INTRODUCTION

These contract procedure rules are intended to promote good purchasing practice and public accountability and deter corruption.

Following the rules is the best defence against allegations that a purchase has been made incorrectly or fraudulently.

*Officers1*responsible for purchasing or disposal must comply with these contract procedure rules. They lay down minimum requirements and a more thorough procedure may be appropriate for a particular contract.

For the purposes of these rules, where there is a requirement for communication to be in writing, this shall be deemed to include e-mail and fax transmissions as well as hard copy and communication by the Council's e procurement portal.

* Follow the rules if you purchase goods or services or order building work.
* Take all necessary legal, financial and professional advice. Declare any personal financial interest in a contract. Corruption is a criminal offence.
* Check whether there is an existing *Corporate Contract* you can make use of before undergoing a competitive process.
* Normally allow at least three weeks for submission of bids.
* Keep bids confidential.
* Complete a written contract or council order before the supply or works begin.
* Identify a contract manager with responsibility for ensuring the contract delivers as intended.
* Keep records of dealings with suppliers.
* Assess each contract afterwards to see how well it met the purchasing need and *Value for Money* requirements.

In accordance with the *Constitution*, the *Chief Financial Officer* shall have the power to make amendments from time to time to these contract procedure rules after consultation with the *Director of Corporate Services*.

1Reference to “Officer” in this document refers to the officer designated by the Chief Financial Officer or Director to deal with the contract in question.

SCOPE OF CONTRACT PROCEDURE RULES

1. BASIC PRINCIPLES

1.1 Public procurement is defined as the acquisition by means of a public contract of works, supplies or services by one or more contracting authorities from economic operators chosen by those contracting authorities, whether or not the works, supplies or services are intended for a public purpose.

1.2 It is estimated that the local Government sector spends in excess of one third of its budget on the Procurement of goods, works and services. Therefore procurement is a high value, primary activity that has a critical impact on our performance and success. As a public body the Council is obliged to implement the Public Procurement Regulations 2015, and is also encouraged to comply with the NI Public Procurement Policy, which is a report designed by the NI Procurement Board.

1.3 All quotation and tender competitions must be carried out in a fair, open and transparent manner, all tenderers must be treated equally and fairly throughout the Procurement process. The Procurement Section has an overseeing and co- ordinating role for procurement within the Council. The Procurement Section is responsible for ensuring that the Council is following the appropriate procedures in line with Legislation and Council Policy in acquiring its goods and services to reduce the risk of receiving a challenge against a Council's decision in relation to the award of a competition.

1.4 The following procurement requirements will apply to and be binding upon all persons tendering for and executing work under the Council and shall be embroiled in all contracts for such work entered into by the Council.

1.5 In the following procedures, “the Statutory Amount” shall mean £30,000 (exclusive of Value Added Tax) or such other amount as shall be determined from time to time by the Department of the Environment for Northern Ireland under Section 100(1) of the Local Government Act (Northern Ireland) 1972.

All purchasing and disposal procedures must:

* achieve *Best Value* for public money spent;
* be consistent with the highest standards of integrity;
* ensure fairness in allocating public contracts;
* comply with all legal requirements;
* ensure that *Non-commercial Considerations* do not influence any *Contracting Decision;*
* support the Council's corporate and departmental aims and policies;
* comply with the Council's Accounting Manual Procurement Section.

2. EXEMPTIONS, COLLABORATIVE AND E-PROCUREMENT ARRANGEMENTS

2.1 Every Contract made by the Council or a Committee acting in pursuance of powers delegated to it by the Council under its statutory powers shall comply with the following procedures. No exception from any of the following recommendation of the Director concerned and with the approval of the Council or a Committee.

2.2 A record of any exception from any of the provisions of these regulations shall be included in the Minutes of the Committee concerned or in the Minutes of the Council and the record shall specify the special consideration by which the exception shall have been justified.

2.3 Where a proposed contract is likely to exceed the EU Threshold, officers have no delegated powers and the matter has to be determined by the Council. No exemption can be used if the *EU Procedure* applies.

2.4 Where an exemption is necessary because of an unforeseeable emergency involving immediate risk to persons, property or serious disruption to Council services, the Officer and the Chief Financial Officer may jointly approve the exemption but they must prepare a report for the next *Council meeting* to support the action taken.

2.5 The provisions of the section on Procurement shall not apply to purchases or sales by auction or at public fairs or markets or from or to a Government Department, Local Authority or other public body.

2.6 All exemptions, and the reasons for them, must be recorded. Exemptions shall be signed by the *Officer* and countersigned by the *Chief Financial Officer*.

2.7 The *Procurement Officer* must be consulted and an exemption approved by the *Director of Corporate Services* prior to commencing any procurement process using Office of Government Commerce (OGC) Buying Solutions Contracts. The terms and conditions of contract applicable to any OGC arrangement, including the requirement to undertake competition between providers, must be fully complied with.

2.8 The Head of Service for Finance and It must monitor the use of all exemptions.

2.9 In order to secure *Value for Money*, the authority may enter into collaborative procurement arrangements. The *Officer* must consult the *Chief Financial Officer* and the Director of Corporate Services where the purchase is to be made using collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium.

2.10 The use of e-procurement technology does not negate the requirement to comply with all elements of these contract procurement rules, particularly those relating to competition and Value for Money.

1. OFFICER RESPONSIBILITIES

*3.1 Officers*

 3.1.1 *Officers* responsible for purchasing or disposal must comply with these contract procedure rules, *Financial Regulations*, the Code of Conduct and with all UK and European Union binding legal requirements. *Officers* must ensure that any *Agents, Consultants* and contractual partners acting on their behalf also comply.

 *3.1.2 Officers* must:

* + have regard to the guidance in the Accounting Manual;
	+ check whether a suitable *Corporate Contract* exists before seeking to let another contract; where a suitable *Corporate Contract* exists, this must be used unless there is an auditable reason not to;
	+ take all necessary legal, financial and professional advice.

 3.1.3 When any employee either of the authority or of a service provider may be affected by any transfer arrangement, *Officers* must ensure that the Transfer of Undertaking (Protection of Employment) (*TUPE*) issues are considered and obtain legal advice before proceeding with Inviting *Tenders or Quotations*.

4. RELEVANT CONTRACTS

 4.1 *All Relevant Contracts* must comply with these contract procedure rules. A *Relevant Contract* is any arrangement made by, or on behalf of, the Council for the carrying out of works or for the supply of goods, materials or services. These include arrangements for:

* the supply or disposal of goods;
* the hire, rental or lease of goods or equipment;
* the delivery of services, including (but not limited to) those related to:
* the recruitment of staff;
* land and property transactions;
* financial and consultancy services.

4.2 *Relevant Contracts* do not include:

* + - contracts of employment which make an individual a direct employee of the Council, or
		- agreements regarding the acquisition, disposal, or transfer of land (for which *Financial Regulations* shall apply).

5. COMMON REQUIREMENTS

5.1. STEPS PRIOR TO PURCHASE

 5.1.1 When planning to enter into a Contract for the execution of any work of a value exceeding the statutory amount (£30,000) the Council or the Committee shall obtain from the appropriate officer or other person an estimate in writing of the probable expenses of executing the work in a suitable manner and where such an estimate can reasonably be made of the annual expense of maintaining the project.

 5.1.2 The specification is critical in any procurement exercise and must clearly define what the Council's need and expectation is from the Procurement, therefore much time should be invested at this stage. To ensure the suppliers have a good understanding of what exactly is required, Specifications should include as much information about the requirement as possible. The more information you provide the more accurate the returned quote should be. Specifications should contain details such as background information to the requirement i.e. the aims and objectives, specific details of the requirement, expected outputs/delivery timescales, social clauses, contract period, pricing structure and the evaluation criteria.

 5.1.3 The *Officer* must appraise the purchase, in a manner commensurate with its complexity and value, and taking into account any guidance in the Accounting Manual.

* appraising the need for the expenditure and its priority;
* defining the objectives of the purchase;
* assessing the risks associated with the purchase and how to manage them;
* considering what procurement method is most likely to achieve the purchasing objectives, including internal or external sourcing, partnering, packaging strategy and collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium;
* consulting users as appropriate about the proposed procurement method, contract standards and performance and user satisfaction monitoring;
* drafting the terms and conditions that are to apply to the proposed contract;
* setting out these matters in writing if the *Total Value* of the purchase exceeds £30,000.

 5.1.4 and by confirming that there is member or delegated approval for the expenditure and the purchase accords with the approved policy framework and scheme of delegation as set out in the *Constitution.*

5.2 FINANCIAL APPRAISAL PROCEDURE

A Financial Appraisal must be undertaken by the Service Department and approved by Head of Service (Finance and IT) prior to it being submitted to the relevant committee. A full copy of the policy is contained in Volume 2 of the Accounting Manual.

Examples of these arrangements apply as follows:

(a) The purchase of a single item costing above £30,000, e.g. a vehicle or place of equipment;

(b) The purchase of several items of a similar type the total cost of which is above £30,000, e.g. fitness equipment;

(c) A building project costing above £30,000.

The figure of £30,000 quoted above in each example is exclusive of VAT.

5.3 RECORDS

Maintenance of Quotation and Tender Files

As per the Council's File Disposal Policy, Corporate Services Department will store other Departments quotation and tender forms until the annual Audit occurs following which they will be disposed of. Departments must maintain their own quotation and tender files for the timescales specified in the File Disposal Policy.

6. CONDUCTING PURCHASE AND DISPOSAL

6.1 FRAMEWORK AGREEMENTS

The Council may make purchases through Government Framework agreements provided that they follow the requirements for the Crown Commercial Service (CCS) Guidance and provisions of European Procurement Regulations.

“A framework agreement is a general term for agreements with providers that set out terms and conditions under which specific purchases (call-offs) can be made throughout the term of the agreement.”

In the implementation of this, staff should ensure that there is an adequate match between the required goods or service and the specification of the framework agreement.

Staff should seek the advice of the Procurement Section at the outset of the process to ensure the Council are permitted to utilise the Framework.

 *6.1.1 Evaluation Criteria*

 Procedure

The evaluation criteria and their relative weightings, which will be used to evaluate the quotations/tenders, should be included in all Procurement documents. This is to make suppliers aware of how their quotes and tenders will be assessed and subsequently what the Council base its contract award on. As per EU Regulations, all public bodies are now obliged to procure goods and services in a process that is broken down into two clear stages. The format in which the evaluation criteria should be presented in the specification can be found in the Accounting Manual. Council Officers should consult with the Procurement Section if guidance is required on this issue. There are a number of different Procurement processes available when acquiring goods and services. The Procurement Section can advise on the most suitable approach to be followed. Currently the most commonly used procurement process is a one stage closed competition for any spend between £1,500 - £30,000, or framework competition, or open competition for any spend over £30,000.

 *6.1.2 Competition Requirements*

For requirements estimates above £1,500 and below £30,000 (excluding VAT) the Council are obliged to test the market by going out to quote in order to achieve best value for money. Departments must note that the estimated budget should be the aggregate value of the full term of the specified service or life of the good/product. It is the Council department's responsibility to select the suppliers to invite to quote. Going out to quote offers significant opportunities for businesses particularly small and medium enterprises (SMEs) and start-up companies. Where possible suppliers within these sectors should be considered among those invited to quote.

The estimated cost of each requirement should be a realistic estimate based on actual values in the market at that time, it is not recommended to base estimated costs on those of previous similar procurements.

Although the Council does not enforce full procurement procedures for procuring goods and services under £1,500 it is still advisable to apply 'best practice'. To enable the Council to achieve value for money in all purchasing including low value purchases of under £1,500 the requirements listed in the table below should be adhered to.

Departments must monitor the aggregated spend of similar, repetitive purchases. In the event that the estimated annual aggregated spend on repetitive purchases exceeds the £1,500 threshold, departments should treat the requirements as a quote or tender competition.

When inviting quotations a minimum period of two weeks (extra time should be allowed for public holiday periods) is required for the receipt of quotations. The following are the minimum requirements for quotations and approvals.

|  |  |
| --- | --- |
| Estimated Cost | No of Quotations Required |
| <£1,500 | For low value purchases of under £1,500, 2-3 companies should be approached to show that value for money has been obtained. All documentary evidence between the Council and supplier should be retained as evidence i.e. by letter or email |
| £1,501-£5,000 | 3 written quotationsDirector approval |
| £5,001-£10,000 | 4 written quotationsDirector approval |
| £10,001-£30,000 | 5 written quotationsChief Executive approval |
| >£30,000 | Publicly Advertised Tender Competition |

For any spend above the £1,500 threshold departments must aim to receive the number of quotations specified above. The number of quotations specified above is the minimum quotations required. If the minimum number of quotations is not received by the competition closing date, it is recommended that departments contact those companies who did not quote to achieve an understanding of why they did not submit a quote; this information should be kept on file. Additionally if market restrictions are the reason for not receiving the minimum number of quotations evidence of this should also be documented. This information should be included with the PUR1 when sending to the Procurement Section for signing.

It should be noted that where 3 written quotations are required for a spend of £1,501-£5,000 it is desired that no less than 3 quotations should be received for evaluation. Therefore Departments are required to invite quotations from more than three companies. It is not acceptable to note “no response” for one or two out of the three suppliers. This helps to ensure that a good level of competition is generated and that the Council receives best value for money in the goods/services purchased. To maintain competitiveness in the market and provide protection against accusation or the perception of collusion, departments should avoid repeatedly inviting the same suppliers to quote.

Full quotation documentation should be made up of, but not restricted to, the following:

* Quotation Cover Letter
* Instructions to Tenderers which should include evaluation criteria
* Specification
* Pricing Schedule
* Fair Employment form
* Freedom of information document
* Safeguarding Declaration (where appropriate)
* Unable to Quote form
* Health and Safety Declaration (where appropriate)
* Return Envelope

Before the quotation is issued, the Procurement Section in Corporate Services must receive the full quotation documents, as above, along with Part 1 of a PUR1 form completed and signed by the relevant officers, a copy of which can be found in The Accounting Manual. The Procurement Section will review the documentation and provide the Department with any feedback or advice on the content/layout. If the documentation meets with the Council procedures the Procurement Section will sign Part 1 of the PUR1 form and return to the relevant department the original PUR1 form together with a Memo. The department can then issue the quotation documents.

During the Invitation to Quote period departments must ensure that relevant staff are available to answer any technical queries on the procurement to ensure that queries are answered before the closing of the competition.

Quotations received are opened by the relevant department following the closing date and time, (two Officers must be present at the opening). Those sections of the quotations with monetary value stated must be date stamped and signed by all those present at the opening of the quotations. If the specified number of quotations have not been received the department must discuss with the Procurement Section to agree the best way to proceed.

The quotations received must be evaluated against the Evaluation Criteria stated in the issued Specification. In order to justify the award of a quotation a breakdown of the evaluation of each quotation received should be recorded in a Scoring Matrix. The department must record the result of the evaluation and recommendation for award. In Part 2 of the PUR1 form where applicable and forwarded to the Procurement Section together with the original completed PUR1, all quotations received and a completed and signed scoring matrix for each quotation received, also information if the required number of quotations have not been received. Where it is proposed to accept a quotation other than the lowest this will require clarification and an explanation should be detailed in the relevant section in Part 2 of the PUR1 form.

Departmental Purchasing Staff must ensure that all quotations have been received. All of the quotations received and any summaries must be retained in the department for inspection in line with the Council Disposal Policy.

The completed PUR1 form and all documentation will be reviewed by the Procurement Section who will advise the relevant department if there are any concerns in relation to the department's recommendation to award. Otherwise if the information meets all the requirements the procurement will be approved and signed by the Procurement Section and returned to the relevant department at which point the relevant Head of Service, Director, and Chief Executive will then approve and sign as appropriate. The Purchase Order can then be issued. No order or purchase must take place until the PUR1 (second part) has been fully signed off. In order to close off the procurement file, a copy of the completed PUR1 form must be sent to the Procurement Section as soon as possible.

The accepted quotations must be signed and dated by an authorised officer on the date of acceptance. A copy of the accepted quotation together with the PUR1 form (obtained from the Procurement Section, within Central Support, Corporate Services) recording all quotations received must be forwarded to the Financial Services Unit with the yellow copy purchase order.

 6.1.3 *Tender Process*

 Procedure

Higher valued requirements such as those over £30,000 should be treated as an open competition and advertised as per EU and Public Procurement Regulations by using the e-sourcing electronic tendering tool. Council staff are reminded that the Council's Accounting Manual must be adhered to on all occasions in order to justify the need for the higher spend of public monies.

The following are the minimum requirements for tenders and approvals:

To ensure suppliers are allowed sufficient time to become aware of the tender advertisements and request documents to tender. It is advised that at least 3 weeks is allowed for receipt of tenders. For procurements over the EU Threshold the required timescales will be longer.

|  |  |
| --- | --- |
| Estimated Cost (Excluding VAT) | Tender Requirements and PUR1 Approvals |
| >£30,000-£172,514 | Advertisement in Newspapers, Council Website, E-SourcingNI and any relevant Trade Journals (if appropriate) |
| £172,514 and above | Advertisement in Newspapers, Council Website, E-SourcingNI and in the European Journal (OJEU). Also in any relevant Trade Journals (if appropriate).Chief Executive Approval |

As per EU Regulations, Tenders budgeted at £172,514.00 and above should be let in line with the following:

* The relevant advertisements must be placed in the European Journal in conjunction with the Procurement Section.
* For open competitions Tenders must be out to tender for a minimum period of 35 calendar days (extra time must be allowed over Public Holiday periods). Timescales can differ and should be confirmed with the Procurement Section. Departments must take into consideration the complexity of the requirement when determining a suitable timescale to enable tenderers to provide a suitable tender.
* Tender documents must be issued within 6 days of receipt of a request (not relevant for E-SourcingNI Tenders).
* Tender competitions must incorporate an EU Alcatel 'Standstill Period' of a minimum of 15 calendar days for letter of intent issued by paper, 10 days for letter of intent issued electronically, before a contract is formally awarded, this must be incorporated into the Tender timetable.

Full Tender documentation should be made up of, but not restricted to, the following:

* Advertisement (Newspaper Advert and Council Website Advert. Tenders placed on e-sourcing will also be advertised on the e-sourcing portal);
* Tender Cover Letter;
* Instructions to Tenderers and Conditions of Contract which should include evaluation criteria;
* Specification;
* Pricing Schedule;
* Fair Employment and Treatment form;
* Freedom of Information document;
* Safeguarding Declaration (where appropriate);
* Tender Form;
* Form of Tender Document;
* Collusion and Canvassing Declaration;
* Health and Safety Questionnaire (where appropriate);
* Bond/Conditions of Contract (where appropriate).

The preparation of specifications for the goods/services being purchased is the responsibility of the spending department, however spending departments must consult with the Procurement Section, Central Support, and Corporate Services at an early stage of the process.

The following is a synopsis of the main sections required for a Tendering process:

(a) Before the tender is issued, the Procurement Section in Corporate Services must receive a copy of the full tender documentation, as listed above where appropriate, along with Part 1 of a PUR1 form fully completed and signed by the relevant officers, a copy of which can be found in The Accounting Manual. The Procurement Section will review the documentation and provide any feedback or advice on the content/layout. If the documentation meets with council procedures the Procurement Section will sign Part 1 of the PUR1 form and return the original PUR1 form together with a Memo to the relevant department.

(b) In consultation with the Procurement Section, a timetable for the advertising, receipt and opening of tender documents, and the analysis of submissions, will be agreed.

1. Following approval of specifications by the Procurement Section, advertisements in newspapers and trade journals will be placed by the relevant department/unit. Departments should not approve their advert with newspapers until the Procurement Section have signed off the tender documents. Information contained in newspaper adverts should be kept to a minimum to reduce advertising costs. The Procurement Section will place tender adverts on the Council Website, where appropriate.

(d) For tenders estimated over the EU Threshold (£172,514.00) the appropriate European Journal Advertisements will be drafted and submitted for publication by the Procurement Section in consultation with the relevant department.

(e) The department is then required to send to the Procurement Section an electronic copy of all the agreed tender documentation in order to upload it onto the e-sourcing site for potential tenderers to access.

(NB This should be a minimum of 8 weeks before the contract goods are required and this does not include the time required by the successful contractor to seal the document, agree a bond (where applicable) and prepare to implement the contract/obtain the equipment, or for the Council to obtain Government approval for a loan to finance the expenditure if necessary).

(f) The distribution of paper tender documents, to prospective tenderers, is the responsibility of the relevant department in consultation with the Procurement Section.

(g) During the Invitation to Tender period departments must ensure that relevant staff are available to answer any technical queries on the procurement to ensure that queries are answered before the closing of the competition.

(h) Arrangements for the receipt and opening of all tenders received on the agreed date and time will be dealt with by the Procurement Section. The relevant departmental officer will advise the Procurement Section of any timescale issues and every effort will be made to accommodate these. The Procurement Section together with the Head of Service of the relevant department will arrange a time and date to open the Tenders. Tenders will be opened, dated and signed by all those in attendance, signatures of those present should be printed on t6he sections of the tenders with monetary values stated. Tenders received after the closing date and time should remain unopened. A record of the tenders received and their values will be recorded by Procurement staff. The Tenders will then be referred to the relevant department for assessment in conjunction with the Procurement Section. The Procurement Section will produce a report noting the Tenders received and opened.

(i) All tenders received must be evaluated against the evaluation criteria stated in the issued tender documentation. In order to justify the award of a tender competition a breakdown of the evaluation of each tender received must be recorded in a Scoring Matrix. Each Evaluation Panel Member must sign and date this matrix.

(j) The result of the evaluation and the recommendation to award must be recorded in Part 2 of the PUR1 form where applicable and forwarded to the Procurement Section together with the original completed PUR1, all tenders received and a signed and completed scoring matrix for each tender received.

(k) Where it is proposed to accept a tender other than the lowest this will require clarification and an explanation should also be detailed in Part 2 of the PUR1 Form. The recommendation for award made in Part 2 of the PUR1 form should be approved by the Procurement Section before being presented to Committee for acceptance. A report should thereon be prepared by the relevant department for presentation to the relevant Committee.

1. If the lowest, or only tender received is recommended for award, officers of the Council have delegated authority on acceptance but a report must be submitted to the relevant Committee for noting. In all other cases a detailed report must be submitted to the relevant Committee for approval. If the expenditure is to be funded by a loan, the report should seek approval for this.

(m) It is the department's responsibility to issue award and regret letters as appropriate to tenderers together with a copy of their own scoring frame as feedback on how their tender was evaluated.

(n) If the Council approves the Committee's decision, the documents must be passed to the Corporate Services Department with instructions to arrange for the contract to be sealed and for a bond to be agreed if appropriate.

(o) The spending department must issue an official order form when the Corporate Services Department has completed its action and returned the documents. This order may be used as the primary record to mark off payments as set out in Section 3 of this manual.

(p) In the case of annual supplies contracts arranged centrally for the Council, individual orders for purchases must be placed by Departments specifying the appropriate annual tender schedule in the details box of the official order form.

(q) Quotation and Tender award is based on the 'Most Economically Advantageous Tender' (MEAT). This includes Cost (including life cycle costs) or the best price/quality ratio in order to achieve best value.

6.1.4 *Supplier Debriefing (Procurement <£172,514.00)*

Following a procurement competition suppliers are entitled to request feedback on how their bid was scored. A debrief can initially be carried out as a Telephone debrief. If the telephone brief does not satisfy the supplier a face to face debriefing can be arranged. It is recommended that departments get clarification on what queries the supplier are planning to raise before the face to face debrief takes place. Departments should consult with the Procurement Section when drafting a response to the queries before the debrief. Debriefing gives suppliers the opportunity to improve their competitive performance and increase their opportunity of winning more procurement competitions in the future. It should be made clear to those receiving the debrief that it will not change the selection decision or reopen the awarded competition.

If the Council receive a request for a debrief it is obliged to release the following information if it hasn't already received it:

* The total number of suppliers invited for the quotation competition/the number of requests received for tender documentation;
* The number of quotations/tenders received and evaluated;
* The requesting supplier's score, rank and comments against each evaluation criteria;
* The range of costs received in the competition i.e. minimum cost – maximum cost;
* The name and score of the successful tenderer.

The Council are not obliged to give the following information as part of the debrief process. Although information can be disclosed in accordance with the requirements of the relevant legislation including the Freedom of Information Act and Data Protection Legislation.

* The names of all competing suppliers, other than the successful supplier;
* Details of competing suppliers scores, rank or comments against each criteria (except for t6hat of the successful supplier);
* Details of each competing supplier's proposed costs e.g. hourly rates (do we need to review this and state that information will be disclosed in accordance with the requirements of the relevant legislation including the Freedom of Information Act and Data Protection legislation).

If during the course of any procurement exercise, the need for legal advice arises, this must be sought only by the Council's Procurement Section.

As per EU Regulations for tenders estimated above the EU Threshold (£172,514.00) following evaluation of the tenders and the Council's approval to proceed to award. Departments should issue an 'Alcatel Letter of Intent' to the successful tenderer and an Alcatel Regret Letter to the unsuccessful tenderers. The Alcatel letters incorporate a mandatory minimum 15-calendar day standstill period (15 calendar days from the date letter of intent was issued by paper, 10 days from the date the letter of intent was issued electronically), which permits the unsuccessful tenderers to challenge the intended award of the contract. If any disputes do arise the standstill period must be extended until the dispute is fully resolved, in which case the contract award will be delayed. Otherwise, if no dispute is received within the 10/15 standstill period a final award letter should be issued to the successful tenderer.

 *6.1.5 Debriefing – EU Competitions (Procurement >£172,514.00)*

Debriefing for tender competitions over the EU Threshold differs slightly from normal tender debriefs. Suppliers may request additional debrief information within 14 calendar days of receiving the Alcatel Letter of Regret, provided that the Council receives the request no later than 3 working days after the date of the letter. Should the supplier's request be made after this date, additional debrief information should be given to them within 15 days of receipt of their request.

If during the course of any procurement exercise, the need for legal advice arises, this must be sought only by the Council's Procurement Section.

Procurement Funding

If an external body is funding the expenditure of a department's procurement, the Procurement Officer must be made aware of the procurement requirements of that body before new quotation and tenders are approved and issued.

Departments must, in conjunction with the Procurement Section, ensure that established current contracts meet the requirements of the funding body before ordering any goods or services under that contract.

 6.1.6 *Compliance with European Procurement Regulations*

These Regulations apply in respect of contracts for the purchase of goods, services or works which, over the lifetime of the contract (or 48 months if the lifetime is not defined), are expected to require that payments are made to the contractor in excess of the relevant threshold.

In this context, the contract value will include the cost of consumables and/or maintenance if these are explicitly included in the contract or if, in practice, there is no real alternative supplier. There are provisions prohibiting the sub-division of purchases into smaller items/orders in order to avoid the Regulations.

All personnel involved in renewing contracts and initiating single purchases of significant value should ensure that they take into account/refer to the provisions of European Procurement Regulations. These Regulations include a requirement to publish notices in the Official Journal of the European Communities (OJEC).

Compliance with the Regulations is mandatory. If there is any doubt over whether the Regulations apply to your Procurement please contact the Procurement Section for advice.

 *6.1.7 Register of Renewable Contracts*

Spending departments should advise the Procurement Section of renewable contracts and it will maintain a register. The purpose of this register is to provide a list of all contracts and, most importantly, their renewal dates. Central Support Section will advise spending departments in advance of contract expiry in order to allow preparation to begin.

All Committees shall report tenderers and contractors who have withdrawn their tenders after acceptance or have been found guilty of any serious breach of their contracts together with detailed statements of the fact in order that particulars thereof may be entered in the Register of Tenderers and Contractors.

All Committees when considering tenders shall consult the above Register and if the name of any tenderer appears in said Register, it shall be the duty of the Committee considering the tenders to take into consideration his record as appearing in said Register.

The role of the Procurement Section, in this regard, is of a monitoring and advisory nature. Responsibility remains with the spending department within whose remit the specific contract lies.

 *6.1.8 Single Tender Action*

Background

Single tender action (STA) is the process where a contract is awarded to a selected supplier without carrying out a competition. The single tender action route should only be considered when strictly necessary and used in line with the Public Contracts Regulations. As a public body the Council's procurement should be carried out by means of competition unless there are justifiable reasons otherwise.

Additionally, extensions of a contract i.e. where the contract does not allow options for further extension, are classified as Single Tender Actions and should be treated as such.

Potential Consequences

There are a number of consequences if the single tender action route is not used correctly. If a contract has been awarded without competition when, according to procurement rules, it should have been put out to competition, a Court under the Public Contracts Regulations can make a declaration of 'ineffectiveness'. This means that the Council may be required to pay a financial penalty which will be determined by the Court.

Additionally an employee of the Council 'who knowingly' appoints a particular supplier without competition can be held personally liable for damages and costs awarded to an injured party.

Council Procedure

If a department wishes to follow the single tender action route they should consult initially with the Procurement Section to investigate the options available and to ensure they are following regulations for this correctly.

Where a department has investigated the STA route and wishes to award a contract under the Public Contracts Regulations without a competition, the relevant Head of Service should draft a report in consultation with the Procurement Section clearly setting out the reasons why they recommend such a procedure be used. In order to comply with DFP/NI Audit requirements the report should be given to the relevant Director for written approval, followed by written approval from the Chief Executive to proceed. It is essential that departments retain a record of the report and the authorisation process for audit purposes.

 *6.1.9 Proprietary items*

A proprietary item is generally one that is made and marketed to specialist customer needs and therefore there is only one known supplier who can provide the item under either patent or warranty.

The categorisation of goods as proprietary items requires careful consideration. Departmental Purchasing Staff should satisfy themselves that goods described as proprietary by suppliers are indeed such. Enquiries should be made to ensure that no alternative suitable product or supplier is available and written evidence of this fact is obtained and kept on file for inspection.

The purchase of proprietary items should be avoided wherever possible. In the case of large cost items, this can be achieved by writing non-technical specifications to include options on the source of spares, particularly in the purchase of vehicles or machinery. For most purchases, buyers should aim to buy standardised products.

6.1.10 *Select List/Pre-Qualification Questionnaire (PQQ)*

On certain occasions a decision may be made to invite Tenders through a 'PQQ Competition'. This acts as a prelude to tendering and does not take price into consideration. Instead Select Listing focuses on the applicants' ability to match pre-determined criteria for suppliers. The criteria will be tailored to match the needs of each individual contract and will have been identified prior to the invitation of applicants for inclusion on the Select List as a result of the PQQ Competition.

Generally Select List applications will be evaluated against:

* Financial Stability;
* Technical Capacity;
* Technical Capability;
* Commitment.

Following the evaluation of the PQQ submissions received, a recommendation will be made to the relevant Committee and subsequently to Council for ratification. The successful applicants will be notified once Council ratification is received and they will be requested to submit Tenders for the project concerned.

The Select List shall -

1. be compiled and maintained by the Council or the Committee.
2. Contain the names of all persons who wish to be included in it and are approved by the Council or the Committee and
3. indicate whether a person whose name is included in it is approved for contracts for all or only some of the specified values or amounts or categories.

At least 4 weeks before the list is first compiled, notices inviting applications for inclusion in it shall be published in one or more local newspapers circulating in the district and in such other publications as may be considered necessary by the Council or the Committee.

The select list shall be amended as required from time to time and shall be reviewed at intervals not exceeding 5 years. New suppliers who did not originally apply to the PQQ Competition cannot be added to the Select List, but suppliers on the list can be removed at their request. At least 4 weeks before each review, each supplier whose name appears in the list shall be asked whether they wish to remain therein and notices inviting applications for inclusion in the list shall be published in the manner provided by sub-paragraph above.

Where by virtue of a decision of the Council or of the Committee, invitation to tender for a contract is limited to suppliers whose names appear on the list maintained under this paragraph, an invitation to tender for that contract shall be sent to all of those suppliers who appear in the said list as being approved for a contract for that value or amount or of that category.

1. CONTRACT AND OTHER FORMALITIES

 7.1 CONTRACT DOCUMENTS

Every contract which exceeds the statutory amount (£30,000) in value or amount shall be made under Seal of Council.

1. Every written contract shall specify -

(a) the work materials matters or things to be furnished had or done;

(b) the price to be paid with a statement of discounts or other deductions; and

1. the time or times within which the contract is to be performed.
2. Every contract which exceeds the statutory amount (£30,000) in value or amount and is either for the execution of works or for the supply of goods or materials otherwise than at one time shall provide for liquidated damages to be paid by the contractor or the making good by him of any loss incurred by the City Council in case the terms of the contract are not duly performed and the Council shall except on the recommendation of the Head of the Department concerned require and take sufficient security for the due performance of every such contract.

Where an appropriate British Standard or equivalent issued by the British Standards Institution or equivalent is current at the date of the tender every contract shall require that the goods and materials used in its execution shall be in accordance with such Standard.

 7.2 DECLARATION OF INTERESTS

It shall be the duty of each Individual Member and Officer to officially disclose and report any document coming to his notice and believed by him to contain evidence of any interest, direct or indirect, in any transaction with the Council even if such transaction may already have been sanctioned by the Committee concerned and passed by the Council.

 CONTRACT MANAGEMENT

 8.1 Heads of Service in units will name contract managers for all new contracts. All contracts must have a named council contract manager for the entirety of the contract.

 8.2 Contract managers must follow the procedures set out in the Council's Accounting Manual.

 8.3 An Engineer, Architect, Measurer or other professional adviser on contracts shall not receive any payment in commission or fees on any extra work over the estimated or contract price unless the extra work has been formally sanctioned by the Committee interested before any part of the extra work is executed. The final Certificate of the Engineer or Architect shall in every case show the total amount of the extras allowed and certified for.

PREVENTION OF CORRUPTION

 8.4 The *Officer* must comply with the *Code of Conduct* and must not invite or accept any gift or reward in respect of the award or performance of any contract. It will be for the *Officer* to prove that anything received was not received corruptly. High standards of conduct are obligatory. Corrupt behaviour will lead to disciplinary procedures.