

## Contract Procedure Rules Supplementary Notes

### 1. Introduction and Overview

This document expands on the Contract Procedure Rules (CPR) in the constitution which set the minimum requirements for procurement activities in East Suffolk Council.

The CPR Supplementary Notes aim to promote the highest standards of probity, integrity and impartiality in clear, fair and understandable procurement processes. They offer the best defence against allegations of purchases having been made fraudulently or incorrectly.

**Officers can only conduct their own three quote process once they have done the relevant procurement training, read the CPR *and* these Supplementary Notes.**

Officers when procuring must ensure that they:

- Behave consistently with the highest standards of integrity;
- Ensure open and transparent processes are used;
- Strive for best value;
- Comply with the necessary legal requirements, corporate and team aims, policies and procedures; and
- Ensure the inclusion of Social Value, local businesses and other principles as outlined in the relevant Procurement Strategy.

Failure to comply with the CPR, without a valid exemption, may result in disciplinary action against the Officers concerned.

All public procurement and other applicable laws must be followed. Such laws override any conflicting provision of the CPR and these Supplementary Notes.

### 2. Procurement Procedures and Approval Thresholds

#### 2.1 Single Quote

<b>Estimated Total Value:</b> Up to £20,000 excluding VAT
<i>Explanation: Officers have discretion to carry out their own procurement process by only one quote, up to the value of £20,000. Repeated purchases under £20,000 which in total amount to the threshold required for multiple quotes (as in 2.2 below) are not permitted.</i>
<b>Selection Procedure:</b> Single quotation in writing from the supplier
<i>Explanation: Officers should be prepared to evidence the quote represents value for money.</i>
<b>Evaluator:</b> Officer in consultation with line manager
<i>Explanation: Please see appendices one, two and three for more information on how to carry out a single quote process. Quotes from suppliers must be in writing; a verbal quote is not acceptable.</i>
<b>Contract Form:</b> Council's general terms and conditions
<i>Explanation: The Council's terms and conditions are sent to the supplier as a hyperlink in the purchase order.</i>

<b>Method of Completion:</b> Signature or e-mail of officer confirming
--

<i>Explanation: Confirm with the supplier in writing acceptance of the quote, that it will be on the Council's terms and conditions and send the PO.</i>
--

Please see appendices one, two and three for more information on how to carry out a single quote process.

## 2.2 Three Quotes

<b>Estimated Total Value:</b> £20,001 - £75,000 excluding VAT
---

<i>Explanation: Officers have discretion to carry out their own procurement process up to the value of £75,000 (ex VAT) but need to bear in mind the principles of transparency and fairness in their dealing with suppliers. This means that all suppliers should have the same information provided to quote and be given an appropriate time limit in which to respond (a minimum of 10 working days unless the requirement is not complex).</i>
---

<i>Repeated purchases under £75,000 which in total amount to the threshold required for tendering (as in section 2.3 below) are not permitted.</i>
--

<b>Selection Procedure:</b> At least three quotations in writing
--

<i>Explanation: Officers are to use the Request for Quotation template and guidance which are available from the Procurement Team. If at any point an officer requires further guidance, they are advised to contact their Procurement Business Partner.</i>
--

<i>Officers should identify a minimum of three suppliers to send the Request for Quotation to. Where practical, at least one supplier from the local area should be considered.</i>
---

<i>Officers should develop a clear specification for the supplier to price against. Suppliers should be made aware when asked to quote how their bids will be evaluated and on what basis they will be awarded a contract.</i>
--

<i>Direct call-offs or further competitions against an established framework agreement in this value bracket are also permissible as procurement routes.</i>
--

<b>Evaluator(s):</b> Officer in consultation with line manager or Evaluation Panel of appropriate officers
--

<i>Explanation: Where quality criteria are used to evaluate suppliers' responses, a minimum of two, but ideally three evaluators should be chosen to evaluate and score. Evaluators should be chosen based on their knowledge of the contract being procured, expertise and experience. Bids should be evaluated on the criteria identified in the RFQ documents only. Officers may moderate the scores themselves, but the process and resulting scores should be cleared with the Procurement Business Partner before confirming the award of the contract as per section 7.4 below. Post tender negotiation is not permitted as per section 7.5 below.</i>
---

<i>If the award is based on price only, the lowest price submitted based on the whole life cost should be selected.</i>
---

<b>Contract Form:</b> Either a) The Council's standard form agreement for services/goods/works as appropriate or b) Standard forms of contract issued by an industry body (such as NEC4 or JCT)
<i>Explanation: The Council's terms and conditions are not suitable for contracts in this value bracket. Please liaise with the Legal Services Team and/or Procurement Team to develop the contract terms. Contracts should be selected before the Requests for Quotation are sent to prospective suppliers.</i>
<b>Method of Completion:</b> Signature of line manager. Construction contracts should be sealed regardless of value*.
<i>Explanation: The supplier should sign the contract first, then the officer's line manager should sign and date the contract.</i>
<i>*Execution as a deed, or sealing, is done by the Legal Services Team. It affords the Council's additional protection over and above signing contracts under hand.</i>

Please see appendices one, two and three for more information on how to carry out a three quotes process.

## 2.3 Tenders

<b>Estimated Total Value:</b> £75,001 excluding VAT but below the Public Procurement Threshold
<i>Explanation: All tenders with an estimated value of over £75,001 excluding VAT will be led by a member of the Procurement Team. A Procurement Business Partner will work with the officer to carry out a tender process in line with the principles in the guidance below and the Procurement Team's Standard Operating Procedures. Suppliers should be given an appropriate time limit in which to respond (a minimum of 21 working days).</i>
<b>Selection Procedure:</b> Invitation to Tender, issued openly or to at least three suppliers. To be supported by the Procurement Team.
<i>Explanation: The assigned Procurement Business Partner will run the procurement process. This may include publishing the tender openly or in a closed process to a minimum of three suppliers. Closed tenders are <b>only</b> permitted when it is clear the value of the contract will <b>not</b> exceed the Public Procurement Threshold. If procurements under run in this route and the resulting tenders exceed the Public Procurement Threshold the procurement may need to be cancelled and retendered.</i>
<i>Direct call-offs or further competitions against an established framework agreement in this value bracket are also permissible as procurement routes.</i>
<b>Evaluators:</b> Evaluation Panel of appropriate officers chosen in consultation with the officer and Procurement Team
<i>Explanation: A minimum of two, but ideally three evaluators should be chosen to evaluate the supplier's tender submissions. Evaluators should be chosen based on their knowledge of the contract being procured, expertise and experience. A member of the Procurement Team must moderate the individual evaluator's scores.</i>

<b>Contract Form</b> Either a) The Council's standard form agreement for services/goods/works as appropriate or b) Standard forms of contract issued by an industry body (such as NEC4 or JCT)
<i>Explanation: The Council's standard terms and conditions are not suitable for contracts in this value bracket. The Procurement Team and/or Legal Services will advise on the appropriate contract terms. Contracts should be chosen and developed before the Invitations to Tender are sent to prospective suppliers.</i>
<b>Method of Completion:</b> Signature of Strategic Director. Construction contracts should be sealed regardless of value*.
<i>Explanation: The Supplier should sign the contract first, then the Strategic Director with responsibility for the relevant service area should sign and date the contract.</i>
<i>*Execution as a deed, or sealing, is done by the Legal Services Team. It affords the Council's additional protection over and above signing contracts under hand.</i>

## 2.4 Public Procurement Threshold Tender

<b>Estimated Total Value:</b> At or above the Public Procurement Threshold
<i>Explanation: Procurements over a certain financial threshold are subject to UK regulations. Advice must be sought from the Procurement Team where the estimated Total Value of a contract is likely to exceed the Public Procurement Threshold. The thresholds change from time to time and the most up to date ones are published on the Procurement Team's intranet page. As of January 2022, the calculation of estimated contract values for the Public Procurement Threshold <b>includes</b> 20% VAT.</i>
<b>Selection Procedure:</b> Advice and support must be sought from the Procurement Team. The Head of Legal and Democratic Services must be made aware of this procurement.
<i>Explanation: The Procurement Team will then work with the officer to carry out a procurement exercise which complies with the requirements of the relevant legislation, Contract Procedure Rules and this guidance, and the team's Standard Operating Procedures.</i>
<i>Direct call-offs or further competitions against an established framework agreement in this value bracket are also permissible as procurement routes.</i>
<b>Evaluator:</b> Evaluation Panel of appropriate officers chosen in consultation with the officer and Procurement Team
<i>Explanation: A minimum of two, but ideally three evaluators should be chosen to evaluate the supplier's tender submissions. Evaluators should be chosen based on their knowledge of the contract being procured, expertise and experience. A member of the Procurement Team must moderate the individual evaluator's scores.</i>
<b>Contract Form:</b> Either a) The Council's standard form agreement for services/goods/works as appropriate or b) Standard forms of contract issued by an industry body (such as NEC4 or JCT) with supplemented terms as advised by Legal Services.
<i>Explanation: The Council's terms and conditions are not suitable for contracts in this value bracket. The Procurement Team and/or Legal Services will advise on the appropriate contract terms. Contracts must be chosen and developed before the Invitations to Tender are sent to prospective suppliers.</i>

**Method of Completion:** Execution as deed

*Explanation: Execution as a deed, or sealing, is done by the Legal Services Team. It affords the Council's additional protection over and above signing contracts under hand.*

### **3. Planning a Procurement**

#### **3.1 Procurement Forward Plan**

The Procurement Team will produce a forward plan of procurements for the relevant financial year. Officers are required to share this information with their Procurement Business Partner and Procurement Support Officer to produce this plan. It will be shared with service areas to inform them of capacity and for their own planning purposes.

#### **3.2 Procurement Plan Template**

A procurement plan template must be completed for every procurement over £75,000, in a collaborative process between the Procurement Business Partner and the officer requesting procurement support to make sure every option has been explored/identified at the outset. It will also ensure that there is:

1. A clear audit trail of decisions being made.
2. Responsibilities for actions and timescales identified.
3. The ability to share the plan with other service areas which may be affected such as Legal, Finance, Health and Safety and Data Protection to inform their planning.

See appendix 4 for an *example* copy of the Procurement Plan Template. Officers should contact the Procurement Team for the most recent version.

#### **3.3 Calculating Contract Value**

Procurements should be advertised at the total value over the duration of the contract period. This includes the whole life cost of the procurement. For example, individual purchases under a general contract need to be aggregated and some purchases will involve costs beyond the purchase of the item or system such as necessary implementation, training, support, licensing, updates, maintenance and disposal.

The estimate of the total value should also include the value of any optional extensions to the contract term.

For clarity, values of estimations and for advertising purposes are excluding VAT except in the regard of procurements at or near the Public Procurement Threshold. As of January 2022, the calculation of the estimated total contract value for the Public Procurement Threshold should include 20% VAT.

The current Public Procurement Thresholds can be found on the Procurement Teams intranet page. If a procurement is identified as having a value at or near the Public Procurement

Threshold, a tender compliant with UK regulations should be run to avoid any issues on non-compliance, should tender returns received come in higher than anticipated.

### 3.4 Identifying risk

If the procurement plan identifies any risks, in consultation with the Procurement, Finance, Data Protection and Health and Safety teams where appropriate, officers should assess those risks associated with the procurement, paying particular attention to:

- a. risks to people - could staff or members of the public be injured?
- b. risks to information - will the supplier be given personal data or confidential information?
- c. risks to property - will the supplier have or be working on land/buildings/assets of the Council or others?
- d. other specific risks to the Council given the nature of the work and what it will be used for - if a supplier's work is negligent, could that cause injury, damage or losses?

**A project specific risk assessment may need to be shared or developed with the above mentioned teams.**

### 3.5 Preliminary market engagement

Preliminary market engagement, when undertaken with guidance and support from the Procurement Team, is beneficial to inform the approach to the procurement. Officers must take care to ensure that no potential supplier is given an improper advantage over other potential suppliers.

For procurements over the Public Procurement Threshold, **any** preliminary market engagement needs to be cleared with the Procurement Team **prior** to it being undertaken.

Subject to the above, officers may engage the market by consulting potential suppliers prior to any procurement providing:

- a. Any consultation with the market is not able to be viewed as prejudicial to any potential supplier or any subsequent procurement.
- b. That no individual supplier is given information that could be advantageous in creating a bid/tender which is not made available to all suppliers.
- c. That officers do not seek or accept assistance in preparing any Request for Quotation/Invitation to Tender from anyone with a commercial interest in the process, as this may prejudice the equal treatment of all potential suppliers or distort competition.
- d. They seek early advice from the Procurement Team.
- e. The required transparency notices are published if it is over the Public Procurement Threshold and subject to Procurement Act 2023.

Market engagement can take the form of:

- a. Supplier events advertised either on the Government's contract site and/or the Council's own sites and social media.
- b. Informal conversations bearing in mind the principles of fairness as above.
- c. Requests for Information (templates available from the Procurement Team).
- d. Trade shows and networking.

Officers should contact the Procurement Manager if they believe that preliminary market engagement may or has resulted in a conflict of interest.

### **3.6 Confirmation of approval to procure and award a contract**

Before a procurement goes out to the market, the Officer must confirm they have the necessary approvals to award the resulting contract.

It will be important to refer to the Financial Procedure Rules for the detailed relevant requirements, but the Officer will normally need to verify in particular:

- a. Whether the Total Value is within existing budget allocations and, if it is not, that approval has been obtained from Cabinet;
- b. That the Officer has the relevant financial authorisation limits and approval levels to enter into the contract;
- c. If the Total Value is a Key Decision *and not* within an existing approved budget, that the procurement has been included on the Forward Plan and approval has been obtained from Cabinet to procure and award the contract.

### **3.7 Advertising opportunities**

For tenders up to the Public Procurement Threshold, tenders can either be closed or open as follows:

- a. Invitations to selected potential suppliers: Select three or more specific potential suppliers to invite to tender (including at least one local supplier, where practicable) only where the officer can clearly demonstrate the value of the resulting contract to be below the Public Procurement Threshold; or
- b. Open opportunities: Using the Council's eProcurement software to do so, opt to publish the opportunity nationally via the Government's contract site with or without any other advertisement.  
NB - if the opportunity is advertised at all (such as in newspapers, social media or on the Council's website), it must also be published on the Government's contract site.

Reasons for inviting only selected potential suppliers must be recorded with the Procurement Team in the procurement plan.

For so long as pre-selection stages remain unlawful for procurements below the Public Procurement Threshold, the Council cannot use a separate selection stage to reduce the number of potential tenderers before inviting tenders.

## **4. Insurance and Liability Cap**

#### 4.1 Insurance Requirements

The Council's default minimum insurance requirements are set out in the table below:

Insurance type	Cover explanation and when required	Guideline minimum requirement
Employer's Liability insurance	<p>Provides cover to the organisation arising from personal injury/disease claims made by employees.</p> <p>All organisations with employees are required under statute to have Employers Liability cover in place.</p> <p>The only exemption will therefore be a sole trader who does not have any employees.</p>	£10 million (any one event/occurrence, per claim or series of claims arising out of the same cause or source)
Public liability insurance & Product Liability Insurance	<p>Public Liability insurance provides cover to the organisation arising from personal injury/disease claims made by the public relating to business activities and services.</p> <p>It also provides cover to the organisation arising from claims by the public for damage to their property.</p> <p>Product Liability insurance provides personal injury/disease and property damage cover for claims arising out of products sold.</p> <p>Where the Council has a duty of care (i.e. its own land, buildings, or third-party land and buildings where it has a responsibility), Public Liability insurance will be required of all contractors/event organisers entering those settings where there is a risk of personal injury/disease to staff or the public, or a risk to the Council's or a third-party's property, arising from the activities being undertaken.</p>	£10 million (any one event/occurrence, per claim or series of claims arising out of the same cause or source)



Professional indemnity insurance	Provides cover to the organisation arising from financial loss claims resulting from a negligent and accidental act or omission.  Professional Indemnity insurance will be required where there is a risk of financial loss to the Council arising from the activities being undertaken under the contract.	No guideline minimum. The requirement must be determined on a case-by-case basis.  Where a requirement is set the cover will be on a 'Claims Made' basis.
Work-In-Progress Insurance	Provides material damage cover to existing buildings where works to refurbish, refit, and adapt are being undertaken.	Not applicable see 4.1.4 below.

#### 4.1.1 Public Liability and Employers Liability

Public Liability and Employers Liability requirements should each be assessed based on the risks. In the event of the Council being drawn into a claim the courts will want to see documented evidence that the matter has been considered, and what has been requested is reasonable. The assessment in appendix five should be completed by officers to document the reasons behind the levels of cover requested.

There is no set definition of what is deemed reasonable to request. It will differ from project to project. The guideline minimums do set a level of cover that under normal circumstances should be deemed reasonable.

If the risks are such that it is reasonable to request a higher level of cover then this should be sought. It is possible to go below the guideline minimums, but this will require authorisation from the relevant Head of Service and the Chief Financial Officer, who will need to understand how the risks of high value claims, and claims in general are mitigated.

It should be noted the value of a contract will have no bearing on the level of cover requirement assessments. The requirement set should reflect the potential cost of claim for personal injuries or third-party property damage i.e. the officer ought to consider what could go wrong, and what kind of injury could result.

#### 4.1.2 Product Liability Insurance

Both product liability and public liability insurance cover claims of injury and property damage, but public liability covers claims relating to business activities and services, including the actions of the Council and its employees, while product liability insurance covers claims relating to any products.

Product Liability Insurance is normally combined, or part of the policy covered under Public Liability insurance. This should be clear when reviewing the supplier's policy documentation.

Where it is applicable, the level of cover requirement for Product Liability Insurance will therefore normally be the same as the Public Liability requirement as they are both covering personal injury and property damage.

#### **4.1.3 Professional Indemnity Insurance**

When considering the assessment of Professional Indemnity insurance requirements, the question that needs to be addressed is what is the scale of the possible financial loss the Council could incur, resulting from the negligent and accidental act or omission?

The contract value may reflect the potential financial loss, but in most instances it will not particularly if as a result there are additional indirect costs such as site clearance and demolition, professional fees, business continuity fees, loss of income etc. involved.

The nature of the contract should also be considered. Design, planning, and consultancy contracts can be low value resulting in higher value contracts to be completed by other suppliers. A negligent and accidental act or omission in the low value contract could lead to significantly higher financial loss if it impacts on the subsequent higher value contract.

#### **4.1.4 Works in Progress Insurance**

The Council has in place 'works in progress' insurance cover for works being completed to existing insured buildings. Each year at renewal the Council provides the insurer with details of our capital works budget on existing buildings for the forthcoming year, and the expectation is the Council will arrange joint names 'works in progress' cover for the contract.

Please contact the Council's insurance team to arrange this. Full details of the supplier and the nature of the works will be required to present to the insurer. Please allow the Insurance Team as much time as possible for this to be arranged and note that if the works involve 'hot works' then it will also involve the issue of 'hot works' permits to the contractor.

Works in Progress insurance should not apply to new developments where the expectation is the developer will insure until the completed building is handed over to the Council.

The Council will need to insure the new building/development for Material Damage from the date of handover. To achieve this a reinstatement cost valuation, and full details of the building and its build type, will be required. Please contact the Insurance Team as soon as possible for full details to ensure the building is placed on cover on the required date.

#### **4.1.5 Cover Types**

The table above refers to different types of cover. These are important and have quite far-reaching implications on whether insurance cover will be in place or not when a claim is received. The three basic types of cover are as follows:

- Any one event or any one occurrence: On this basis the policy needs to have been active when the act or incident took place. This is sometimes referred to as 'whole of life' cover as it does not matter when the actual claim is received. The policy cover will still be in place even if the policy itself no longer is when the claim is made.
- Claims Made basis: On this basis the policy needs to be active when the claim is made. In the UK, Professional Indemnity cover is normally offered by insurers on this basis. If the supplier no longer has cover in place when the claim is received the insurer will disallow the claim. A claimant has six years after the incident in which to submit a claim, hence this could cause issues if the Council needs to submit a financial loss claim against a supplier. The contract terms should therefore cater for this eventuality requiring cover to be maintained for a suitable period after the contract itself is completed.
- In the Aggregate: Cover provided on this basis will only be in place up to the point at which the costs of claims in the insurance period (usually one year) reaches the limit of indemnity. Once the total claims cost for the year breaches this value no further cover remains in place e.g. if you have a limit of indemnity of £10 million on an 'in the aggregate' basis and receive 10 claims with a cost of claim value of £1 million each, you will no longer have cover for an 11<sup>th</sup> claim.

## 4.2 Indemnities and Liability Caps

Indemnities are often included within contractual terms to negate the need to commence legal proceedings and prove negligence. With an indemnity the trigger event need only be shown to have taken place and the party to the contract providing the indemnity will be liable. A Liability Cap sets a value to which the party offering the indemnity will be required to pay out up to i.e. it sets a limit on the liability arising from the trigger event.

Care needs to be taken when offering or receiving contractual indemnities, as in most instances it will essentially make the risk a business risk taking it outside the scope of insurance cover. This will normally impact on Professional Indemnity insurance providing cover for financial loss claims.

Public Liability and Employers Liability insurance personal Injury claims will not be affected by an indemnity as the contract will not involve individual employees or the public, and any liability arising will have been determined by the court. It may, however, impact on property damage or other claims between the contracting parties.

Where an indemnity is being offered by the Council it could have significant financial implications as the Council will not be able to rely on insurance cover to meet the liability cost should the trigger event occur. Indemnities with a liability cap greater than £100,000 must be referred to the Chief Financial Officer and Monitoring Officer for approval.

Where an indemnity is being sought from the supplier consideration should be given to the amount of the potential liability. It is highly likely the indemnity will place the liability outside of the scope of the contractor's insurance cover and could be meaningless if they don't have the reserves to cover the resulting liability. In such instances it may be prudent to dispense with the indemnity and rely on proving negligence where their insurance cover will be active.

When assessing the level of a liability cap it ought to be a similar exercise as that of assessing a Professional Indemnity insurance requirement. Asking what is the potential financial loss that the Council could incur should the trigger event be activated. It will probably be that of the worst-case scenario considering indirect costs such as business continuity, loss of income etc.

### **4.3 Construction Industry Scheme**

HMRCs Construction Industry Scheme (CIS) has been in place since 1970. It is an anti-fraud mechanism designed to prevent those in the industry from evading their PAYE liabilities.

The CIS scheme requires those operating the scheme to make deductions from payment of invoicing involving 'construction operations' to pay over to HMRC. The deductions made under CIS will be credited by HMRC against the suppliers PAYE liabilities, hence CIS is not a tax, but a prepayment of Income Tax and NIC.

Under CIS HMRC defines a 'Contractor' as being the organisation that contracts the construction operations, and a 'Subcontractor' as being the organisation that undertakes the works under the contract. This differs to most legal contracts where the Contractor is usually referred to as the Employer and the Subcontractor as the Contractor. Where a CIS Subcontractor subcontracts part of or all the works, they will be both a Subcontractor to the Council and a Contractor in their relationship with their Subcontractor.

Under CIS the definition of a 'construction operation' is wide ranging but most are carried out as work on buildings and structures (permanent, temporary, and offshore) and will fall into 6 main areas: construction, alteration, repair, extension, demolition, and dismantling.

The definition of a 'construction operation' also includes 'Works forming part of the land' which will include minor works, such as a wooden fence with concrete posts, major works such as roads, railways, bridges, harbours and power lines, and industrial plant such as petrochemical plant, a silo, tank, or water treatment plant. Other activities also fall within the definition including the installation of systems, painting & decorating, preparatory works, and finishing works.

A contract can include works within the definition of a construction operation and works normally outside the scope of CIS. In these instances, the contract is considered a mixed contract and the whole contract will fall under CIS.

The Council is a deemed Contractor under CIS and is required by statute to operate the scheme. Where it is possible a contract may fall under CIS the Payables Team should be consulted before any purchase orders are raised. The Council's Payables Team is required to

notify HMRC of the contract and payments cannot be made on invoicing until HMRC have confirmed what, if any, level of deduction is required to be made.

Changes to VAT legislation applicable from 1<sup>st</sup> October 2019 mean the Construction Industry now has specific VAT regulations in place where the supply involves construction operations. The Council is required to write to these suppliers confirming our status for the VAT Domestic Reverse Charge before the supplier issues any invoices as it will determine whether the supplier should be charging VAT on their invoice.

Both CIS and the VAT Domestic Reverse Charge place obligations on the Council to complete before any invoicing can be received or paid. If there is any possibility the contract could be deemed a construction operation the Payables Team should be consulted as soon as possible to confirm and ensure these obligations are met.

#### **4.4 Financial status of/security from suppliers**

The Officer shall consult the Section 151 Officer as to the need for security (such as a Parent Company Guarantee) and whether it is appropriate to proceed with a proposed supplier with or without such security when:

- a. the Total Value looks likely to exceed £500,000; or
- b. the award would be based on evaluation of the parent company of the proposed contracting party; or
- c. it is proposed to make advance payments before receiving the relevant goods, works or services; or
- d. there is a concern regarding the financial stability of the contracting party; or
- e. the potential risks in the contract warrant it.

The Officer must consult the Section 151 Officer as to the need for a Bond when:

- f. the Total Value looks likely to exceed £1,000,000, or
- g. there are concerns about the stability of the contracting party and it is proposed to make advance payments before receiving the relevant goods works or services.

### **5. Evaluation Criteria**

Evaluation criteria for procurements below £75,000 may be price only for straight forward, off-the-shelf requirements. However, the Council normally requires procurement decisions to also consider the quality of the supplier's response rather than price only. Evaluation criteria should normally be prepared to enable the Most Advantageous Tender or bid (MAT), as explained below, to be identified, ensuring that all such criteria are appropriate for, and proportionate to, the relevant procurement. Officers should work with the Procurement Team to develop suitable criteria for the relevant procurement and the weighting to be given to those criteria.

Evaluation criteria for procurements above the Public Procurement Threshold should be prepared by the Procurement Team in consultation with the relevant officers, to enable the Most Advantageous Tender (MAT) to be identified. This will be the best price/quality ratio,

assessed on the critical success factors which relate to the works, supplies or services to be provided under the relevant contract. The quality criteria may include, for example:

- a. quality, including technical merit, aesthetic and functional characteristics, accessibility, design for all users, social, environmental and innovative characteristics and trading and its conditions;
- b. organisation, qualification and experience of staff assigned to performing the contract, where the quality of the staff assigned can have a significant impact on the level of performance of the contract;
- c. after-sales service and technical assistance, delivery conditions such as delivery date, delivery process and delivery period or period of completion;
- d. Social value, environment and sustainability, Equality, Diversity and Inclusion and ethical trading outcomes.

Quality Criteria shall ensure the possibility of effective competition and be accompanied by specifications that allow the information provided by the tenderers to be effectively verified to assess how well the tenders meet the evaluation criteria.

Officers should work with the Procurement Team to develop a minimum of three Key Performance Indicators for contracts over the Public Procurement Threshold to include in the tender and contract documents, including a KPI for Social Value if applicable.

## **6. Clarifications during the tender period**

The Council has the authority to provide written clarifications for an invitation, either proactively or in response to queries from potential suppliers. All communications will be documented, and unless the Procurement Team determines that specific information from suppliers is commercially sensitive and withholding it is justified or does not confer an unfair advantage on any supplier, these records will be accessible to all prospective suppliers through publication on the Council's eProcurement system.

## **7. Evaluation and Moderation**

A robust and transparent evaluation process is essential for the correct award of Council contracts.

### **7.1 Checking of bids/tenders received**

Compliance checks, including checking for complete quotations/tenders, should be carried out prior to any other evaluation. Where a quotation/tender is incomplete, contact the Procurement Team for advice on how to proceed.

Arithmetic in compliant tenders should be checked where practicable. Any identified mathematical errors should be notified to the supplier for clarification in accordance advice from the Procurement Manager. Where examination of tenders reveals errors or discrepancies which would affect the tender figures in an otherwise successful tender, the tenderer is to be given written details of such errors and discrepancies and afforded an opportunity of confirming or withdrawing the offer in writing. Such an opportunity must only be used to correct genuine errors and not, for example, to revise bid figures which may have

exceeded any officer's budget. Any correction or other change proposed by the prospective supplier cannot be made unless it is approved by the Procurement Team.

Other errors in the supplier's bid/tender return should be dealt with in accordance with the instructions in the tender documents. This may result in the exclusion of the supplier from the procurement process.

Bids/tenders sent in by suppliers after the deadline for submissions should not be accepted.

Any clarifications of a supplier's submitted quotation/tender may only be made in agreement with the Procurement Manager. This is only permissible where there is no addition of new information which will substantially change the contents of the supplier's original submission. Post tender negotiation is to be avoided. See section 7.5 below.

## **7.2 Financial evaluation**

Officers may need to liaise with the Finance Team to check the information provided by the suppliers and investigate the financial status of the supplier(s).

When undertaking financial checks of the supplier, the Finance Team may consider the following:

1. Validity of the company registration and VAT number.
2. Length and consistency of trading over the last few years.
3. The cash balance on the latest published accounts, debtor and creditor ratios and current ratio.
4. Any director connections with the Council.
5. Company is proven to be solvent or have no solvency warnings in its account filings, and accounts are not qualified.
6. The supplier's short term and long-term creditor balances
7. Third party credit rating at least over 50 and credit rating limit suggested by Experian (or similar) to be within the level of expected supply.
8. Value of tender must not exceed the turnover of the company unless reasoning for expansion to accommodate supply is clearly detailed.

If the Finance Team advise against proceeding with the relevant tenderer and/or it is proposed to make advance payments to the tenderer before receiving the relevant goods, works or services, seek approval from the Section 151 Officer before proceeding.

## **7.3 Evaluators**

Bids/tenders should be evaluated by a minimum of two evaluators, who should have the appropriate expertise and knowledge to score the suppliers' responses for the relevant contract. The optimum number of evaluators is three. Evaluators must record reasons for and be able to justify their scores under the scoring mechanism specified in the RFQ/ITT document. Evaluators must declare any conflicts of interest in accordance with section 16.2 below.

## **7.4 Moderation**

For contracts over £75,000, individual evaluator's scores will be moderated in a moderation meeting by a member of the Procurement Team. This will ensure tender evaluation methodology and moderation is arrived at in accordance with the scoring methodology in a robust, fair process.

For contracts below £75,000 where quality criteria have been used, officers may moderate themselves after undergoing appropriate training, but the process and resulting scores should be cleared with their Procurement Business Partner before confirming the award of the contract.

The purpose of moderation is to iron out inconsistencies in the evaluator's individual scoring and agree a moderated consensus score and the supporting rationale.

After the moderation meeting, the rationale for the scores will be shared with evaluators for them to confirm it is consistent with what was discussed in the meeting.

## **7.5 Post tender negotiation**

Post tender negotiation, with a view to obtaining adjustments in price, delivery, quality or content, should only be used in exceptional circumstances and only with the full approval and guidance of the Procurement Manager and Head of Legal Services. Officers should be careful that clarification of a supplier's bid or tender must not become post tender negotiation.

If the reasons for post tender negotiation are approved, post tender negotiation must be conducted through the Council's eProcurement system to ensure a proper record. These should only be carried out with full involvement of the Procurement Team, in consultation with the Head of Legal and Democratic Services and in accordance with the following provisions:

- a. In procurements above the Public Procurement Threshold, no post tender negotiation is possible unless specifically allowed under the Public Procurement Procedure used.
- b. Any Officer appointed to carry out post tender negotiation must ensure that all post tender negotiations are conducted on a "subject to contract" basis and should ensure that there are recorded minutes of all negotiation meetings.
- c. Any post tender negotiations face to face must be carried out by a team of at least two Officers, one of whom must be from the Procurement Team or, if not available, a department independent of the officer(s) dealing with the relevant procurement.

Where a post tender negotiation would lead to a material change to the specification, price or any other contract terms, negotiations should cease, and a new tender will be required unless the Head of Legal and Democratic Services advises otherwise.

## **8. Contract Award**



For contracts over £75,000 once a successful supplier has been selected, unless the Procurement Team agree that notifications and a standstill period are not compulsory or appropriate:

1. all suppliers who submitted quotations/tenders must be notified of the selection in writing, with their scores and those of the successful supplier; and
2. the notifications to the unsuccessful suppliers shall include feedback regarding their performance comparative to the successful supplier.
3. Once the notifications have been communicated to the suppliers, a standstill period will commence, to allow the Council to take into account any representations made by the unsuccessful suppliers within that standstill period.

For contracts below £75,000 and subject to rule 2.2 above, once a successful supplier has been selected:

1. all suppliers who submitted quotations/tenders must be notified of the selection in writing, with their scores and those of the successful supplier; and
2. if requested by the unsuccessful supplier, feedback regarding their performance comparative to the successful supplier will be given within 10 working days of that request.

Where a challenge occurs:

- The Procurement Team should be informed.
- The Head of Legal and Democratic Services must be notified immediately.
- The Officer will not award the contract and all communications relating to the challenger must be referred to the Procurement Team and/or Legal Services to handle.
- At the appropriate time, the Council will then decide whether to enter into the relevant contract award document.

## **9. Completion of the contract documents**

All contracts, except for those made using purchase orders after a single quote process, must be concluded formally in writing before the supply, service or works begin, except in exceptional circumstances and then only with the written consent of a Chief Officer (Chief Executive or a Strategic Director).

The signature provisions in the contract documents are to be finalised depending on the requirements set out in section 2 Notes (Procurement Procedures and Approval Thresholds) above.

Contract documents should then be sent to the successful supplier on the basis that:

- a. the contract documents remain “subject to contract” unless and until they are signed on behalf of the Council;
- b. they are asked to sign the contract document(s) where and as indicated (but not date them) and return them to the Council; and

- c. the Council would take this as their authority to date the documents to complete them if/when any necessary final internal approval has been obtained by, and it has been signed on behalf of, the Council.

The Officer responsible for securing signature of the contract documents must ensure that the person signing for the supplier has authority to bind it.

Contracts should then be signed or sealed by the Council in accordance with the minimum requirements in section 2 of these Supplementary Notes (Procurement Procedures and Approval Thresholds). The Officer shall then date and send a copy of the contract document to the supplier once complete.

### Signatures

Where a contract is to be signed, rather than sealed, signatures may be affixed to the contract by means of either a handwritten signature or an electronic signature (unless there is a clause in the contract which precludes execution by use of an electronic signature).

The full first and second names of the officer whose signature is being used to execute the contract on behalf of the Council, must also be printed on the contract so that the signatory can be easily identified.

In terms of electronic signatures, a contract can be executed by means of e-signature software, the typing of a name or initials, or the insertion of a digital image of a signature (for example, a JPEG file) into the contract.

Any officer using an electronic signature to authenticate a contract must be authorised to do so, in their own right with their own electronic signature or, in exceptional circumstances, at the direction, and with the written consent, of the authorised person whose signature is being applied to the contract (for example, an Executive Support Officer carrying out the administrative act of inserting a Strategic Director's JPEG file signature into a contract for and on behalf of a Strategic Director, at the direction of the Strategic Director).

Please see sections below on the Contract Register and Contract Management.

## **10. Other Procurement Routes**

A framework agreement, dynamic market or similar facility operated by the Council or a suitable external organisation for government or similar public authority buyers can be a suitable alternative to open Requests for Quotation or Invitation to Tenders.

### **10.1 Frameworks**

A framework agreement is an agreement which sets out the nature and terms of future purchases that buyers might make. Each call-off order under the terms of the agreement forms an individual call-off contract.

If a framework is proposed to be used this must be recorded in the procurement plan. A suitable framework should be identified, and due diligence carried out on the framework in

accordance with the Procurement Team's Standard Operating Procedures and relevant regulations.

Call-off contracts under a framework agreement are only legally valid when done in accordance with the specific framework's terms and conditions.

Officers should liaise with their Procurement Business Partner to access a framework agreement compliantly.

As a framework is a compliant route to market, an exemption to use a framework is not required.

## **10.2 Dynamic Purchasing Systems or Dynamic Markets**

A Dynamic Purchasing System under Public Contract Regulations 2015 (or Dynamic Market under Procurement Regulations 2024) is essentially an online approved supplier list. These can be used by qualifying contracting authorities to run further competitions through with the benefit that tender timescales can be shortened, and suppliers are prequalified.

Officers should liaise with their Procurement Business Partner to access a DPS or DM compliantly.

## **10.3 Collaborative Procurement**

Collaborative procurement arrangements are typically those with another local authority, government team, or public service purchaser/consortium, who can secure better terms from suppliers by purchasing separate services collectively.

Collaborative procurements must follow the same applicable laws, including the Public Procurement Regulations, as all other procurements. They may also involve specific risks, such as potential liabilities for or caused by other authorities if the arrangement is not structured and documented (with, for example, several liability provisions) to manage such risks.

Where another authority (or other identified public procurement body) is leading on a procurement exercise then it is accepted that this will be done under their Contract Standing Orders.

However, the Officer must first consult the Procurement Manager, the Section 151 Officer and the Head of Legal and Democratic Services about the proposed arrangements and/or before committing East Suffolk's Procurement Team to run a tender on another public sector body's behalf.

Private sector consultants should not be running a procurement process on behalf of the Council without express permission from the Procurement Manager and the Head of Legal and Democratic Services.

## 11. Contract Variations

Any contract variations must be agreed by the Procurement Team, with the Head of Legal and Democratic Services being directly advised of any variations in relations to contracts over £75,000.

Extensions of the contract originally tendered or variation in the scope, duration and/or other terms of an existing contract can provide better value than retendering, but can only be carried out through or in consultation with the Procurement Team and Legal Services as appropriate, because detailed restrictions may apply and it will be necessary to:

- a. instruct the Procurement Team and/or Legal Services to prepare a variation agreement to be entered in to between the Council and the supplier; and
- b. ensure that any negotiations and other communications with the supplier are carried out on a “subject to contract” basis unless and until the variation agreement is entered in to.

In general, where the Total Value of the original contract and all extensions and variations, including the proposed variation, is **less than the applicable Public Procurement Threshold**, the contract may only be varied if each of the following conditions have been satisfied:

1. the proposed variation would not materially change the scope of the original contract or there was a contractual review clause or other option in the original contract to allow for such a variation; and
2. the proposed variation would not represent an increase of more than 50% of the Total Value of the original contract; and
3. if the proposed variation extends the duration of the original contract, it does not do so for more than one year from the end of the duration of the original contract; and
4. the Officer’s case for the better value for the Council in not opening the opportunity to competition has been approved by the Procurement Manager.

In general, where the Total Value of the original contract and all extensions and variations **may reach or exceed the applicable Public Procurement Threshold**, advice must be sought from the Procurement Team and Legal Services.

## 12. Contractual Requirements

Contractual arrangements should be made, wherever possible, on the Council’s terms (standard general terms or standard form contracts, as explained in section 2). The fall-back position would be to use industry standard model contracts, with supplemental terms for higher risk contracts. Contracting on the supplier’s terms should be avoided and only done when agreed with (and with the changes to those terms required by) the Head of Legal and Democratic Services and the Procurement Team.

## 13. Contract Register

The Procurement Team maintains the corporate Contract Register for the Council. It is an open access document and Officers who have completed a quotes process resulting in a contract with a value of £5000 and above are required to fill in the Contract Register themselves or give notice of all contracts awarded to the Procurement Team following signature and completion.

The Contract Register is published on the Council's website in accordance with the Local Government Transparency Code.

#### **14. Transparency Requirements**

The correct transparency notices must be published for contracts awarded with a value of above £25,000 excluding VAT or £30,000 including VAT.

Officers should contact their Procurement Business Partner to arrange publication.

#### **15. Contract Management**

Efficiencies secured under competitive processes will only be realised with effective contractual management. Good contract management processes are essential to make sure suppliers are delivering on their contractual obligations and the Council is receiving value for money.

##### **15.1 Contract Management practices**

Named officer(s) within the relevant team will be responsible for the day-to-day operational management of any new contract in their area. The Procurement Team can assist in advice on contract management, particularly in cross-functional (or cross-authority) agreements, with roles being established with teams at contract mobilisation.

Requirements on contract management are to include (as a minimum):

- a. An annual review (in consultation with the Finance Team) of the financial status of any supplier in contract with the Council
- b. Annual check for validity of any required certifications and evidence of current insurance cover
- c. Annual review of any required policy documentation
- d. Regular review meetings at agreed intervals to discuss:
  - i. Contractual performance (key performance measures)
  - ii. Social value delivery
  - iii. Innovations or other potential savings in areas relating to the contract or opportunities to improve the range of services provided.
  - iv. Risk identification, evaluation and management on subjects relating to the contract
  - v. Customer complaints and compliments.
  - vi. Any data protection issues.

The intervals for these review meetings will vary depending on the complexity of the contract and the Total Value. As a rule of thumb, the review meetings for any contract with a high-risk element or above the Public Procurement Threshold should be held at least quarterly and can be more frequent where performance or risk management are identified as an issue.

The Procurement Team publishes contract management guidance, please see the latest information available on Procurement intranet pages.

## **15.2 Contract safekeeping**

A copy of all contracts must be kept in the designated Service Area Teams channel. Only the relevant Service Area and Procurement Team will have access to the Teams channels.

Officers are responsible for keeping a copy of all contracts in the Teams channel for reference and contract management by their Service Area.

The original executed and completed copy of any contract over the Public Procurement Threshold and any other contract which involves higher than usual risks for the Council in addition must be passed to the Legal Team for safe keeping.

The contracts and associated documentation must normally be retained for a minimum of 6 years after the expiration of the contract, and longer if there are associated liabilities that extend beyond this. For example, contracts executed as a deed should be retained for a minimum of 12 years.

Unsuccessful bids and associated documentation should normally be kept for 6 years from award of contract.

Officers should consult Legal Services in the first instance if they need any guidance as to how long to retain any original or copy contract documents.

## **16. Exemptions to the Contract Procedure Rules**

The Procurement Team is the first point of contact for any possible exemption request.

Reasons for exemptions include:

- Genuine urgency which was unforeseeable or did not arise from inaction of Council officers.
- Specialist expertise which cannot reasonably be procured elsewhere.
- Valid continuation of an existing contract which was unforeseeable which must remain with the same supplier due to duplication of costs, significant and disruptive incompatibility, or intellectual property issues.
- Demonstrable market insufficiency
- Line of business requests

If the Procurement Team member agrees it is a necessary exemption, they will raise a form through the Council's intranet site which will have the following approval stages:

1. The officer requesting the exemption will submit the background to the request, the mitigating circumstances, proposed value and overall reason for the request.
2. Procurement will then review all the information and approve or reject the request.
3. The Head of Legal will approve or reject the request.
4. The Head of Finance will approve or reject the request.
5. (For exemption requests over £75,000 only) The Portfolio Holder for the relevant service area will approve or reject the request.
6. The Strategic Director or Chief Executive will authorise the exemption.

If at any stage the request is rejected, the officer will have to request submission of a new form.

Requesting an exemption does not exempt the officer from the necessary due diligence on the proposed supplier and signing of a contract as per section 2 Procurement Procedures and Approval Thresholds above. The ensuing Contract Register, transparency requirements, contract management and safe-keeping requirements remain.

Please note, it is not possible to submit exemptions for contracts with a value of over the relevant Public Procurement Threshold, this includes Line of Business requests.

In exceptional cases, it may be possible to permit a direct award over the Public Procurement Threshold subject to transparency requirements and the prevailing legislation of the time. Further advice should be sought from the Procurement Manager in the first instance.

## **17. Corruption and Conflicts of Interest**

### **17.1 Prevention of corruption**

Officers involved with procurement must comply with the Officers Code of Conduct and must not invite or accept any gift or reward in respect of the award or performance of any contract.

It is the officer's responsibility, if challenged, to prove that anything alleged to have been done or received was not done or received corruptly.

High standards of conduct are obligatory, corrupt behaviour will lead to dismissal and is a crime under the Bribery Act 2010.

The CIPS code of conduct should be taken as the model for the Procurement Team in terms of ethical procurement practices.

### **17.2 Conflict of interest assessments**

Every officer involved in procurements over £75,001 will be required to complete a declaration of interest at each stage in the process. This includes but is not limited to the following stages: planning, document writing, tendering period, evaluation, moderation and award and contract management.

At each stage officers will have the opportunity to declare they have either no known conflict of interest or have cleared any potential conflict of interest activity with the Procurement Manager as not being detrimental to the fairness of any procurement process.

Conflicts of interest which cannot be cleared will have appropriate measures taken to make sure there are no detrimental effects to the fairness of the procurement process. This may include removing the officer from the remainder of the procurement process.

### **17.3 Declaration of interests:**

If it comes to the knowledge of a Member or Officer of the Council after the process described in 17.2 that a contract in which they have an interest has been, or is to be, entered into by the Council then they must immediately give written notice to the Procurement Manager and Monitoring Officer.

Written notice is required irrespective of whether the pecuniary interest is direct (where they are a named party) or indirect (for example, where they or someone connected with them such as their partner or relative are a board member, employee, stakeholder or beneficial owner).

The Procurement Manager shall maintain records of all declaration of interests relating to procurement notified by Members and Officers.

The Monitoring Officer shall ensure that the attention of all Members is drawn to the Members' Code of Conduct.

## **18. Other complex procurements**

### **18.1 Land and build contracts**

This type of agreement is encountered where (for example) a developer will only sell land which the Council wishes to purchase for development (such as for social housing) if the developer has the right to carry out the construction work for the Council.

Such agreements are complex because opportunities to purchase land can be extremely time sensitive/restricted (where the opportunity to acquire a key site may be lost to third parties if the Council cannot quickly negotiate acceptable terms with the seller) and would not normally be subject to the Public Procurement Regulations, but agreements for public works contracts are subject to the Public Procurement Regulations and other legal restrictions will apply, such as those which are designed to prevent arrangements which distort or threaten to distort competition by favouring certain suppliers.

Accordingly, Officers should consult the Procurement Team and the Head of Legal and Democratic Services about any potential land and build arrangements at the earliest opportunity and prepare to submit to them for consideration:

- details of the circumstances, including proposed arrangements to advertise the Council's requirements for such sites or, if the Officer believes that only one particular



site is suitable, full details explaining why no reasonable alternative or substitute exists based on objective criteria which do not artificially narrow down of the parameters of the procurement (NB in any event, contracts with a Total Value at or above the relevant Public Procurement Threshold would have to follow one of the permissible Public Procurement Procedures); and

- at the appropriate stage, an independent open market valuation of the land to be acquired taking into account all conditions which would apply, including those which would operate to the seller's advantage (such as the right to carry out the construction work for the Council on specified cost/profit terms).

**Appendix 1 checklist for planning three quotes process**

<b>Have you thought about?</b>	<b>Helpful hints</b>
<b>How will this contract be funded?</b>	Have you spoken to your Finance business partner to make sure you have the budget to pay for this contract? How will it be funded? What if the bids you receive come in higher than expected? Do you have a contingency fund?
<b>Straight re-buy, a modified re-buy or a brand new requirement?</b>	Have you bought this before? Are you buying the exact same thing again or does something in the specification or contract need changing? Or is it brand new and it is being bought for the first time?
<b>Any procurement documents available?</b>	Have you got an example specification from a similar procurement you could use as a starting point?
<b>Identify approximate value</b>	When working this out include any optional extensions to the length of the contract. <i>If it is going to be over £75,000 you must contact <a href="mailto:procurement@eastsoffolk.gov.uk">procurement@eastsoffolk.gov.uk</a>, you cannot carry out three quotes or a tender on your own.</i>
<b>Existing agreements?</b>	Could you use an existing agreement? Is there a contract which it would make more sense to extend?
	Other routes to market include frameworks and Dynamic Purchasing Systems. Please talk to a member of the Procurement Team for more details.
	Could you work with another service area or local authority to put out a larger, aggregated contract?  <b>NB</b> collaborative procurements have to be approved by Head of Legal, Section 151 officer and the Procurement Team.
<b>Identify stakeholders</b>	Who needs to be involved in this project? Who will be impacted by it? Who needs to have a say in it?
<b>Identify risks</b>	<p>What Health and Safety risks are there? Talk to your Health and Safety business partner for more information if needed.</p> <p>Finance can give advice around insurance levels. The Council's standard requirements are: £10 million Employer's Liability £10 million Public Liability Professional Indemnity &amp; Product liability- depends on the goods and purpose for which they are being procured.</p> <p>Cyber Security- will your project involve any interfacing with the Council's systems? Do you require specific accreditation from a supplier?</p> <p>How easy would it be for the Council to retender/switch supplier should there be an issue with the contract?</p>

<b>Data Protection</b>	Consider what data a potential supplier will need to collect. If its anything that goes beyond the standard office contact details, you may need to carry out a Data Protection Impact Assessment (DPIA). Please talk to Data Protection as soon as you think this might be the case dataprotection@eastsoffolk.gov.uk
<b>Identify start by date</b>	What is the latest date the contract needs to be in place by? Depending on the value there may be minimum timescales for procurement which have to be adhered to. Does your contract need a lead in time for the successful supplier?
<b>Contract Options</b>	For contracts between £20,001 to £75,000 the options are: The Council's standard services or goods agreements Industry standard model contract such as JCT or NEC4. Please talk to either the Legal or Procurement team if you need further information. For Legal advice, please complete the Legal Services Instruction Memo on DASH
<b>What are the key deliverables?</b>	What needs to happen as part of your contract to make it a success? Which are the most important? How can these be monitored during the contract term?
<b>Procurement Strategy</b>	How can your procurement align with the themes of the Procurement Strategy? Think of: Social Value Environment Supporting SMEs and Local Businesses Ethical Procurement. Please see SharePoint for more information.
<b>Any innovations? Any other requirement?</b>	Consider issues like sustainability and the environment or digital transformation. How can your contract contribute to the Council's strategic objectives?
<b>Do you need to engage with the market?</b>	Talking to suppliers informally beforehand can help you define what you need. Just be careful that you do not give a supplier any advantageous information. Make sure all are treated the same.
<b>Contract management</b>	Good contract management starts at the planning stage. Who will be managing the contract and how? Please see more information around contract management in this workbook, information on SharePoint and resources on Contract Register Teams channel or speak to the Procurement Team
<b>Price vs Quality</b>	How are you going to score the supplier's bids? If you are going to have a quality element in there, you need to be clear with suppliers as to how this will be scored. Please talk to Procurement for more information.

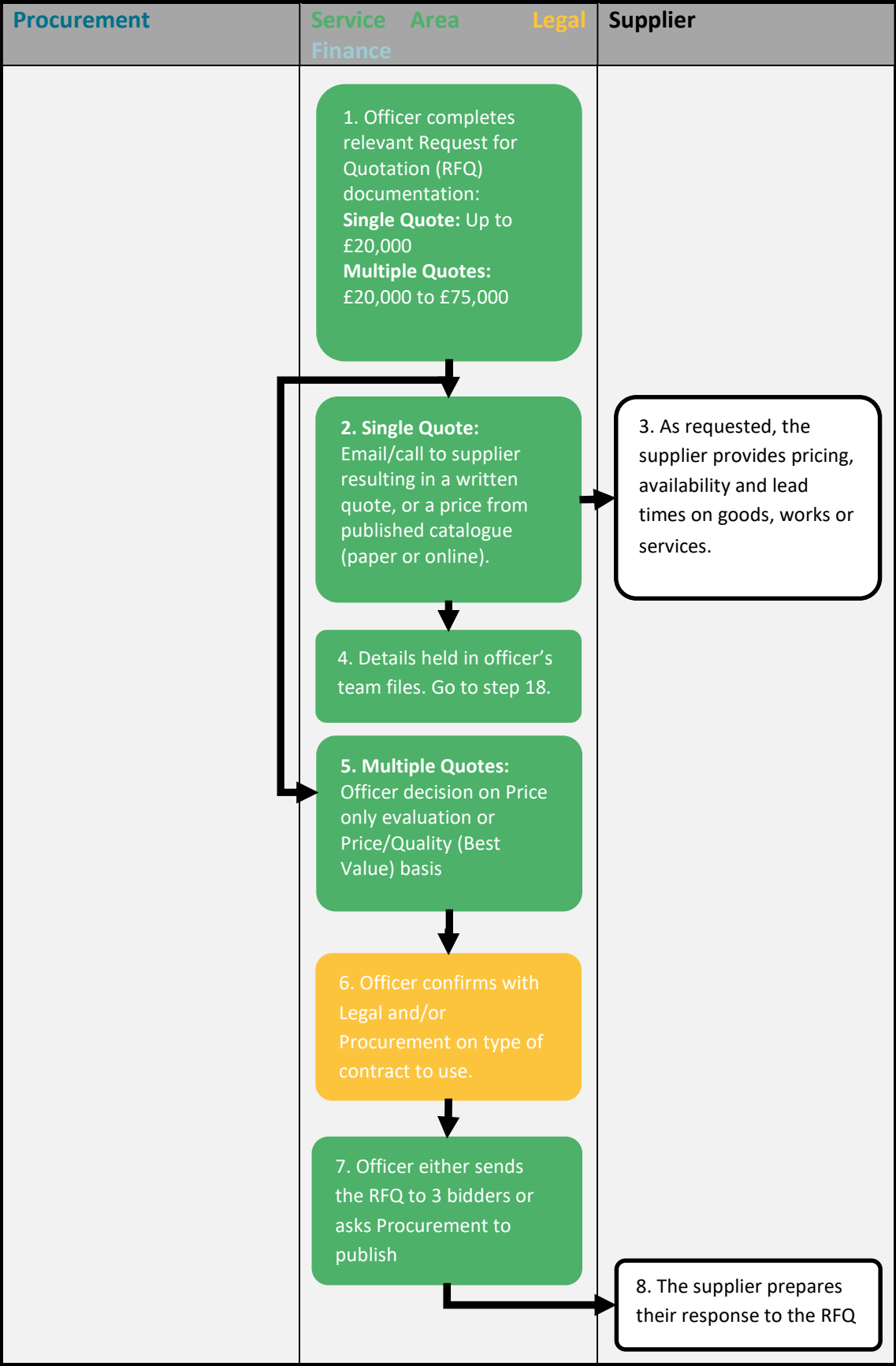
**Appendix 2 checklist for completing three quotes process**

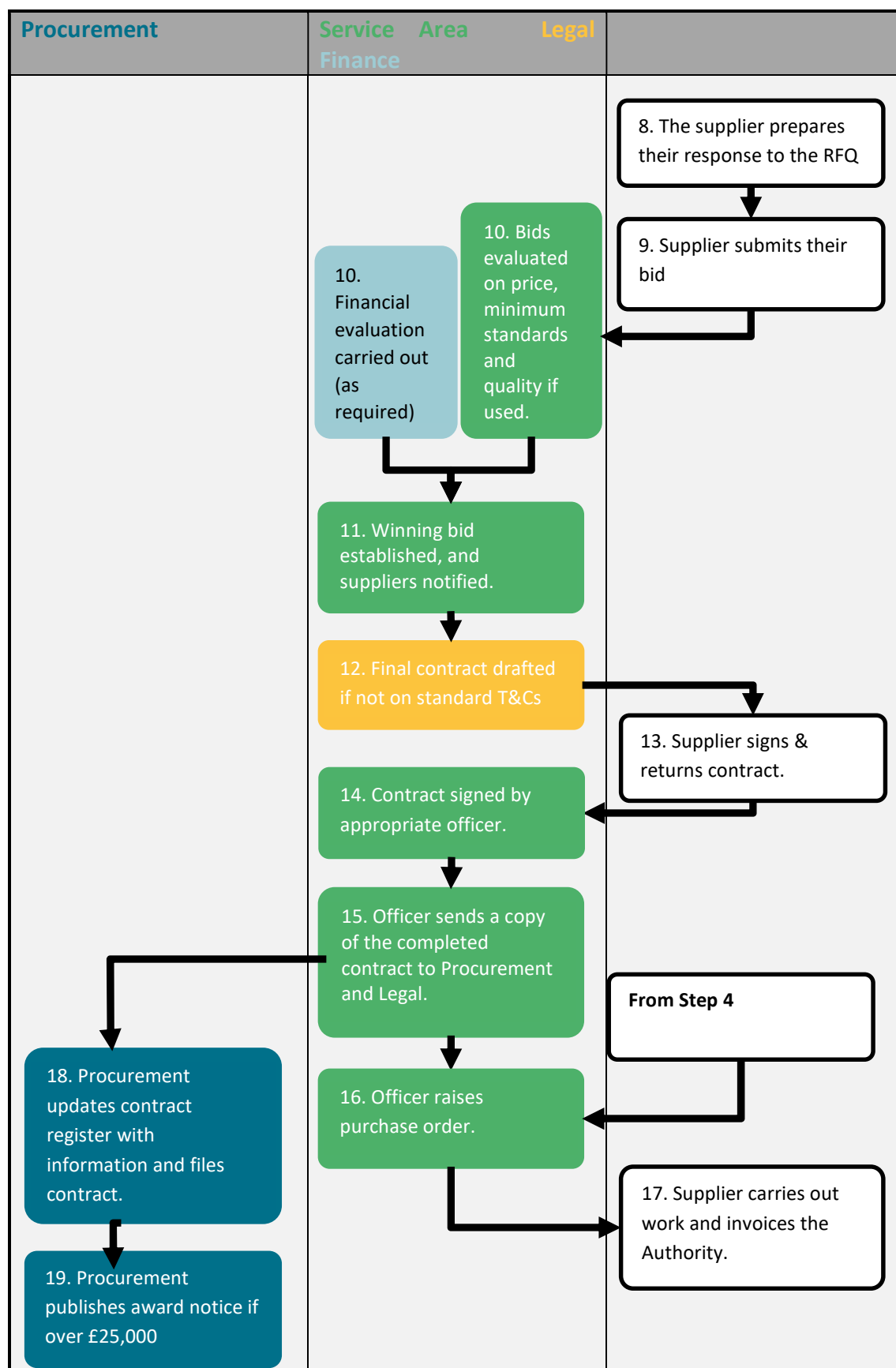
<b>Have you thought about?</b>	<b>Helpful hints</b>
<b>Before awarding the contract</b>	Have you carried out some sort of due diligence? For example, asked Finance to check the supplier's financial status? Checked the supplier's insurance levels? Made sure there are no conflicts of interest which need to be addressed?
<b><i>What contract are you going to use?</i></b>	The Council's standard terms and conditions are suitable for under £20k. For other procurements use the standard form agreements (available from Procurement or Legal teams) or industry standard agreements such as JCT or NEC.
<b>Awarding the contract</b>	Make sure you award to the highest scoring supplier on the basis of what went out in your Request for Quotation. I.E. 100% price, the winning bid should be the lowest priced one. You cannot change the award criteria after you have received bids. Keep a record of bids and feedback in case of any audit requirements.
<b>External sign off</b>	The contract should be sent to the supplier for signing, undated, first.
<b>Internal sign off</b>	Once received from the supplier, follow internal contract sign off process for signing the contract. Sign off authority is not the same as budgetary approval.  Send a fully signed and dated copy back to the supplier for their records.
<b>Contract Safe-Keeping</b>	File a copy of the completed contract in your Service Area's Teams channel folder.
<b>Award Notice</b>	Publish award notice on Contracts Finder.  Any contract over £25,000 excluding VAT is required to have a contract award notice published on <a href="http://www.contractsfinder.service.gov.uk">www.contractsfinder.service.gov.uk</a> . Please contact a member of the Procurement Team who can publish this for you.
<b>Contract Register</b>	Add your contract to the corporate Contract Register. Please ask Procurement for access to Teams channel if you don't already have it.

<b>Supplier set up</b>	<p>Check if the supplier is set up on Business Central. If not, they will need to complete a new supplier form (available from SharePoint or Finance).</p> <p>Raise a purchase order on Business Central. After it is authorised, send to supplier.</p>
<b>Mobilisation</b>	Setup mobilisation meeting as required.
<b>Contract Management</b>	See separate checklist and other detailed guidance on Contract Management, available from the Procurement Team.
<b>Lessons Learned Review</b>	Consider any lessons learned from the procurement and subsequent contract and keep a record for future use.

Appendix 3 flow chart for single and three quotes process

Service Area- Managed Procurement





Supporting information for the above steps is as follows:

- 1) One quote only is required on spend up to £20,000, minimum of three quotes required above £20,000 up to £75,000. Please see section 2 of the above guidance document.
- 2) Whilst single quotations can be requested either by phone or email, a verbal response from a supplier is not acceptable.
- 3) The supplier will need to confirm the relevant details of their offer in a written format – online catalogue, email or another document.
- 4) Officer holds detail of the received quote in the Teams files.
- 5) For multiple quotes (value over £20,000), the Procurement-approved Request for Quotation (RFQ) document should be used. This can be found on the Procurement intranet page. Details on how to complete this are within the form and assistance can be sought from Procurement should the need arise. The form includes the specification, evaluation criteria, evaluation questions, any mandatory documentation or other requirements, required KPIs and contract management arrangements. Please see the relevant Procurement Strategy for what additional criteria should be included. A copy of the draft contract should be included if the procurement is over £20,000.
- 6) If in doubt the Procurement Team and/or Legal will advise if this can be done on standard T&C's, or if it requires a contract which they will provide.
- 7) Officers should then either:
  - a) **Send request for quotation to selected potential suppliers**  
3 or more specific potential suppliers are invited to quote (including at least one local supplier, where practicable without improperly excluding other suppliers) by email or closed quotation published by the Procurement Team on the Council's eProcurement Software; or
  - b) **Open opportunities**  
Contact their Procurement Business Partner to publish the opportunity nationally using the Council's eProcurement software.  
**NB** - If the opportunity is advertised at all (such as in newspapers or on the Council's website to attract local or wider interest), it must also be published on Contracts Finder.
- 8) The Suppliers prepare their responses. The period allowed for responses should be adequate, considering the complexity of the Council's requirements, to provide a reasonable opportunity for suppliers to prepare and submit a quotation. This will normally be at least 10 working days.
- 9) Supplier responses can be submitted back through the eProcurement software (or by email if not using the eProcurement software) up to the deadline set by the service area. Beyond this time no response should be allowed. If fewer than three bids are received, consult with the Procurement Team and follow their recommendations as to whether to arrange a new Request for Quotation or obtain other evidence demonstrating that (because of the nature of the opportunity, an absence of suitable competitor suppliers or otherwise) the bid(s) received represent Value for Money.
- 10) Bids must be evaluated only as advertised. This should be done in the following order:
  - a) Confirmation of supplier passing any pass/fail criteria.
  - b) Financial evaluation of accounts etc. carried out by Finance if required (dependent on risk or value levels. Speak to Procurement for advice)



- c) If there is a quality section, responses should be evaluated by preferably three, but no less than two individuals in isolation with notes regarding why scores have been given. An evaluation moderation meeting should be set up to reconcile any exceptional variations.
  - d) Price evaluation of all parts of the pricing table, including looking for any bidding strategy or low hanging bids. A view of the bid total might be looked at earlier if there was a set budget which was not to be exceeded (this aspect would form a part of the pass/fail section).
- 11) The winning bidder(s) should be notified first then unsuccessful bidders.
- a) A discretionary 10 day “standstill period” is recommended prior to issuing a contract in order to allow any challenges on the process to surface.
  - b) If carrying out a three quote process without the involvement of the Procurement Team, record with the Procurement Team the details of the purchase, including reasons for the selection and for any absence of local suppliers in the winning bid and/or bids received
- 12) Legal will generate a final copy of the contract including the full RFQ return from the winning bidder, plus any clarifications raised during the process, and populate any fields identified to them as required if not using the standard T&Cs.
- 13) Standard T&Cs do not need signing; any bespoke contract should only be signed once signed by the supplier first.
- 14) The contract should be signed by the appropriate party within the Authority when it is returned as signed by the supplier.
- 15) The officer carrying out the RFQ should inform Procurement of an additional contract for the Contract Register, with who we are working, duration, start date and total cost of the contract as let and any other details as required. This includes sending a copy of the signed contract to Procurement and also to the Legal Team.
- 16) The officer should then raise a Purchase Order to the supplier.
- 17) Supplier will then carry out work and invoice us as it is completed to gain payment.
- 18) A nominated contract manager should establish for contract mobilisation plans, service improvements, contract variations, performance monitoring and any other contract management processes.
- 19) A Contract Award Notice must be published on Government’s transparency notice site for contracts with a value of £25,000 ex VAT (or £30,000.00 including VAT) and over. Contact the Procurement Business Partner to do this. A copy of the contract should be stored in the Service Area’s Contracts Team channel.

**Appendix 4 procurement plan template - EXAMPLE****About this document**

This template should be filled out by the Procurement Business Partner in conjunction with the officer requesting procurement support.

If there are specific dates by which an action needs to happen by, please note this in the plan. Likewise, if a specific action is a responsibility of an officer, include this information too.

<b>1.a. Brief description of what you are trying to procure</b>	
<b>1.b. Is it...?</b>	<b>Goods/Works/Services</b>
<b>2. Proposed Duration of Contract</b> (include any optional extensions)	
<b>3. Intended Contract Start Date</b> (when must the contract be in place and up and running by?)	
<b>4. Estimated Total Contract Value</b> (£ in Sterling, excluding VAT. The estimate should include whole life costs and the value of extensions)	
<b>5. Have you got the budget or approval to procure this contract?</b> (Check with your Finance Business Partner if unsure. Any contract over £250k has to go to Cabinet for approval to procure and award)	
<b>5.a. What contingencies do you have in place should tenders be received higher than the budget?</b> (consider if you need to set a pass/fail on price)	
<b>6. Does the Council have an existing contract for this already?</b> (Yes /No. If yes please give details- TUPE may be an issue)	
<b>7.a. Market engagement.</b> Has any informal market engagement been undertaken already? Are there likely to be local suppliers available?	

<p><b>7.b. Is formal market engagement necessary?</b> If yes, what form (in person event, Teams meeting, desktop research etc.) If not, why not?</p>	
<p><b>8.a. Intended procurement process</b> (e.g. quotations, open tender, collaboration with another authority, Further Competition of Direct Award under an existing Framework Agreement, DPS etc.)</p> <p><b>Include the rationale for option selected.</b></p>	
<p><b>8.b. If proposing to use a Framework Agreement, is there an appropriate one available to use? Yes / No</b></p> <p>If Yes, is it appropriate? If No, why not? Has due diligence been carried out on that framework?</p>	
<p><b>8.c. What other options have been considered to ensure value for money and efficient use of resources as part of the procurement process?</b></p>	
<p><b>8.d. How will the opportunity be advertised?</b> (open tenders go through Contracts Finder and/or a Find a Tender Service. Should it be advertised on X or Linked In too?) <b>Why has this approach been selected?</b></p>	
<p><b>9. If the procurement is for the use of agency or consultants have the implications of IR35 been considered and the employment test toolkit (see link below) completed?</b></p>	

<p>Refer to the HR guidance for Managers for the use of off-payroll working</p> <p><a href="#">HMRC Employment Status for Tax Purposes Link</a></p>	
<p><b>10. Conflicts of Interest:</b> Have all officers and members that may reasonably be involved in the procurement undertaken to declare any potential conflicts of interest? Have any suppliers been involved in the project to date?</p>	
<p><b>11.a. What are the risks to the Council in terms of this procurement?</b> (i.e. will a delay in this procurement delay other projects, is it a highly visible contract which has a big impact on the Council's reputation if it fails etc.)</p>	
<p><b>11.b. Insurance</b> (the Council's minimum requirements are detailed here. Depending on your contract, these could be amended to lower or higher)</p>	
<p><b>12. Social Value:</b> Is there the opportunity through the contract to improve the economic, social and environmental well-being of the area?  If so how, in structuring the procurement, might that improvement be secured?  If Social Value is not being included please detail why not?</p>	
<p><b>13. Environment.</b> Has contributing to the Council's environmental objectives been considered and if so, how?  If not, please detail why not?</p>	

<p><b>14. How will this contract contribute to the other themes of the Procurement Strategy 2024-2028?</b></p> <p>The key priorities are: Social Value, Environment, SMEs and Local Businesses, Ethical Procurement and Good Governance.</p>	
<p><b>15. Data Protection.</b> What data will the supplier be collecting as part of the contract? Will it be personal and will a DPIA be needed?</p>	
<p><b>16. Health and Safety.</b> What implications are there? What evidence do we need to see from suppliers to ensure they will carry out the work safely?</p>	
<p><b>17. Cyber Security</b></p> <p>What measures will your contractor need to have in place to secure its IT systems? Is there a risk to the Council if the supplier's system interfaces with ours or stores the Council's confidential data?</p>	
<p><b>18. Stakeholders.</b> Are there any other stakeholders who need be involved? External consultants, community groups etc.</p>	
<p><b>19.a. Evaluation:</b></p> <p>What will be the overall weighting for:</p> <p>Price (whole life cost) %</p> <p>Quality (including service delivery, sustainability, technical merit etc.) %</p>	
<p><b>19.b. How will price be evaluated?</b> (schedule of rates, bill of quantities, Excel pricing template, pricing breakdown)</p>	
<p><b>20.a. Form of Contract:</b></p> <p>Which contract will be used? (e.g. terms and conditions, service agreement, JCT/NEC4 contract)</p>	

<b>20.b. Are any bespoke clauses needed?</b> Have you liaised with Legal about this?	
<b>20.c. How does the contract need to be completed?</b> (i.e. signed or sealed)	
<b>21.a Contract management:</b> What contract management requirements will be built into the tender? (e.g. Service Level Agreement, Key Performance Indicators)  Will an exit strategy be required and if so what will this include? (e.g. transfer of data or staff)	
<b>21.b. Who will be managing this contract?</b>	
<b>22. Other</b> Any other considerations which have not been captured above?	

**Appendix 5 Financial Risk Assessment - EXAMPLE****East Suffolk: Insurance Levels Risk Assessment****Procurement Title:****Procurement Reference:**

The Council's Contract Procedure Rules detail the minimum standards for all procurement activities and must be followed each time the Council enters a contract for goods/services/works.

The Council's guideline minimum insurance requirements are set out in the table below.

Insurance type	Cover explanation and when required	Guideline minimum requirement
Employer's Liability insurance	<p>Provides cover to the organisation arising from personal injury/disease claims made by employees.</p> <p>All organisations with employees are required under statute to have Employers Liability cover in place.</p> <p>The only exemption will therefore be a sole trader who does not have any employees.</p>	£10 million (any one event/occurrence, per claim or series of claims arising out of the same cause or source)

Public liability insurance & Product Liability Insurance	<p>Public Liability insurance provides cover to the organisation arising from personal injury/disease claims made by the public relating to business activities and services.</p> <p>It also provides cover to the organisation arising from claims by the public for damage to their property.</p> <p>Product Liability insurance provides personal injury/disease and property damage cover for claims arising out of products sold.</p> <p>Where the Council has a duty of care (i.e. its own land, buildings, or third-party land and buildings where it has a responsibility), Public Liability insurance will be required of all contractors/event organisers entering those settings where there is a risk of personal injury/disease to staff or the public, or a risk to the Council's or a third-party's property, arising from the activities being undertaken.</p>	£10 million (any one event/occurrence, per claim or series of claims arising out of the same cause or source)
Professional indemnity insurance	<p>Provides cover to the organisation arising from financial loss claims made by the public resulting from a negligent and accidental act or omission.</p> <p>Professional Indemnity insurance will be required where there is a risk of financial loss to the Council arising from the activities being undertaken under the contract.</p>	<p>No guideline minimum. The requirement must be determined on a case-by-case basis.</p> <p>Where a requirement is set the cover will be on a 'Claims Made' basis.</p>

Public Liability and Employers Liability requirements should always be assessed. Where the risks are such that a higher level of indemnity is appropriate (e.g. an airshow) then this ought to be requested.

Where the risks are mitigated then it may be reasonable to request a limit of indemnity lower than the guideline. Under these circumstances approval from the Head of Service and the Chief Financial Officer is required.

To document and evidence due consideration of the levels of insurance cover requested has been undertaken, please complete the assessment below. This assessment could be a key



part of the Council's defence if the Council is named as a co-defendant with a supplier in a claim.

<b>Public/Product Liability &amp; Employers Liability</b>	
What potential risks have you identified that may arise during the delivery of this contract? [i.e. risks to people, information, property, negligence of the supplier, and knock on effects etc]	[answer here]
Are there risks to Council employees or the public arising from the completion of the contract? If so, what are they?	[answer here]
Will the Supplier be completing the contract on Council land or buildings, or other sites where it has a duty of care? Will the supplier be using Council assets to fulfil the contract?	[answer here]
What is the nature of the works/activity being undertaken?	[answer here]
Does this contract represent a potentially significant risk to public health or public safety? What are those risks?	[answer here]
Are there actions already in place to mitigate the risks identified?	[answer here]
Will these mitigating actions remove the risk of a high value claim incident?	[answer here]
Summary [please include any supporting background information or any other factors to support this request]	[answer here]
<b>Professional Indemnity</b>	

What is the contract value?	[answer here]
If the Supplier fails in the delivery of the contract, what is the potential impact to the Council?	[answer here]
<p>What is the potential worst case scenario financial loss the Council could suffer from a negligent and accidental act or omission.?</p> <p>[Note: Please describe and provide estimated costs to the Council. Indirect costs could include demolition and site clearance, professional fees, business continuity costs, loss of income etc.]</p>	[answer here]

Considering the above risk factors, please fill out the following request:

Insurance	Council's Minimum Requirements	Proposed insurance levels for this contract	Justification why
Employer's liability insurance	£10 million	[answer here]	[answer here]
Public liability insurance	£10 million	[answer here]	[answer here]
Professional indemnity insurance	N/a	[answer here]	[answer here]
[add as applicable]	[add as applicable]	[answer here]	[answer here]

This risk assessment should be shared with the Payables, Receivables and Insurance Manager and the Procurement Manager in the first instance. If further approval to request limits lower than the Public Liability & Employer's Liability guidelines is required, it should be submitted for approval to your Head of Service and the Chief Financial Officer.

Signed by:

Head of Service .....

Dated .....

Countersigned by

Chief Finance Officer .....

Dated .....