been given (and noted for audit purposes) to the use of any existing corporate and departmental contracts covering the Works, Supply and Services required but, following such assessment, these have been deemed unsuitable to meet the additional requirement imposed by the proposed contract; AND
  - 3.4.4 Full consideration has been given (and noted for audit purposes) to those in-house Services whose area of expertise covers the Works, Supply or Services required and, based on an outcomes-based value for money assessment, social value and other business efficiency review, it has been concluded that procurement is the most suitable option for the Council.
- 3.5 When seeking authority to procure a contract for Works, Supply or Services on the Council's behalf the APO must:
- 3.5.1 Obtain authority to proceed via the Checkpoint Procedure (see CPR 8) where a procurement is:
    - Above the EU Services and Supplies threshold
    - Of a value greater than £500,000 for Works
  - 3.5.2 Produce a robust, justifiable and sensible business case, which will be considered under the Checkpoint Procedure and must also be approved in accordance with the Council's Scheme of Delegation before a procurement activity commences.
  - 3.5.3 Where the Council has prescribed an approved business process, prior to obtaining such approval, this must be followed and contained in a written endorsement by the Chief Executive.
  - 3.5.4 Maintain the necessary audit trails to support the business justification and approval process.

### **Training**

- 3.6 No Officer is permitted to authorise or undertake a procurement activity without first attending and successfully completing one or all, depending on the procurement, of the Council's recognised procurement training courses, "Passport to Procure" and demonstrating that they have the competence to conduct a procurement on the Council's behalf.
- 3.7 The Corporate Management Team (CMT) and Directors of Service will ensure that Officers who are authorised by them to conduct procurements have the necessary

skills and experience and are properly trained in the tasks they will be expected to carry out. For the purpose of being considered 'trained', Officers designated as 'Tender Managers' must have completed "Passport to Procure" training modules and, for all EU level tenders, must also have completed training relevant to the creation of specifications and methods of evaluation.

- 3.8 All Officers undertaking procurements over £25,000 or who will manage a contract must have completed "Passport to Procure" training. All contract managers must have also completed the Contract Management Training.
- 3.9 The Head of Procurement will have overall responsibility for Procurement Training and to approve exceptions and waivers of any requirements of this CPR 3.

#### **4 ACCOUNTABILITY, ROLES AND RESPONSIBILITIES**

- 4.1 An APO is accountable for all procurement activities authorised by him/her and carried out or conducted on his/her behalf and has a responsibility to comply with CPR and to follow and implement all requirements contained herein.
- 4.2 In line with the general management scheme of Delegation, responsibilities outlined in the Financial Regulations and subject to other council procedures:
  - 4.2.1 Directors can authorise procurements in their service area up to a total contract value of £100,000.
  - 4.2.2 A Director can authorised procurements within their service area with a value between £100,000 and £500,000 in consultation with the CMT Member where the contract will be executed. Pre-tender authority, as set out in the Checkpoint Procedure in CPR 8 will be followed first where included in the pilot.
  - 4.2.3 All proposed procurements where the contract value exceeds EU thresholds, and procurements for Works over £500,000 should go through the Checkpoint Procedure at pre-tender stage.
  - 4.2.4 All proposed procurements over £500,000 must be authorised by a Member of CMT.
  - 4.2.5 Irrespective of the value of the procurement, an APO must inform the Director, who will notify the Leader/Lead Member, where a proposed procurement may be controversial or require a 'key decision'.
- 4.3 Directors must ensure that Officers engaged in any procurement activity are familiar and compliant with CPR, Financial Regulations and the Council's Scheme of Delegation.
- 4.4 On becoming aware of a breach of CPR, an Officer must report this to their line manager and the Head of Procurement. Alternatively, the Officer may choose to follow the guidance contained in the Council's Whistle Blowing Policy.
- 4.5 In order to determine the level of resources required by the Head of Procurement, each APO will provide, for their service area, an Annual Forward Plan prior to the

commencement of the Financial Year. The plan will be agreed by the Head of Procurement no later than the end of January of the previous Financial Year.

## **5 CONFLICT OF INTEREST**

- 5.1 Every Officer must maintain unimpeachable standards of integrity when engaged in a procurement (or any other) activity on the Council's behalf and comply with the anti-fraud and corruption policy.
- 5.2 In accordance with Section 117 of the Local Government Act 1972 all employees of the Council must make a written declaration if they or a family member have a personal or pecuniary interest which may impinge (or might reasonably be deemed by others to impinge) on a contract in which the Council also has an interest. Failure to disclose interests is an offence.
- 5.3 Where an Officer has reason to believe a connection exists between themselves and a participant in a procurement exercise they will inform their line manager and follow the procedure set out in the council's Declaration of Interest Policy and Explanatory Notes.

## **6 PROCUREMENT VALUES**

- 6.1 The APO must produce an auditable estimate of anticipated costs in order to follow the correct procurement route specified in CPR 9. Where EU Public Procurement and national legislation apply, the APO must also ascertain the value of a contract in accordance with those requirements.
- 6.2 Unless otherwise specified, where a value or estimated value is given it must give the aggregate value payable in GBP, exclusive of VAT, over the entire contract period (or as set out in EU and national legislation) including any extensions stated in the contract and any reasonably anticipated level of variation during the life of the contract.
- 6.3 In accordance with EU procurement rules (as transposed into UK law by the Public Contracts Regulations 2015), contracts must not be artificially underestimated, overestimated or sub-divided into two or more separate contracts where the intention or effect is to avoid the application of CPR and/or EU and national legislation.
- 6.4 In the case of mixed contracts where a single contract covers more than one element of works, services or supplies, applicable regulations are determined by the 'main subject matter', based on which of the estimated values is the highest.
- 6.5 In the case of awarding a framework, the value shall be based on all contracts and call-offs over the framework term.
- 6.6 In the case of determining the value of a concession contract, reference should be made to The Concession Contracts Regulations 2016

## 7 EUROPEAN PROCUREMENT LEGISLATION

- 7.1 Every contract made by, or on behalf of, the Council must comply with the EU Treaty principles for the free movement of Supply, Services, Works and capital and the procurement rules of:
- Non-discrimination on grounds of nationality or locality;
  - Transparency of award procedures and related decisions;
  - Equal treatment of those wishing to be awarded a contract;
  - Wider market interest;
  - Proportionality;
  - Mutual recognition.
- 7.2 All procurements conducted by the Council together with awards and day to day management shall embody these principles and rules and comply with the Council's own procurement procedures as contained in CPR and the Scheme of Delegation.

### Procurement Thresholds

- 7.3 European legislation sets out specific procedure which must be followed for procurements above certain values. Where the estimated value of a proposed contract intended to be let by the Council (or on its behalf) exceeds or is likely to exceed EU procurement, the contract must be procured in accordance with the EU Procurement Directive (2014/24/EU) as included in the Public Contracts Regulations 2015.
- 7.4 The thresholds are set out in Articles 4(a) to 4(d) of the Public Contracts Directive and apply from 1<sup>st</sup> January 2016 to 31<sup>st</sup> December 2017. Thresholds are net of VAT.

Type of contract	Threshold
Supplies	£164,176 (€209,000)
Services	£164,176 (€209,000)
Light Touch	£589,148 (€750,000)
Works	£4,104,394 (€5,225,000)
Concessions Services/ Works	£4,104,394 (€5,225,000)

- 7.5 The Head of Procurement will give written notice of future changes to the threshold figures.

## 8 CHECKPOINT PROCEDURE

- 8.1 The Checkpoint Procedure has now been adopted by London Borough of Havering for all procurements detailed in 8.2 of these procedure rules.
- 8.2 The Checkpoint procedure should be undertaken for Supply, Services, Concessions and Light Touch contracts over the £164176 threshold and for Works over £500,000.
- 8.3 The Checkpoint Procedure is an Officer-led procedure in three stages:
- i. Stage 1 – Conduct a review of the intended procurement prior to seeking authority from the CMT or, under Chief Officer delegated powers, to invite tenders.
  - ii. Stage 2 – Consider the results of the tender exercise prior to an award being made under the CMT'S executive powers, a specific delegation to an Officer of the Council or under the Chief Officer Scheme of Delegation.
  - iii. Stage 3 – Review the contract post-award, in particular the monitoring arrangements in place for the contract and their effectiveness in terms of quality and cost. It will take place between 6 and 12 month post-award, dependant on the risk, value and length of the contract.
- 8.4 The Head of Procurement or an Officer designated by the Head of Procurement will chair the Checkpoint Panel. The senior board of the Council will determine the Panel membership.
- 8.5 The Checkpoint Panel will consider activities at each Stage and will make recommendations to the senior board of the Council.
- 8.6 The Strategic Procurement Unit will clerk and record the Panel's activities and decisions.
- 8.7 The governance and overall procedures of the Checkpoint Procedure will be maintained by the Executive Director who has responsibility for the Strategic Procurement Unit. All records of proceeding will be kept by the Head of Procurement, in line with CPR 22.8-22.16.

## **9 PROCUREMENT ROUTES**

- 9.1 Except as otherwise provided, contracts must be awarded following the relevant competitive processes set out in CPR.
- 9.2 In accordance with the Council's Financial Regulations, where a third party has agreed to carry out Works, Supply or perform Services, all such contractual arrangements, notwithstanding the terms and conditions to be used, must be in writing and confirmed by the issue of a purchase order via the i-procurement system.
- 9.3 All procurements which have an estimated value of £24,999 or less are subject to CPR for the purpose of seeking offers. These need not be formalised to the extent required by procurements of higher value but a purchase order must be placed via the i-procurement system (and/or other authorised method), with a sufficient

description of the Supply, Services or Works and clearly identifying the requirement, the price and terms of trading previously agreed with the Organisation.

- 9.4 All procurement with a financial value equal to or greater than £25,000 will be supported by the Strategic Procurement Unit (SPU) using the Council's preferred e-tendering suite.
- 9.5 For all procurement with a financial value including and exceeding £25,000 a Procurement Initiation Form must be completed.
- 9.6 All contracts of a value equal to or greater than £25,000 will be procured using documents agreed. Contracts awarded will be entered into under terms and conditions approved by the Director of Legal & Governance (or authorised deputy). All tender documents produced for a procurement will be compliant with procurement legislation and CPR, and be compatible with the strategies, policies and service objectives of the Council at any time in force and effect.
- 9.7 Changes to the approved terms and conditions must be agreed by the Director of Legal & Governance (or authorised deputy) in writing.
- 9.8 For a procurement valued between £25,000 and £99,999.99 inclusive, an Officer is required to obtain at least 3 comparable written quotations using the e-tendering suite Request for Quotation procedure.
- 9.9 Unless stated elsewhere in CPR or for reasons of extreme urgency, each procurement with an estimated value of £100,000 or above must be subject to a formal tender exercise in conjunction with SPU.
- 9.10 Where a contract award opportunity is advertised, SPU shall publish information about the opportunity on Contracts Finder, regardless of what other means it uses to advertise the opportunity.

#### **E-auctions**

- 9.11 The Head of Procurement will advise on which procurements should be conducted using an E-auction whilst assessing if the agreed exemptions apply.
- 9.12 E-Auctions will be used where the reverse auction can commercially influence market prices and has the potential to greatly reduce the purchase price for the Council or increase the service level for the same cost. Conducting a reverse E-auction will help deliver cashable cost reductions without reducing quality and service levels. All procurements over £75,000 for services and supply of goods, and £500,000 for works will be considered for E-auction unless the following exemptions apply:
  - i. Market Intelligence: Where there is clear market intelligence that bidders will not or are unlikely to engage/participate in an E-auction and it is highly likely a sufficient number of quality bids may not be received to demonstrate an acceptable level of competition.

- ii. Past Experience: Where an identical style E-auction has been conducted in the past for a particular sector or service and the experience was unsatisfactory, alternative mechanisms to secure value will be considered.

9.13 Any exemptions require the approval of the Head of Procurement.

### **Small & Medium Sized Enterprises/Local Companies**

9.14 Tendering opportunities thought especially suitable for Small and Medium-sized Enterprises (SMEs), Local companies or consortia of both should be flagged by staff during the advertising process. SMEs and local companies are more likely to be used for quotations and these should be sought where possible through the e tendering portal via the SPU.

## **10 PRE-QUALIFICATION**

10.1 For procurement with a contract value below the Supplies and Services EU Threshold, the APO must not use a set of questions set out as a separate questionnaire (known as a 'Pre-Qualification Questionnaire (PQQ)'), a separate pre-qualification stage or any other pre-tender selection process to pre-qualify or assess the suitability of economic operators to perform the contract, with the purpose of reducing the number of economic operators to a smaller number to be invited to tender at a later stage of the procurement process.

10.2 For procurements with a contract value equal to or above the Supplies and Services EU Threshold, a separate pre-qualification stage or qualitative assessment stage is permitted. The Council may continue to use the industry-standard PAS91 for public contracts for Works.

10.3 Where the estimated contract value is above the Supplies and Services EU Threshold and the contract is subject to a Restricted, Competitive Procedure with Negotiation, Competitive Dialogue, Innovation Partnership, a Negotiated procedure without prior tender process, or for the purposes of establishing an approved list of contractors, a Dynamic Purchasing System (where not using a Framework) shall be used as the Council's pre-qualification process to draw up the select list of tenderers.

### **Number of Candidates**

10.4 In restricted procedures, competitive procedures with negotiation, competitive dialogue procedures and innovation partnerships, the Council may limit the number of candidates meeting the selection criteria that they will invite to tender or to conduct a dialogue, providing the minimum number of qualified candidates is available.

10.5 The contracting authority shall indicate, in the contract notice or in the invitation to confirm interest, the objective and non-discriminatory criteria they intend to apply, the minimum number of candidates they intend to invite and, where appropriate, the maximum number.

- 10.6 For procurements with an estimated value between £100,000 and the EU threshold, and for restricted procedure procurements with an estimated value above the EU threshold, the minimum number of organisations who may be invited to tender is five.
- 10.7 For contracts with an estimated value above the EU threshold and following the competitive procedure with negotiation, the competitive dialogue procedure and the innovation partnership the minimum number of organisations who may be invited to tender is three.
- 10.8 In any event the number of candidates invited shall be sufficient to ensure genuine competition. Where pre-qualification results in fewer than the minimum permitted number of organisations being suitable for pre-selection, the procurement may only proceed to tender if the Head of Procurement is satisfied that there are still sufficient tenderers for genuine competition, and the reasons for continuing are recorded.

## **11 PRE-TENDER REPORT**

- 11.1 All contracts with a value of more than the EU Threshold for Supplies and Services and less than £500,000 must be reported to the appropriate Head of Service, and over £500,000 to the Member of CMT for approval to commence the tendering process. The report must set out:
- i. the likely total cost and budget provision;
  - ii. the appropriate European procurement route;
  - iii. the proposed tendering strategy and timetable;
  - iv. the project team;
  - v. a summary of best value issues and any service improvement requirements;
  - vi. application of TUPE;
  - vii. project risk assessment.
- 11.2 Contracts within the terms of reference of the Pension Committee may be dealt with by that Committee.
- 11.3 Where a contract award for services may result in Council or contractor staff being affected – for example, by possible redundancy, relocation or transfer to the successful tenderer – the advice of the Director of Exchequer & Transactional Services (re pensions), Director of Human Resources/Organisational Development and the Director of Legal & Governance must be obtained before commencement of the tender process. Details must be included in the pre-tender report to the Head of Service or to CMT.

## **12 TENDER PROCESS**

- 12.1 All tender processes shall be conducted in accordance with the requirements of CPR, the Financial Procedure Rules, European procurement rules (if applicable), and the Procurement Strategy.

- 12.2 Where dictated by EU law, tenders must be advertised via the Official Journal of the European Union (OJEU) electronically. This will be done by the SPU on the Council's behalf.
- 12.3 The Invitation to Tender (ITT) for all contracts over £100,000 shall include the following information:
- i. a description of the services, supplies or works sought;
  - ii. the procurement timetable;
  - iii. rules for submitting tenders;
  - iv. pricing mechanism;
  - v. the relevant terms and conditions of contract;
  - vi. the evaluation criteria including weightings;
  - vii. the Council's view on the applicability of TUPE;
  - viii. Any other information necessary to prepare tenders.

### **Award**

- 12.4 The tender or quotation accepted shall be the one which represents the most economically advantageous tender for the Council overall, taking account of whole-life cost, quality of service, risk to the Council and other benefits, as set out in the evaluation criteria chosen for the tender and as described in the Procurement Strategy.
- 12.5 For all contracts above the EU Thresholds all tenderers must be notified of:
- i. The evaluation criteria;
  - ii. Their score using the criteria;
  - iii. The winning score;
  - iv. An explanation as to why the winning tender scored more highly than the tenderer's;
  - v. The identity of the winner of the contract.
- 12.6 For all other contracts with a value in excess of £100,000 all bidders must be notified of:
- i. Their score in the evaluation;
  - ii. The winning score.

### **In-house Award**

- 12.7 An award may be made to an in-house team after competition, provided that:
- i. the in-house team has been evaluated as the most economically advantageous tender in accordance with the requirements set out in the Procurement Strategy;
  - ii. the person making the award can demonstrate that the in-house team represents the best value in terms of quality and price.

### **Early Authorisation**

- 12.8 In the event that there is a need for a contract to commence prior to the completion of the formal contract documentation then a Member of CMT after consultation with the Director of Legal & Governance may authorise the issuing of an Early Authorisation Approval to the contractor.
- 12.9 The Early Authorisation Approval shall include the following information:

- i. Work to be undertaken;
- ii. Terms & conditions (this can be by reference to other documents);
- iii. Subject to completion of formal contract.

### **13 CONSTRUCTIONLINE**

- 13.1 Constructionline provides a list of Works suppliers for contracts below EU threshold. APOs will, in all instances and subject to CPR 3.1 to 3.5, draw up their select tender list from Organisations who have been included on Constructionline.
- 13.2 For procurements valued between £100,000 and £499,999 a minimum of five organisations will be selected and invited to tender.
- 13.3 For procurements valued over £500,000 up the EU threshold a minimum of seven organisations will be selected and invited to tender.
- 13.4 Where pre-qualification results in fewer than the minimum permitted number of organisations being suitable for pre-selection, the procurement may only proceed in accordance with CPR 10.8. Where Constructionline does not have sufficient suppliers to form a select list of tenders the Head of Procurement will issue instructions on how to proceed.
- 13.5 Where a tenderer has advised the Council or been involved in the preparation of a procurement procedure the APO must take appropriate measures to ensure that competition is not distorted by the participation of that tenderer. Such measures shall include the communication to the other tenderers of relevant information exchanged in the context of or resulting from the involvement of the tenderer in the preparation of the procurement procedure and the fixing of adequate time limits for the receipt of tenders. The tenderer concerned shall only be excluded from the procedure where there are no other means to ensure compliance with the duty to treat economic operators equally.
- 13.6 Subject to CPR 10.4, where the voluntary withdrawal of a tenderer originally invited to submit a tender is communicated to the APO within a reasonable time period and this represents a risk to genuine competition, the APO may substitute another tenderer who had participated in the pre-selection process but had not been placed on the Selection List prior to the ITT being issued.
- 13.7 The inclusion of a substitute tenderer will always be subject to it not diminishing the quality and standards set for the procurement and that the substitute scored the highest total of the organisations who met the minimum selection criteria but were not selected to tender.

### **14 WAIVERS**

- 14.1 No exception to these Rules shall be permitted except upon approval by an individual Cabinet member using an Executive Decision or by some other provision in this Rule. The report shall set out the background, the rule being waived, the

reasons the waiver is required, how value for money will be demonstrated, any legal or financial risks or implications and shall be approved by the Director of Legal & Governance and the Chief Executive.

- 14.2 Authority to waive any provision contained in CPR will only be permissible if it does not infringe EU or National legislation and is subject to the Council's Scheme of Delegation.

### **Exceptions to competitive requirements**

- 14.3 Exceptions to the competition requirements may be made only if all relevant law is complied with and one of the following circumstances applies:

- i. the contract falls within one of the exceptions listed in this Rule; AND
  - a. the Competition Financial Thresholds Exceptions, is fully and properly completed and signed by the relevant Member of CMT; AND
  - b. the person awarding the contract can demonstrate that the contract represents the best value that can be obtained in the circumstances.
- ii. an individual Cabinet member has approved the waiving of the application of these rules, as permitted by Rule (a) above;
- iii. the contract is solely for the employment of Temporary Agency Workers or interim managers (but not consultants);
- iv. joint purchasing with or through another public body provided that the public body awarding the contract can demonstrate that the arrangements comply with European procurement, best value and other applicable legislation.
- v. the instructing of counsel by the Director of Legal & Governance;
- vi. they are allowed by some other specific provision in these Rules.

- 14.4 The exceptions are:

- 14.6.1 *Genuine emergency* - unforeseen events likely to cause immediate danger to people or property such as bombing or flooding;
- 14.6.2 *Specialist services/supplies* - available only from one supplier in the European Union – for example, specialist niche consultants or supplies;
- 14.6.3 *For reasons of compatibility* - with existing services/products – for example, equipment that needs parts from its own manufacturer;
- 14.6.4 *Urgency NOT of the Council's own making* - the urgency must be unforeseen, for example, a current supplier ceases to operate, or a contract is terminated for poor performance. Urgency caused by previous delay by the Council or a requirement to implement a strategy or project urgently will not justify an exception under this exception;
- 14.6.5 *Exceptions permitted under European procurement rules* - where the contract is subject to the full application of the European procurement rules and there are specific exceptions which shall be complied with;
- 14.6.6 *Best Interests of the Council* - where it is in the best interests of the Council or the Borough for a provision in these Rules to be waived to enable a contract procurement to be rapidly progressed while still complying with European procurement rules.

### **Emergency Action**

- 14.5 A Member of CMT personally may authorise a waiver of any of these Rules if they consider that the circumstances are such that such a waiver is necessary and

desirable to further the aims of the Council or for the benefit of the residents of the borough. Such a waiver and the reasons for it shall be fully documented and, if reasonably possible, before giving the authorisation the Member of CMT shall consult with the Chief Executive and Director of Legal & Governance and may consult with the relevant Cabinet Member.

## **15 PUBLIC SERVICES (SOCIAL VALUE) ACT 2012**

- 15.1 The Council has a statutory requirement for above EU Threshold Services procurements to have regard to how a procurement may improve the economic, social and environmental conditions.
- 15.2 For those procurements included in the Checkpoint process consideration will be given in the pre-procurement phase (Checkpoint Stage 1) to the requirements of the Act, however the Council only need consider things which are relevant to what is being procured and proportionate to the circumstances of the matters which are taken into account. The Panel will advise the Head of Procurement at the earliest opportunity of the impact of any of the provisions of the Act on a proposed procurement of Services.
- 15.3 Consideration should be given to the Services being procured on whether it is appropriate to undertake a consultation.
- 15.4 Procurements are exempt under the Act where:
  - i. it is impractical or financially not viable;
  - ii. for reasons of real emergency;
  - iii. urgent contractor replacement.

## **16 POST-TENDER REPORTS**

### **Pre-award report**

- 16.1 Contracts with a value between the EU threshold for Supplies and Services and £500,000, except for those subject to CPR 16.3, must be reported to the appropriate Head of Service for approval and award.
- 16.2 Contracts with a value between £500,000 and £5,000,000, except for those subject to CPR 16.3, must be reported to a Member of CMT for approval and award.
- 16.3 Works contracts in respect of the Council's buildings and assets where the total contract value is between the EU threshold for Supplies and Services and the EU threshold for Works are awarded by Heads of Service.
- 16.4 Contracts with a value of more than £5,000,000 and up to £10,000,000 must be reported to an individual Cabinet Member for approval and award.
- 16.5 Contracts with a value of more than £10,000,000 must be reported to the Leader or Cabinet for approval and award of contract, depending upon the powers delegated.

- 16.6 The report shall set out the details of all stages of the evaluation process and criteria, risk assessment and risk allocation, the results, and a recommendation as to the proposed award of the contract.

#### **Post-award notification**

- 16.7 An EU notice must be placed if the contract was subject to EU advertising requirement.
- 16.8 All contracts with a value equal to or more than £25,000 must be entered on Contracts Finder.

### **17 EXECUTION OF CONTRACTS**

#### **Contracts over £150,000 to be sealed**

- 17.1 Contracts with a total value of more than £150,000 will be executed under seal in accordance with Article 10.04 of the Constitution unless the Director of Legal & Governance approves otherwise. The Legal Document Execution Form must be duly completed by or on behalf of the relevant Director or more senior staff prior to the contract being submitted for sealing.

#### **Contracts under £150,000**

- 17.2 Unless the Director of Legal & Governance approves otherwise, contracts with a total value of less than £150,000 will be executed by the signature of the duly authorised Head of Service or more senior staff as appropriate, in accordance with the functions delegated to staff under the Council's Scheme of Delegation.
- 17.3 Contracts with a total value of less than £150,000 may be executed under seal where the Director or Member of CMT and the Director of Legal & Governance deems this appropriate; for example, where the Council may wish to enforce the contract for more than six years after its end.

#### **Care Contracts**

- 17.4 Contracts for the provision of personal social services to an individual (eg residential care) and educational placements may be signed by the relevant approved officer (as formally designated by the Director or more senior staff and lodged with the Director of Legal & Governance) provided that the annual value of the contract does not exceed £200,000. If it will exceed £200,000 then the contract must be signed by the Director of Legal & Governance.

#### **Consultancy and Specialists Contracts**

- 17.5 All requirements for consultancy or professional services should be sourced via the approved framework (currently NEPRO) and procured in accordance with that policy. In general, external resource may only be used when absolutely necessary and where a business case has been approved by the relevant Director of Service and the Head of Procurement.

### **18 CONTRACT AWARD**

- 18.1 All persons awarding contracts for services shall ensure that they can demonstrate that they have complied with the legislative requirements for best value. The contract award report shall set out:
- i. how the legal duty to challenge, consult, compare and compete has been met;
  - ii. how the contract award will meet the Council's statutory duty of economy, efficiency and effectiveness (i.e. best value);
  - iii. how continuous improvements in service provision will be maintained and monitored and ongoing efficiencies will be achieved.
- 18.2 The award of the contract shall be based on the most economically advantageous tender assessed from the point of view of the contracting authority.
- 18.3 The most economically advantageous tender shall be identified on the basis of the price or cost, using a cost-effectiveness approach, such as life-cycle costing and may include the best price-quality ratio, which shall be assessed on the basis of criteria, such as qualitative, environmental and/or social aspects, linked to the subject-matter of the public contract in question.
- 18.4 Tenders will be evaluated against pre-determined best price-quality ratio of 70% cost and 30% quality weighting.
- 18.5 A contract can only be awarded other than on 70% cost and 30% quality, if one the following exemptions apply:
- i. **FRAMEWORK:** Where it is considered that the best procurement route is through an existing framework agreement and that does not allow tender evaluation on a 70/30 basis
  - ii. **RINGFENCED GRANT:** Where the procurement will be funded from a specific ring fenced grant where any under spend would be lost to the Council and a higher quality threshold would enable the grant to be fully spent i.e. where the Council can afford to purchase higher quality
  - iii. **INNOVATION:** Where a service is a completely new type to the market and model of delivery not seen elsewhere in the UK (e.g. the recent procurement of the Troubled Families Initiative)
  - iv. **PROFESSIONAL ADVICE:** Procuring high level specialist advice.

#### **Non-commercial Considerations**

- 18.6 Subject to CPR 18.7, no part of the tender process, evaluation, contract award or contract or specification documents shall be based on:
- i. the terms and conditions and composition of the contractor's workforce
  - ii. whether subcontractors are self-employed
  - iii. the contractor's involvement in irrelevant areas of government policy
  - iv. the contractor or contractor's employees' involvement in industrial disputes
  - v. the contractor's business locations – for example, to buy local or buy British
  - vi. any political, industrial or sectarian links or interest of the contractors, its directors or owners, or employees
  - vii. the contractor's financial support (or lack of it) to any organisation which the Council does or does not support.

- 18.7 Contracts for services which are subject to best value legislation may base any part of the tender process, evaluation, contract award or contract or specification documents on the:
- i. terms and conditions and composition of the contractor's workforce; AND/OR
  - ii. conduct of contractors or their workers in industrial disputes between them; provided that such matters are included either because:
    - i. TUPE applies; OR
    - ii. it is reasonably necessary or expedient to permit or facilitate compliance with the best value requirements of the Local Government Act 1999.
- 18.8 For all contracts subject to EU Procurement legislation, all tenderers must be notified of:
- i. The evaluation criteria
  - ii. Their score using the criteria
  - iii. The winning score
  - iv. An explanation why the winning tender scored more highly than the tenderer's
  - v. The identity of the winner of the contract
- 18.9 For all other contracts with a value in excess of £100,000 all bidders must be notified of:
- i. Their score in the evaluation
  - ii. The winning score

## **19 VARIATIONS, EXTENSIONS AND MODIFICATIONS OF CONTRACTS**

- 19.1 Subject to the authority given under the Council's Scheme of Delegation and CPRs 3 and 4, an officer who has responsibility for the day to day management and performance of an awarded contract may (subject to having the authority to do so) approve a variation or modification by way of additional works, services or supplies by the original contractor that have become necessary and were not included in the original procurement provided that one of the following applies:
- i. The modifications have been provided for in the initial procurement documentation
  - ii. A change in contractor cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement, or, would cause significant inconvenience or substantial duplication of costs for the Council provided that an increase in price does not exceed 50% of the value of the original contract
  - iii. Where the need for modification has been brought about by circumstances which the Council could not have foreseen, the modification does not alter the overall nature of the contract, any increase does not exceed 50% of the value of the original contract or framework agreement
  - iv. Where a new contractor replaces the one to which the Council had initially awarded the contract as a consequence of universal or partial succession into the position of the initial contractor.

- 19.2 For a variation (or variations) which is near to or exceeds an Executive Director's financial limits as set out in the Chief Officer Scheme of Delegation or a specific delegation of the Executive a report should be prepared initially for Checkpoint with an intention to submit the same to a member of CMT.
- 19.3 A modification is permitted where it is below the relevant EU threshold and is less than 10% of the initial contract value for service and supply contracts, or 50% of the initial contract value for works contracts, and provided that the modification does not alter the overall nature of the contract or framework agreement.
- 19.4 An extension to a contract may be made by a chief officer under the Scheme of Delegation provided that it was contemplated at the time the contract was awarded. For an award following an OJEU-compliant procurement, an extension may be approved if the published notice permitted the contract to continue past the defined period, the extension period does not exceed 50% of the awarded contract value, it will not mean that EU Threshold limits are exceeded by more than 50% and performance by the contractor has been satisfactory.
- 19.5 The extension document will be completed in the same manner as the original contract, except in the case of construction contracts where the extension will be authorised in accordance with the relevant provisions set out in the contract.
- 19.6 If an officer is uncertain whether a variation or extension of the contract period is permitted under this CPR 19, the Strategic Procurement Unit must be contacted to advise.
- 19.7 No variation, extension or modification of a contract period may be made unless there is adequate budgetary provision.
- 19.8 The reasons and authority to vary, modify or extend a contract shall be recorded in writing and loaded onto the Council's preferred e-tendering suite.
- 19.9 For an extension with a value between the EU Threshold for Supplies and Services and £5,000,000, approval of a member of CMT is required. For an extension with a value greater than £5,000,000 Lead Member approval is required.
- 19.10 The following are excluded from CPR and from competition:
- 19.11 Residential placements of adults sought for an individual with a registered care provider of their choice under the Personalisation Agenda of the Care Act 2014;
- 19.12 Contracts that agree a tariff price for a service where the Council has no control over the service from which an individual chooses to receive their care e.g. a contract that is paid on activity levels only in a retrospective manner;
- 19.13 In relation to 19.11 and 19.12 above, the Head of Service must ensure that adequate records are maintained to demonstrate:
- i. The provider meets the relevant national minimum standards

- ii. Appropriate mechanisms for price review are in place
- iii. The reasons for the choice of provider
- iv. Why these were the best possible terms for the Council in the circumstances.

## **20 CORPORATE AND FRAMEWORK AGREEMENTS**

- 20.1 Members of CMT, with the agreement of the Deputy Chief Executive, Communities & Resources and the Director of Legal & Governance may set up corporate and/or framework contracts for goods services, supplies or works across the Council and other public sector bodies. These shall be advertised and competitively tendered in accordance with the Council's competition and selection procedures set out in these rules and the Procurement Framework.
- 20.2 Where an appropriate corporate contract is in place this shall be used wherever appropriate. The Member of CMT responsible for the corporate contract shall issue guidance as to its use, after consultation with the Director of Legal & Governance and the SPU.
- 20.3 Any corporate/framework contracts shall be reviewed regularly by the SPU and shall be re-tendered at least once every four years.
- 20.4 Where a framework agreement is operational, all subsequent purchases under the framework shall either not require further competition (if a single supplier) or, if there are two or more suppliers for those goods or services on the framework, follow the express framework provisions for choosing a supplier. If there are no such express provisions a mini-competition should be held amongst the relevant suppliers.
- 20.5 If the Council is setting up the framework, the framework agreement shall be let in accordance with the requirements of the CPR.

## **21 CONTRACT MANAGEMENT AND REVIEW**

- 21.1 The APO shall ensure that there are adequate provisions in a tender and subsequently awarded contract to manage the performance of the contractor during the period of the contract, that all performance targets relevant to the contract are measurable and that there is a robust structure for ensuring compliance.
- 21.2 Wherever possible national performance indicators shall be reinforced by local targets as set out in the Council's specification and/or published policies, aims or targets; for example in its Corporate Plan, Sustainable Community Strategy, and Equality and Diversity policies and other corporate or local initiatives.
- 21.3 The APO shall ensure that there are regular meetings with the contractor.
- 21.4 For contracts of more than 12 months duration the contract shall be reviewed at least annually. Where the results of the review establish that performance targets are not being met or there is a high level of dissatisfaction (which should be documented and advised to the contractor at the earliest opportunity), appropriate

measures will be taken to rectify any failure. Where there is a serious problem with the performance of the contractor and enforcement through the terms and conditions of the contract has been exhausted and has not resulted in an acceptable improvement, termination of the contract should be considered. Where the contractor is performing well, due recognition should be given wherever possible.

- 21.5 For contracts with a period of less than 12 months duration, and at the end of a longer term contract, a performance review should be conducted and the finding acted upon for a future procurement for the same or similar Works, Services or Supply. Due recognition should be given for good performance.
- 21.6 All performance reports or contract reviews will be kept on the council's preferred e-tendering suite by the Contract Manager and made available on request to the Managing Director.
- 21.7 For all contracts that have been through the Checkpoint Procedure, a completed Stage 3 report will be required as part of a contract review. This is the contract manager's responsibility and must be completed within 12 months of contract award.

## **22 DOCUMENTATION**

- 22.1 All documents prepared for a procurement exercise will be, as far as possible, unambiguous and transparent in their intentions, compliant with regulatory requirements and the Council's aims and objectives and shall take account of the Council's strategies, policies and service objectives.
- 22.2 All tenders shall include clear instructions to tenderers on the process that is intended to be used including award criteria and weighting, together with the specification pricing schedule (or other descriptive document), conditions of contract, e-Auction procedure and award process and all other documents relevant to the Works, Services or Supplies that are being procured.

### **Contracts**

- 22.3 All contracts with a value over £100,000 shall be on the Council approved standard terms and conditions for that type of contracts unless:
  - i. the contract is let under an existing framework agreement which specifies the terms and conditions under which an individual contract can be let;
  - ii. the Council's standard terms and conditions are not appropriate for the particular contract;
  - iii. the Director of Legal & Governance approves otherwise.
- 22.4 All Council contracts where the Council approved standard terms and conditions are not appropriate must be awarded on the basis of a written specification of the Council's requirements on contract terms and conditions approved by the Director of Legal & Governance in advance.
- 22.5 All contract specifications shall include reference to appropriate domestic or European standards and legislation where appropriate.

- 22.6 Contracts above £100,000 shall include details of:
- i. what is to be provided (description, quality and quantity where relevant) and when;
  - ii. payment provisions (amount and timing); and
  - iii. the Council's standard conditions relating to the following:
    - a. the time scale within which the contract is to be performed;
    - b. the contract review period;
    - c. no sub-contracting or assignment without prior consent;
    - d. sub-contractors to be appointed in accordance with these rules;
    - e. sub-contractors to be paid within 30 days;
    - f. the Council's insurance requirements;
    - g. the Council's health and safety requirements;
    - h. the Council's data protection and Freedom of Information requirements;
    - i. the Council's equalities requirements;
    - j. a right of access to relevant documentation, data and records of the contractor for monitoring and audit purposes;
    - k. a right of termination for the Council;
    - l. a requirement at the discretion of the Council for security for performance – for example, a bond, guarantee or retention sum;
    - m. quality assurance requirements and consequences;
    - n. implementation;
    - o. performance monitoring requirements;
    - p. best value requirements;
    - q. the Council's standard prevention of corruption clause;
    - r. TUPE requirements.
- 22.7 All Council contracts for construction works with a total value of more than £100,000 shall be awarded on the basis of a written specification of the Council's requirements and the current conditions of:
- i. the relevant standard form of Joint Contracts Tribunal (JCT); OR
  - ii. the standard form of Institute of Civil Engineering (ICE) ; OR
  - iii. the standard form of Project Partnering Contracts (PPC) 2000; OR
  - iv. the relevant form of New Engineering Contracts (NEC); OR
  - v. the relevant framework agreement;
- whichever is appropriate or another standard form of contract approved by the Director of Legal & Governance.

### **Retention of documents**

- 22.8 The Members of CMT shall be responsible for ensuring that there is a secure system of filing and storing all tender process documentation.
- 22.9 An APO is required to keep written records of all contracts and the tender processes, including minutes/notes of the tender evaluation panel and other supporting documentation used throughout the procurement process. These will be retained on the Council's preferred e-tendering suite.

- 22.10 Once executed the Council shall retain one original copy of the complete contract documents and one copy of the complete contract documents shall be provided to the contractor. This includes the:
- i. contract conditions;
  - ii. specification;
  - iii. evaluation criteria;
  - iv. invitation to tender;
  - v. pricing schedule;
  - vi. contractor's tender submission;
  - vii. pre-tender correspondence which affects the specification, pricing schedule or contract conditions;
  - viii. post tender correspondence;
  - ix. award letter; and
  - x. documentation of all variations and extensions of the contract.
- 22.11 Where the contract is under seal, one original copy of the contract documents shall be sent to/retained by the Director of Legal & Governance for storage in the Council's deeds room and one copy shall be retained by the person awarding the contract, as well as one copy being provided to the contractor.
- 22.12 All documents of sealed contracts and contracts with a value over £150,000 shall be retained by the Director of Legal & Governance in the Council's deeds room for twelve years from the date the contract has ended.
- 22.13 Contracts not under seal shall be retained for six years from the date the contract has ended..
- 22.14 Unsuccessful quotations and tenders and financial correspondence shall be retained for four years from the contract was awarded.
- 22.15 Service Level Agreements shall be retained for one year after the end of the agreement or the date on which it was superseded.
- 22.16 Where an exception to the Competition Financial Thresholds applies, the following documents shall also be retained:
- i. the Competition Financial Thresholds Exceptions Approval Form signed by a Member of CMT;
  - ii. the contract and correspondence with the contractor;
  - iii. any evidence of how value for money was obtained – for example, alternative written or oral quotes.

## **23 COLBORATIVE, JOINT COMMERCIAL ENTERPRISES AND PUBLIC SECTOR SPIN OUTS**

- 23.1 Where consideration is being given to collaborative working, whether loosely or by establishing a Special Purpose Vehicle/Economic Entity, the Head of Procurement will be informed at the earliest opportunity and a Checkpoint Stage 1 Report will be

prepared to consider any procurement implications and to make recommendations to the Checkpoint Panel.

- 23.2 Where consideration is being given to collaborative working with another local authority (or authorities) and/or public bodies, the Head of Procurement will be informed at the earliest opportunity to determine the legal, governance and procurement implications before proceeding.
- 23.3 Where consideration is being given to establishing an existing in-house service as an economic entity outside of the Council (a public sector spin out) with a primary focus either on providing Services to the authority or offering Services generally, the Directors of Legal & Governance and Finance and the Head of Procurement will be informed at the earliest opportunity to determine the legal, governance, commercial viability and procurement implications before seeking approval from the Executive.
- 23.4 The Officers identified in this CPR 23 will be informed in the same way for any similar types of enterprise before seeking approval of the Executive.
- 23.5 For the vehicles identified in this CPR 23 which involve the making of payments to whatever is created, State Aid implications will be considered.

## **24 BONDS AND GUARANTEES**

- 24.1 A Performance Guarantee Bond and/or Parent Company Guarantee may be required as part of the award of a contract. The final decision to take security will lie with the APO and the form of security to be taken and its terms for reimbursement in the event of default will be determined by the Director of Legal & Governance (or authorised deputy) and the Head of Procurement, with account being taken of market trends.
- 24.2 The APO for a contract with a value between £100,000 and £500,000 will consider whether there is a need to take security against the contractor's performance at Checkpoint Stage 1, taking account of the risks associated with the subject matter of the contract. Where, after an assessment, the risk is judged as low, a bond and/or guarantee need not be taken. Where the risk is judged as medium the Head of Procurement will be consulted as to whether it is desirable to take security. Where the risk is judged as high a bond should be considered.
- 24.3 Where the contract value is above £500,000 the APO shall consult the Head of Procurement whether a bond and/or guarantee should be taken where the risk is judged as low or medium. Where the risk is judged as high a bond should be considered.
- 24.4 Where a tenderer indicates it has a holding/parent company, consideration should be given to obtaining a Parent Company Guarantee regardless of the risks associated with the procurement.

- 24.5 All tender documentation for contracts over £100,000 shall make reference to the provisions of this CPR 24 for taking of security, if required. Where a specification or pricing document includes the taking of security, the drafting should reflect the wording of this CPR 24, and indicative rates be requested subject to the Council decision to require a bond. Where a bond is not thought necessary, premium value will be deducted from the contract sum. Where no sum is identified the amount shall be determined by reference to markets at the time of the procurement.

## **25 GRANT FUNDED EXPENDITURE**

- 25.1 Where the council receives Grant Funding and is named as the accountable body for the expenditure of monies, and where the terms of the grant permits the council to directly carry out Works, or buy Services or Supplies, any procurement will be conducted in line with CPR.
- 25.2 Where the funding received exceeds £500,000 a report will be presented to the CMT for approval to enter into the Grant Agreement (or other funding arrangement) and to record the availability of funding subject to the terms of the grant.
- 25.3 For grants under £500,000 approval will be in accordance with the Scheme of Delegation. Account will be taken in contracts let, in whole or in part, as a result of grant funding, of the terms and conditions and accountability of the Council, and will also have provision to terminate an awarded contract in the event of the grant funding ceasing, in whole or in part.
- 25.4 Where the funding is for use by a third party the obligation to account for the funding contained in the grant terms will be included in the agreement with the third party. Further, the terms of making the grant shall include a clause to competitively tender for Services, Supplies or Works and reflect the Council's strategies, policies and objectives in so much as they apply to, or are compatible with, the funding objectives as set out in the grant terms imposed on the Council and CPR.
- 25.5 Where the Council is making a grant from its own resources the terms as set out in CPR 25.1 will apply, save that accountability conditions will be set by the Council.
- 25.6 Where grant funding is for the employment of staff under a contract of employment (rather than as a consultant or contractor), procurement will not apply and an exemption will be recorded.

## **26 STATE AID**

- 26.1 A grant, or other funding made to a third party (including that to a Direct Service Organisation), either by the Council or from another source, which may be considered as a subsidy will need to be reviewed against the EU "State Aid" rules. To establish whether a grant, or other contribution, (financial or in kind) affects the procurement or other transaction being considered by the Council. Where a third party who is in receipt of a grant, or other contribution, from the Council is included on a select list of tenderers the extent of its value in terms of affecting the Council's

obligations the EU Treaty principles of Equal Treatment, Transparency, Non Discrimination, Proportionality and Mutual Recognition should be considered to establish whether there is any risk of infringement of the “State Aid” Rules.

26.2 European “State Aid” may apply where:

- i. It is granted by a Member State or through State resources;
- ii. It favours certain undertakings or the production of certain Supply;
- iii. It could distort or threaten to distort competition;
- iv. It could affect trade between EU Member States.

26.3 The Rules themselves have permitted exemptions which may mean the grant or, other contribution would not raise a risk infringement but if all four of the above apply advice should be obtained from the Director of Legal & Governance and any procurement activity should be suspended.

26.4 Where State Aid is considered the outcome of any assessment will be recorded and retained with the tender/contract documents.

## 7 ANNEX 1: PROCURING SUPPLIES, SERVICES AND WORKS

Value	Process	e-Tendering Suite	Advertise	Checkpoint Stage 01*	Pre-tender Report	Checkpoint Stage 02*	Award Report	Checkpoint Stage 03*
<b>Goods / Services</b>								
£0 - £4,999	One quote	No	No	No	No	No	No	No
£5,000 - £24,999	Two quotes	No	No	No	No	No	No	No
£25,000 - £99,999.99	3 Quotes/Tender if advertised	Yes	No	No	No	No	No	No
£100,000 - EU <sup>1</sup>	Tender	Yes	No	No	No	No	No	No
EU <sup>1</sup> - £499,999.99	Tender	Yes	Yes	Yes	Head of Service	Yes	Member of CMT	Subject to Panel
£500,000 - £999,999.99	Tender	Yes	Yes	Yes	Member of CMT	Yes	Member of CMT	Subject to Panel
£5M - £10M	Tender	Yes	Yes	Yes	Member of CMT	Yes	Lead Member	Yes
£10M +	Tender	Yes	Yes	Yes	Member of CMT	Yes	Cabinet or Leader	Yes
<b>Works</b>								
£0 - £4,999.99	One quote	No	No	No	No	No	No	No
£5,000 - £24,999	Two quotes	No	No	No	No	No	No	No
£25,000 - £99,999.99	3 Quotes/Tender if advertised	Yes	No	No	No	No	No	No

<sup>1</sup> EU Threshold for Supplies and Services

£100,000 - EU <sup>1</sup>	Constructionline tender – 5 minimum	Yes	No	No	No	No	No	No
EU <sup>1</sup> - £499,999.99	Constructionline tender – 5 minimum	Yes	No	No	Head of Service	Yes	Member of CMT	Subject to Panel
£500,000 - EU <sup>2</sup>	Constructionline tender – 7 minimum	Yes	No	Yes	Member of CMT	Yes	Member of CMT	Subject to Panel
EU <sup>2</sup> - £4,999,999	Tender	Yes	Yes	Yes	Member of CMT	Yes	Member of CMT	Yes
£5M - £10M	Tender	Yes	Yes	Yes	Member of CMT	Yes	Lead Member	Yes
£10M +	Tender	Yes	Yes	Yes	Member of CMT	Yes	Cabinet or Leader	Yes

<sup>1</sup> EU Threshold for Supplies and Services

<sup>2</sup> EU Threshold for Works

## ANNEX 2: GLOSSARY OF TERMS

<b>Term</b>	<b>Definition</b>
<b>Approved List</b>	An eligible list of potential Contractors who have been assessed as to their suitability in terms of financial and economic standing and technical capability to tender for contracts.
<b>Audit Trail</b>	Evidence showing how, why and by whom certain processes and functions were carried out.
<b>Authorised Procurement Officer</b>	An Officer of the Council who has delegated authority (through the general management scheme of delegation) to procure Works, Supplies and Services on the Council's behalf.
<b>Best Practice</b>	The most effective and desirable method of carrying out a function or process derived from experience rather than theory.
<b>Business questionnaire</b>	Also known as a Pre-Qualification Questionnaire (PQQ) A Questionnaire completed by companies that wish to be short listed for procurement activity or placed on an approved list. The purpose is to assess suitability in terms of financial and economic standing and technical capability
<b>CMT</b>	Corporate Management Team - Havering Council's top level management team comprises the Chief Executive, Chief Operating Officer, Directors and oneSource Managing Director.
<b>Competitive Tendering</b>	Awarding contracts by the process of seeking competing tenders
<b>Concession Contract</b>	is a <b>contract</b> under which a contracting authority or a utility outsources works or services to a <b>contractor</b> or provider, who then has the right to commercially exploit those works or services in order to recoup its investment and make a return. Light
<b>Contract</b>	A binding agreement made between two or more parties, which is intended to be enforceable at law. This may take the form of a written or verbal agreement
<b>Contract Manager</b>	The officer responsible for ensuring the contract is procured in compliance to these procedure rules.
<b>Contract Award</b>	The issuing of a formal commitment to a supplier, contractor or service provider to Supplies, Services or Works to the Council .
<b>Contractor</b>	A firm or person who has made a contract to Supply, provide Services or undertake Works
<b>Contracts Finder</b>	The Public Contracts Regulations which came into force on 26th February 2015 require public sector organisations in England

<b>Term</b>	<b>Definition</b>
	(government departments, local authorities, housing associations, armed forces, emergency services, schools, universities, etc.) to publish information on contracts they intend to award following a competitive tender.
<b>Director</b>	An Officer who reports the Chief Executive.
<b>Directorate</b>	The staff, Services and functions for which a Officer is responsible.
<b>Emergency</b>	An event or occurrence which could not reasonably have been foreseen and which threatens immediate danger to life, health or property
<b>E- tendering</b>	The system used to cover all procurement activity over £25,000.
<b>Framework Agreement</b>	A "framework agreement" is an agreement between one or more contracting authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
<b>Invitation to Tender</b>	An invitation to suppliers to formally bid for the provision of Works, Supplies or Services not being the Instructions to Tender.
<b>Letter of Acceptance</b>	A letter, which creates an immediate binding contractual relationship between the Council and the successful tenderer prior to entering into a formal contract
<b>Light Touch</b>	The new <b>light-touch regime</b> (LTR) is a specific set of rules for certain service contracts that tend to be of lower interest to cross-border competition. Those service contracts include certain social, health and education services, <b>defined</b> by Common Procurement Vocabulary (CPV) codes.
<b>Mandatory Standstill Period Notice</b>	A letter or other communication sent following a mandatory OJEU compliant tender exercise which must be sent to an unsuccessful tenderer to comply with Regulation 86-87 of the Public Contracts Regulations 2015 and CPR 12.5-6 before the final award of a contract.
<b>Most Economically Advantageous Tender</b>	The tender which will bring the greatest benefit to the Council in terms of quality, price, running cost, disposal cost, etc. (MEAT)
<b>Officer</b>	The individual reporting into the service directly responsible for the commissioning activity for that service.
<b>Overview &amp; Scrutiny</b>	Overview and Scrutiny is an essential function which monitors

<b>Term</b>	<b>Definition</b>
	the work of the Leader and Cabinet and provides a route through which the non-executive Members can scrutinise the work of the decision makers and hold them to account. The Overview and Scrutiny Committee monitors performance and draws attention to issues of public concern. In this way, scrutiny drives improvement, sets high standards for the delivery of services and crucially responds to the needs of the borough through maintaining a constant dialogue with residents.
<b>Quotation</b>	Any written offer requested either orally or in writing.
<b>Select List</b>	A list of suitable prospective suppliers that has been drawn up through a pre-qualification short listing exercise for a particular contract or procurement activity.
<b>Service Area</b>	The staff, Services and functions for which an Officer is responsible .
<b>Specification</b>	A description of what is to be provided under the contract. Depending on the procurement, a specification can be anything from a catalogue or model number to a whole series of documents.
<b>Strategic Procurement Unit (SPU)</b>	Strategic Procurement is based within the Finance Directorate of oneSource and is responsible for overseeing strategic procurement issues, procurement policy, corporate Supply and service contracts.
<b>Tender</b>	A formal, written, sealed response to an invitation by the Council that contains a specification for Works, Services or Supplies required.
<b>Tender Documents</b>	Documents issued to prospective tenderers when they are invited to submit a tender. Such documents would normally include; a business questionnaire or Pre-Qualification Questionnaire (PQQ), except where a Select List or formal Framework Agreement is in place, instructions to tenderers, contract conditions, specification, pricing document, form of tender and tenderers' responses.
<b>Tender Evaluation</b>	Detailed assessment and comparison of supplier offers
<b>The Authority/Council</b>	The London Borough of Havering of Town Hall, Romford, RM1 3BB.
<b>Urgency</b>	A situation whereby the Council is likely to suffer significantly either financially or operationally or will be in breach of an order of court or statutory function or for health and safety reasons

Term	Definition
	associated with the protection of life and property, if immediate action is not taken.
<b>“VEAT” Notice</b>	A Voluntary Ex-Ante Transparency Notice is a notice announcing an intention to award a contract and which sets out the legal grounds upon which the intended award is to be made.
<b>Voluntary Feedback Communication</b>	A non statutory notification to an un-successful tenderer following a non-mandatory procurement (or an award over EU value threshold and Works) following a “mini-tender” exercise under a Framework Agreement) drawn up and containing information required for a mandatory standstill notice or by way of feedback in line with Section 20 Local Government Act 1988 (requirement if requested to give feedback with 15 days of the reasons for an award decision).