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# Warwick District Council Code of Procurement Practice

Code of Procurement Practice has been written in five sections.

1. Corporate rules
2. Procurement procedure
3. Contract Management Policy, Practice and Procedure
4. Glossary
5. Policies

## SECTION TWO

### PROCUREMENT PROCEDURE

1.1 It is a mandatory requirement for the sponsoring Manager / Head of Service, before commencing any new procurement activity, to complete a Procurement Initiation Document (PID) to identify the business needs and fully assess any and all options for meeting those needs. The purpose of the Procurement Initiation Document (PID) is to assist the Procurement team / sponsoring Manager / Head of Service to organise, plan and control the procurement exercise and address each element of the Procurement project at the right time and to the right level of detail for the size and complexity of the Procurement project.

1.2 It is recognised that the Procurement Initiation Document (PID) will evolve during the Market Consultation / Pre Procurement route and will be reassessed at gateway review stages throughout the Procurement process.

1.3 The PID must be sent to the Procurement Manager who will allocate workload responsibility within the Procurement team and arrange for the lead Procurement officer to meet with the sponsoring Manager / Head of Service and Procurement team on a regular and appropriate basis, to work together and develop the Procurement project, and jointly ensure a successful outcome of the procurement exercise.

1.4 The procurement exercise is a joint responsibility between the Sponsoring Head of Service (or nominated deputy), the Procurement team and key internal / external stakeholders with the involvement of particular specialist disciplines, as and when required. It is of paramount importance to the success of this procurement project that clear ownership, roles and responsibilities are established at an early stage along with an agreed action plan that dovetails with an agreed timetable. The joint team is responsible for maintaining a strategic and operational overview ensuring that the business aims and objectives are achieved in strict accordance with the Procurement Initiation Document (PID) / Business Plan, legal requirements, Procurement requirements, and the Council's policies and procedures

1.5 Before undertaking the procurement exercise the officer responsible for the activity shall:

1.5.1 Consider all other means of satisfying the need (including recycling and reuse where appropriate);

1.5.2 Consider whether there is an existing appropriate compliant pre-tendered contract available. This may be either a contract let by another public body or a framework agreement let by a purchasing consortium (e.g. Crown Commercial Services, ESPO, and YPO). It may be necessary to examine a number of frameworks and contracts to find the best value solution;

1.5.3 Consider joint working with one or more other local authorities. Sharing knowledge and resources while aggregating spends should be of benefit. The Procurement team can establish contact with other procurement officers at neighbouring councils to assist with this if this is felt to be a viable option.

1.5.4 Consider the criticality of the supply and/or service with regard to business continuity to ensure a smooth transition from the outgoing and incoming contractor;

1.5.5 Consider and define the need for a confidentiality document either at the initial outset of the tender phase and/or at the contract stage.

1.5.6 Consider any 'Conflicts of Interest' from parties involved in the procurement process, i.e. members' involvement with organisations outside the council.

1.5.7 Where appropriate, carry out Soft Market testing to ensure that the requirement can be met by the market.

1.5.8 Give consideration and ensure adherence to the Ethical Procurement Statement and Sustainable Procurement Policy

1.5.9 Give consideration to the social benefits that can be obtained through the lifetime of the service contract in line with the Public Service (Social Value) Act 2012. It is mandatory at the Invitation to Tender stage:

- the social value outcomes being sought should be described in the service specification
- in the ITT evaluation criteria, social value should form part of the quality weighting. The amount of weighting specifically given to social value, within the overall quality evaluation, should be made clear.
- a minimum of one social value question is included in all tenders above £100,000.
- two social value questions are included in all tenders above £1million pounds

1.5.10 Seek the advice and guidance from the Procurement Manager as appropriate.

1.5.11 Consider any current or potential WDC in-house provision of services. They must be invited to participate in the tendering process.

1.6 Identify any stakeholders that need to be made aware of the renewal process.

1.7 Consult with Finance or service accountant to determine the approved available budget, where the existing budget may be insufficient to cover current costs of such a contract. Any monies to be drawn from the Reserves must follow the due approval process prior to commencing the procurement process.

1.8 Where it is agreed to carry out a new tendering exercise the Council should make best use of its purchasing power by aggregating purchases wherever possible. Consideration should be given to lots to encourage participation from SME's.

1.9 Gateway Reviews 'Gateway' means the method of 'managing' a procurement exercise at critical stages in its lifecycle to provide assurance that the procurement can proceed to the next stage.

1.10 The Gateway process is designed as six key stages (as shown below) . Projects have to successfully pass through at the end of each stage before progressing to the next. This helps to ensure that the costs and benefits of projects are predictable and fall within acceptable boundaries.

1.11 Prior to the commencement of a procurement exercise with a value of £50,000 or more, the Head of Service (or nominated Deputy), in consultation with the Procurement Manager (or nominated Deputy) must undertake gateway reviews at each stage of the procurement process.

<b>Stage</b>	<b>Stage closure questions</b>
Gateway 0 Strategic Assessment	<ul style="list-style-type: none"> <li>• What is the business need?</li> <li>• Is it a project or a programme?</li> <li>• Do we have the right skills?</li> <li>• Do stakeholders support it?</li> <li>• Does it contribute to the Council's strategy?</li> <li>• Are there resources for the next stage?</li> </ul>
Gateway 1 Business Justification	<ul style="list-style-type: none"> <li>• Is the high level business case complete?</li> <li>• Do we have the authority and support to proceed?</li> <li>• Is the feasibility study satisfactory?</li> <li>• Are the scope, scale and outcomes clear?</li> <li>• Is our risk management plan complete?</li> <li>• Do we have the correct project structure and plans?</li> </ul>
Gateway 2 Procurement Approach	<ul style="list-style-type: none"> <li>• Is the procurement approach appropriate?</li> <li>• Have all approaches been investigated?</li> <li>• Is the business case up to date?</li> <li>• Is the specification of requirements correct?</li> <li>• Can the project team and structure deliver?</li> <li>• Is the project plan realistic?</li> </ul>
Gateway 3 Investment Decision	<ul style="list-style-type: none"> <li>• Can the benefits specified in the business case be delivered by the contract?</li> <li>• Has the procurement been appropriately managed ?</li> <li>• Is there continuing stakeholder support?</li> <li>• Is the business case ready for implementation?</li> <li>• Are the contract management procedures satisfactory?</li> </ul>
Gateway 4 Readiness for Service	<ul style="list-style-type: none"> <li>• Is the business case still valid?</li> <li>• Are the business benefits still detectable?</li> <li>• Is there sufficient contract management resource?</li> <li>• Has all testing been successfully completed?</li> <li>• Is the business ready for implementation?</li> <li>• Are plans for managing implementation and operation in place?</li> </ul>
Gateway 5 Benefits Evaluation	<ul style="list-style-type: none"> <li>• Was the business justification realistic?</li> <li>• Are the expected benefits being delivered?</li> <li>• Is there sufficient contract management?</li> <li>• Are agreed changes appropriate?</li> <li>• Is there still a business case for the contract?</li> <li>• Can lessons be learned from the experience?</li> <li>• Are appropriate targets in place?</li> <li>• Are plans in place for the future including possible</li> </ul>

## 12. PRE-TENDER MARKET CONSULTATION

12.1 Before commencing a procurement procedure consideration should be given to engaging with the market. This engagement may be used by the Council to gather information about what the market is capable of offering etc. Prior to undertaking any such market engagement advice must be sought from the Procurement Team in relation to whether such engagement is appropriate and also the method of such engagement.

12.2 Where market engagement is undertaken, the Responsible Officer must ensure appropriate measures are taken to ensure that competition is not distorted, for example:

- Ensuring an exchange of information in the context of or resulting from the involvement of the market engagement with other candidates and/or tenderers;
- Allowing sufficient time limits for the receipt of tenders so those candidates/tenderers not involved in market engagement can digest the information presented and read any background supporting documents issued; or
- Where no other alternative exists, exclude the organisation involved in market engagement from the procurement procedure (prior to exclusion, the bidder must be given the opportunity to prove that their involvement is not capable of distorting competition).

12.3 Where market engagement is undertaken through the use of an advertisement on CSWJETS **or** through the use of a Prior Information Notice (PIN) within OJEU, the details of this advertisement also need to be recorded on Contracts Finder.

## 13. TENDERING PROCEDURES

13.1 Subject to any overriding statutory enactment this tender procedure applies in relation to any and all type 3, 4 and 5 contracts.

**For type 3 contracts a formal quotation process needs to be followed.**

13.1.1 The 'Quick Quote' process within the e-tendering portal to be used as a call for competition, where applicable.

13.1.2 Advertise the requirement on Contracts Finder.

**For type 4 and 5 contracts a formal tendering process to be followed.**

13.1.3 A formal tendering Procurement to be carried out using the e-tendering portal.

13.1.4 The requirements will be linked to Contracts Finder.

13.2 For type 5 contracts the relevant procedure (open, restricted, negotiated or competitive dialogue) needs to be identified prior to advertisement;

- **Open Procedure** – where only a limited number of potential suppliers are likely to respond.
- **Restricted Procedure** – where there are potentially many suppliers likely to respond and a pre-tender selection is required.

- **Competitive Procedure with Negotiation** – for complex tenders giving the option to negotiate
- **Competitive Dialogue** – for highly complex tenders where none of the above are suitable or the solution cannot easily be identified.
- **Innovation Partnership** – highly complex tenders, working with the market to deliver the business objectives when the route or specification is hard to establish or if the market can deliver (working together partnership)

13.2.1 Where it is agreed to follow a restricted procedure documents will include for a 2 stage tendering process - stage 1 the Pre –Qualification Questionnaire (PQQ) for the Public Sector and stage 2 the Invitation to Tender (ITT)

13.2.2 A Pre –Qualification Questionnaire (PQQ) must not be used for spend below E U Public Procurement Directive Threshold

13.3 For type 3, 4 and 5 contracts a clear specification and pricing scheduled needs to be developed for publishing to the market. An evaluation criteria and scoring matrix needs to be available for consideration.

13.4 At the time of publishing the Call for competition for type 4 and 5 contracts, clear background information, specifications and pricing schedules, as required by the Procurement Manager, including the evaluation criteria and scoring matrix, needs to be available for consideration. Service level agreement and key performance indicators should be included and used as a tool to manage the performance during the life of the contract. All KPI's should be SMART (specific, measurable, achievable, realistic and timely) and not onerous. ALL contract documentation needs to be prepared to be published as part of the process.

13.5 Tenders will be let as framework agreements for use by other local authorities, where applicable.

13.6 All tender opportunities must be advertised via the CSW-JETS e- portal by the Procurement Team. Advertisements will also be advertised through Contracts Finder and on our external web site, while those above EU thresholds will be sent to the OJEU. The advertised opportunity will have links to the documents for consideration and will include the date, time and the process for the return of the completed documents to the originator.

13.7 Constructionline shall be used as the basis for selecting contractors for works and construction related consultants to quote or tender for contracts up to the value of the EU limits for Works and Services.

13.8 In order to promote procurement opportunities and increase the number of Local SME's registered on the CSW-JETS e- portal, invitations to Participate will be circulated using Federation of Small Businesses weekly e mail.

13.9 To promote Procurement opportunities with SME's we shall:

- Directly notify all suppliers that are registered on the CSW-JETS e- portal, and have entered the industry/sector in which they operate, of any contract opportunity which may be of interest to them (via CSW-JETS e- portal )
- Publish an annual forward contract plan showing all potential procurement opportunities with a total value above £25,000
- Advertise all Potential Procurement opportunities via Federation of Small Business's weekly e newsletter

- At least two Local Providers invited to quote for contracts value £25,000 - £49,999.99

13.10 All procurements over £25k total contract value will be assessed for Safeguarding risks. Irrespective of the level of risk basic Safeguarding contract clauses will be included in all contracts. For high risk contracts safeguarding will form a constituent part of selection and award criteria as appropriate, in addition extended contract clauses will apply.

13.11 The Public Contract Regulations 2015 requires the Council to provide an indication within the invitation to tender contract notice why the Council has not broken a contract down into lots. Therefore, the assumption is that all contracts, where possible, shall be broken down into appropriate lots and requesting a discount where more than one lot is awarded to the same Tenderer. Any discounts proposed shall be considered as part of the overall evaluation of prices and awarded according to the published award criteria.

## **14. CUSTODY, OPENING AND ACCEPTANCE OF TENDERS Type 3 - 6**

### **14.1 Receipt of Quotations / Tenders**

14.1.1 Quotations / Tenders will be returned via CSW-JETS e- portal and will not be available for opening until after the closing time / date where an opening ceremony via the system will take place. No quotation / tender will be available to view until after this event. WDC operate an anonymous submission system and names of tenderers are not revealed until after the submission deadline.

### **14.2 Opening**

14.2.1 The e-tendering system records the time quotes / tenders are submitted.

14.2.2 Once the quote / tender has been opened it is only then that the name of the tenderer is revealed.

14.3 The Procurement Manager (or nominated deputy) will be responsible for opening Tenders (Opening Ceremony) in respect of all tenders and quotations issued via the e-tendering portal

### **14.4 Late Quotations / Tenders**

14.4.1 Late quotations / tenders will not be accepted unless the Council is at fault in its ability to accept documents (e.g. loss of internet access, building closure). It is the responsibility of tenderers to allow sufficient time for their documents to reach the Council via the e-tendering portal.

14.4.2 Where information is missing from a quote / tender, officers may clarify the omission with the bidders. Acceptance of any missing information is at the discretion of the Procurement Manager, who will first decide if this breaches any regulations. If no breaches will occur and it is of benefit to the Council then late information can be considered.

### **14.5 Altered Quotes / Tenders**

14.5.1 If examination of an apparently successful quote / tender reveals any errors which affect the quote / tender figure, the tenderer is to be given details of the error and

given the choice of either confirming the tender figure or withdrawing the tender except:-

- by approval of the Executive after considering a report by the appropriate Head of Service.
- where the priced specification/schedule of works/schedule of rates/bills of quantities is submitted with the quote / tender, errors in any of those documents may be corrected and tender sums amended accordingly.

## **14.6 Evaluation of Quotes / Tenders**

14.6.1 The evaluation must be carried out in adherence with the Guide to Tender Evaluation.

14.6.2 Evaluation must be carried out in an objective, fair and transparent manner using the criteria specified in the documentation (PQQ and/or ITT) with all scores and relevant comments recorded.

14.6.3 Evaluation must be Carried on a 'most economically advantageous tender' (MEAT) basis, that is a mix of price and award criteria in order to identify the best value tender for the Council. In exceptional circumstances, and for goods only, may the lowest price selection criteria be used and this will be subject to the permission of the Procurement Manager.

14.6.4 All calculations, not / comments relating to the selection and the award process must be kept for the term of the contract. The individual score awarded must be given to the tenderer as part of the communications at the contract award stage (mandatory part of the UK Remedies Directive 2009).

### **14.6.7 Acceptance of Tenders**

14.7.1 Following the evaluation process the Managers Award Recommendation Report and the Tender recommendation - Acceptance Report needs to be compiled bringing together the process followed, evaluation details, shortlisted suppliers, reasons for interviews if applicable and reasons for recommendation. This needs to be signed off by the Procurement lead, Procurement and Budget Holder before communicating the outcome to the successful tenderer. In certain circumstances where funding is being provided from an external organisation e.g. Heritage Lottery Fund, Friends Groups, acceptance of the recommendation may need to be obtained.

14.7.2 The Head of Service concerned may then formally accept the most economically advantageous tender (MEAT) provided that:

- the amount of the MEAT tender can be met from within the revenue budget (including any available virement); or
- the amount of the MEAT tender, together with any other scheme costs (e.g. fees, capital, salaries, post-contract services etc.) can be met from within the capital programme provision for the scheme/groups of similar schemes and that Executive approval for the capital expenditure has previously been granted,

14.7.3 Where a tender cannot be accepted by the Head of Service concerned because of the budget limitations, a report should be submitted to the Executive outlining the position and the options. It will then be a matter for the Executive to decide whether to proceed on a reduced basis, how the shortfall will be funded in line with the Financial Code of Practice, or not to proceed with the scheme.

14.8 The intention to award a contract must be communicated in writing to all suppliers that have declared an interest in the process. This should be done as soon as possible once an agreement has been obtained. This should be by formal letter. For contracts above £50k the communication needs to include details of Criteria for the award of the contract.

#### **14.9 Criteria for the award of the contract**

14.9.1 The score achieved by the successful supplier and the tenderers score (broken down by each element used to evaluate the tender)

14.9.2 Any reasons for the decision including the characteristics and relative advantages of the successful supplier

14.9.3 The name of the successful supplier

14.9.4 The right to appeals or challenge and how this can be done

14.9.5 The date that the standstill period will end

14.10 Where EU Regulations apply, a period of at least 10 days shall be allowed between the date of despatch of the intention to award letters to all contractors who expressed an interest and the date on which the Council proposes to enter into the contract (the Alcatel standstill period). These letters are to be dispatched by the most rapid means of communication practicable, ideally via e-mail. The standstill period shall be extended to 15 days if notifications are sent by post. In response to a written request the Council shall inform an unsuccessful Tenderer of the characteristics and relative advantages of the successful Tenderer. Tenders have the full 10 or 15 day period within which to either ask further clarification questions or state legal proceedings. Tenders subject to the Alcatel standstill period shall be recommended for acceptance by formal letter and can only be accepted after the end of the Alcatel standstill period and provided that no challenge has been received.

For contracts of types 1-3 this level of information is not required. Although for transparency this may be advantageous.

14.11 The successful tender and material associated with the tender process (emails, letters etc.) should be retained for a period of three years from the end/completion of the contract and be available for audit. Unsuccessful tenders should be retained for a period no less than 7 months from the award date in line with Councils retention policy.

#### **APPOINTMENT OF CONSULTANTS**

15.1 The appointment of a Consultant falls into two Categories: a Consultancy service or the needs of a specialist Consultant, individual. Defining the specific requirement will ensure the correct contract is awarded.

15.2 A Consultancy service includes:

- A service from a company to provide specialist advice to deliver a particular Procurement such as building consultants (architects, quantity surveyors, structural engineers etc.)

15.3 A specialist Consultant includes:

- Need to employ the skills and expertise of an individual such as employment specialist, training



15.4 A Consultant will be appointed after following the required procurement process, taking into account the full estimated value for the whole period to complete the Procurement (s) and not disaggregated into separate portions.

15.5 The requirements from the Consultant need to be clear covering all business needs.

## **16. FRAMEWORKS**

16.1 Frameworks of suppliers may be used where these have been established by an appropriate contracting authority and the Council is appropriately named as a participant in the framework.

16.2 Senior Managers, in liaison with the Procurement Manager, may establish their own frameworks in order to streamline the process of ordering commonly bought goods, works or services. Any such framework must be established in accordance with the requirements of the Public Contracts Regulations 2015. Where Senior Managers are considering establishing a framework, they must seek advice from the Procurement Manager, before entering into any contractual arrangement.

16.3 When establishing a Framework, a clearly defined process shall be included outlining how suppliers are to be selected. Advice must be sought from the Procurement Manager, before entering into any contractual arrangement.

16.3 The duration of a Framework shall not exceed 4 years except in exceptional circumstances.