

REPORT TO THE MEETING OF THE EXECUTIVE 4 NOVEMBER 2015

PORTFOLIO: FINANCE

REPORT FROM: ASSISTANT DIRECTOR – COMMERCIAL SERVICES AND SECTION 151 OFFICER

SUBJECT: REVISED CONTRACT PROCEDURE RULES

1 DECISION BEING RECOMMENDED

- 1.1 That the Executive recommends to Full Council that the revised Contract Procedure Rules, attached as Appendix 1, be adopted.
- 1.2 That, pending the above decision, the Sustainable Commissioning and Procurement Strategy 2015-2020, attached as Appendix 2, be approved.

2 REASONS FOR RECOMMENDATION

- 2.1 The introduction of the Public Contract Regulations (PCR 2015) resulted in the need to revise the Council's existing Contract Procedure Rules to reflect this new legislation.
- 2.2 These regulations represent a significant change to the way Local Authorities must carry out their procurement functions and the opportunity was taken to develop a more robust contract procedure rules document that draws on current best practice.
- 2.3 The Sustainable Commissioning and Procurement Strategy 2015-2020 outlines the Council's approach to procurement and highlights key work streams in a high level action plan.

3 SALIENT INFORMATION

- 3.1 The Public Contract Regulations (PCR 2015) puts in place certain duties that Councils must follow. A key change in the new regulations is the principle of the "most economically advantageous tender" (the "MEAT" criterion). This criterion aims to ensure quality and best value for money by placing greater emphasis on certain considerations, such as environmental, social and innovative characteristics and the experience of staff delivering the contract.
- 3.2 The MEAT principle enables the contracting authority to take account of criteria that reflect qualitative, technical and sustainable aspects of the tender submission as well as price when reaching an award decision.
- 3.3 Other changes include:-
 - All spend over £25,000 (net of VAT) has to be advertised on Contracts Finder (a central Government website with a search facility).

- There is to be a cost/quality split in the scoring of tenders.
- Exemptions cannot be granted for anything over £25,000.
- Councils will be 'encouraged' to break contracts into Lots (Councils must have a reason if not doing so).

4 ALTERNATIVE OPTIONS CONSIDERED

4.1 None. The Council has a statutory duty to follow the PCR 2015.

5 RISK IMPLICATIONS

5.1 Failure to adopt the revised procurement process, as outlined in the revised Contract Procedure Rules, could open the Council to legal challenge.

6 RESOURCE IMPLICATIONS

6.1 There are no direct financial implications arising from the report. Indirect implications include staff time for potential Small or Medium Enterprises (SMEs) and Member training in the revised procedures. In implementing this strategy the Council needs to ensure that it balances its aspirations for local SMEs with its duty to comply with EU procurement rules and that where it proposes to give assistance to local SMEs, either by way of grant aid or otherwise, it gives full consideration to rules relating to State Aid.

7 LEGAL IMPLICATIONS

7.1 As stated above, the Council has a statutory duty to follow the PCR 2015.

8 EQUALITY AND DIVERSITY IMPLICATIONS

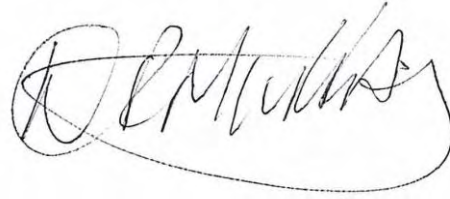
8.1 Although the Strategy will have limited direct impact on equality or diversity issues, individual procurement exercises for tenders will include an Equality Impact Assessment where appropriate.

I confirm that the above recommendation does not depart from Council policy and that appropriate consideration has been given to any budgetary and legal implications.



LT Lead Officer Signature: _____

Assistant Director – Commercial Services



LT Lead Officer Signature: _____

Section 151 Officer

Background Papers:-

None.

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If you would like this report in large print, Braille or another language please contact 01702 318111.

ROCHFORD DISTRICT COUNCIL

Contract Procedure Rules

[Approved by Council on []]

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All costs stated in these Contract Procedure Rules are exclusive of VAT, staff costs and fees.

DRAFT

DEFINITIONS

Agent	a person or organisation instructed to act on behalf of the Council or on behalf of another organisation. This shall also be taken to include consultants.
Approved List	A list drawn up in accordance with Rule 7.2.
Award Criteria	The criteria by which the successful Quotation or Tender is to be selected (see further Rules 10 and 11.2e).
Award Procedure	The procedure for awarding a Contract as specified in Rules 8, 10 and 15.
Best Value	The duty, which Part I of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by the Council. This terminology has now in many instances been superseded by Value for Money.
Bond	An insurance policy: if the Contractor does not do what it has promised under a Contract with the Council, the Council can claim from the insurer the sum of money specified in the bond (often 10% of the Contract value). A bond is intended to protect the Council against a level of cost arising from the Contractor's failure.
Bidder	Any person who asks or is invited to submit a Quotation or Tender.
Chief Finance Officer	The Officer Designated Chief Finance Officer (Section 151 Officer) by the Council.
Code of Conduct	The code regulating conduct of Officers.
Committee	A Committee which has power to make decisions for the Council, for example a joint Committee with another local authority, but not the scrutiny Committee.
Contract	Means a Relevant Contract under these Contract Procedure Rules. Contract and Relevant Contract may be used interchangeably.
Contracting Decision	Any of the following decisions: <ul style="list-style-type: none"> • composition of Approved Lists; • withdrawal of Invitation to Tender; • whom to invite to submit a Quotation or Tender; • Shortlisting; • award of Contract; any decision to terminate a Contract.

Corporate Contract	A Contract let by the Council to support the Council's aim of achieving Value for Money.
Council	means Rochford District Council
Essex Procurement Hub	The Council's central procurement partner charged with providing strategic direction and advice to secure Value for Money in the Council's procurement activities. The hub also has EU regulations legal expertise.
EU Procedure	The procedure required by the EU where the Total Value exceeds the EU Threshold.
EU Threshold	The Contract value at which the EU public procurement directives apply.
Evaluation	The process of selecting Bidders who are to be invited to quote or bid or proceed to final evaluation
Financial Regulations and procedures	The financial regulations and procedures outlining Officer responsibilities for financial matters issued by the Chief Finance Officer in accordance with the Constitution.
Framework Agreement	An agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing Contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.
Head of Paid Service	The Council's Chief Executive.
High Profile	A high-profile purchase is one that could have an impact on functions integral to Council service delivery should it fail or go wrong.
High Risk	A high-risk purchase is one which presents the potential for substantial exposure on the Council's part should it fail or go wrong.
High Value	A high-value purchase is where the value exceeds the EU Threshold values.
Invitation to Tender	Invitation to tender documents in the form required by these Contract Procedure Rules.
Key Decision	Decisions that are defined as key decisions in the Constitution.
Members	Persons currently elected to serve on the Council
Monitoring Officer	The Officer defined as such in the Constitution
Nominated Suppliers and Sub-Contractors	Those persons specified in a main Contract for the discharge of any part of that Contract.

Non-commercial Considerations

- a) The terms and conditions of employment by Contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces ('workforce matters').
- b) Whether the terms on which Contractors Contract with their sub-Contractors constitute, in the case of Contracts with individuals, Contracts for the provision by them as self-employed persons of their services only.
- c) Any involvement of the business activities or interests of Contractors with irrelevant fields of government policy.
- d) The conduct of Contractors or workers in industrial disputes between them or any involvement of the business activities of Contractors in industrial disputes between other persons ('industrial disputes').
- e) The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, Contractors.
- f) Any political, industrial or sectarian affiliations or interests of Contractors or their directors, partners or employees.
- g) Financial support or lack of financial support by Contractors for any institution to or from which the Council gives or withholds support.

Use or non-use by Contractors of technical or professional services provided by the Council under the Building Act 1984 or the Building (Scotland) Act 1959. Workforce matters and industrial disputes, as defined in paragraphs (a) and (d), cease to be Non-Commercial considerations to the extent necessary or expedient to comply with Best Value; or where there is a transfer of staff to which the Transfer of undertakings. (Protection of Employment) Regulations 1981 (TUPE) may apply.

Officer

Means an officer of the Council authorised to enter into a Relevant Contract to which these Contract Procedure Rules apply.

Parent Company Guarantee

A Contract which binds the parent of a subsidiary company as follows:

if the subsidiary company fails to do what it has promised under a Contract with the Council, the Council can require the parent company to do so instead.

Procurement Officer

An officer of the Council within the procurement team.

Procurement Strategy

The document setting out the Council's approach to procurement and key priorities as issued from time to time.

Purchasing Guidance	The guidance documents, together with a number of standard documents and forms, which supports the implementation of these Contract Procedure Rules. The guidance is available on the Council's intranet.
Quotation	A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
Relevant Contract	Contracts to which these Contract Procedure Rules apply including sales, grants, purchasing, procurement, Relevant Contracts, service level agreements, and Contracts with external parties, including other local authorities or public bodies. This is more fully defined under rule 4.
Standing Orders	Part of the Council's Constitution specifying rules for how business shall be conducted.
Tender	A Bidder's proposal submitted in response to an Invitation to Tender.
Tender Record Log	The log kept by the Director of Commercial Services to record details of Tenders (see Rule 13).
Total Value	<p>The whole of the value or estimated value (in money or equivalent value) for a single purchase or disposal calculated as follows:</p> <ul style="list-style-type: none"> (a) where the Contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period. (b) where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months. (c) where the Contract is for an uncertain duration, by multiplying the monthly payment by 48. (d) for feasibility studies, the value of the scheme or Contracts which may be awarded as a result. <p>for Nominated Suppliers and Sub-Contractors, the total value shall be the value of that part of the main Contract to be fulfilled by the Nominated Supplier or Sub-Contractor.</p>
TUPE (Transfer of Undertakings (Protection of Employment) Regulations 2006) (SI 2006 No.246)	<p>Subject to certain conditions, these regulations apply where responsibility for the delivery of works or services for the Council is transferred from one organisation (e.g. private Contractor, local authority in-house team) to another (e.g. following a Contracting out or competitive tendering process) and where the individuals involved in carrying out the work are transferred to the new employer. These regulations seek to protect the rights of employees in such transfers, enabling them to enjoy the same terms and conditions, with continuity of employment, as existed with their former employer. Broadly, TUPE regulations ensure that the rights of employees are transferred along with the business.</p>

Value for Money

Value for money is not the lowest possible price; it combines goods or services that fully meet your needs, with the level of quality required, delivery at the time you need it, and at an appropriate price.

INTRODUCTION

These Contract Procedure Rules (issued in accordance with section 135 of the 1972 Local Government Act) are intended to promote good purchasing practice and public accountability, deter corruption, ensure that the Council achieves Best Value in the way it spends money and act as guidance to Officers and Members.

It is a disciplinary offence to fail to comply with Contract Procedure Rules when undertaking Procurement on behalf of the Council. Council employees and third party service providers have a duty to report breaches of Contract Procedure Rules to an appropriate senior manager and the Monitoring Officer.

These rules apply to all Relevant Contracts.

These rules apply to Officers and Members.

These rules do not apply to the acquisition or disposal of land or any interest in land (although services relating to land could come within the scope of these rules) or for the engagement of barristers. The scope of the rules is definitively set out under rule 4.

Where the Council is entering into a contract as an agent and/or in collaboration with another public body or organisation, these Contract Procedure Rules apply only in so far as they are consistent with the requirements of the body concerned. Where the Council is acting as principal the Contract Procedure Rules will take precedence.

For the purposes of these rules, where there is a requirement for communication to be in writing, this shall be deemed (unless stated otherwise) to include e-mail and fax transmissions as well as hard copy.

SECTION 1: SCOPE OF CONTRACT PROCEDURE RULES

1. BASIC PRINCIPLES

All procedures must:

- support the Council's corporate aims, policies, and strategic direction
- consider all necessary procurement, legal, financial and professional advice.
- ensure value for money and propriety in the spending of public money; be consistent with the highest standards of integrity
- comply with all legal requirements and these rules
- ensure that the Council is not exposed to unnecessary risk and likelihood of challenge arising from non-compliant procurement activity
- consider and incorporate necessary health and safety, inclusion and diversity, and safeguarding children and vulnerable adults requirements.
- not be influenced by Non-Commercial considerations other than those permitted by law.
- comply with the Council's corporate Procurement Strategy.

2. OFFICER RESPONSIBILITIES

2.1 Officers

- 2.1.1 Officers engaging in Relevant Contracts must comply with the Council's Contract Procedure Rules, the Finance Procedure Rules, Officer's Code of Conduct and with all UK and European Union binding legal requirements. Officers must ensure that any Agents and Contractual partners acting on their behalf also comply.

All officers should undertake Procurement in a manner which avoids any potential conflicts of interest

2.1.2 Officers must:

- ensure to obtain all appropriate authorisations, check that sufficient resources are available, and that appropriate budget provisions exist.
- have regard to the guidance in the Purchasing Guidance
- 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 keep the records required by Rule 6
- take all necessary legal, financial and professional advice.
comply with the Council's policies on anti-bribery, corruption and whistleblowing as published from time to time.

- 2.1.3 When any employee either of the Council or of a service provider may be affected by any transfer arrangement, Officers must ensure that TUPE issues are considered and obtain legal advice before proceeding with inviting Tenders or Quotations.

2.2 Assistant Directors

2.2.1 Assistant Directors must:

- ensure that their staff comply with Rule 2.1 to keep registers of Contracts completed by signature (rather than by the Council's seal) (see Rule 16.3) which may be inspected; and will support the annual budget review..
- arrange for original Contracts where the Contract value exceeds £25,000 or are completed by the Council's seal to be passed to the Assistant Director – Legal Services or the Council's procurement team, as appropriate, for safekeeping. All other original Contracts are to be kept safe by the appropriate Assistant Director subject to Data Protection requirements
- ensure exemptions are recorded under Rule 3.5.

3. EXEMPTIONS, COLLABORATIVE AND E-PROCUREMENT ARRANGEMENTS

- 3.1 An exemption under this rule allows for the procedure under Rule 8 to be dispensed with and can be replaced with direct negotiation with one or more suppliers.
- 3.2 Before seeking an exemption the Officer must take any necessary procurement, legal, financial and professional advice prior to submitting the exemption for authorisation to the Head of Paid Service with the agreement of the Chief Finance Officer.
- 3.3 The Council has the power to dispense with any provision within these Contract Procedure Rules. No exemption can be used if the Contract value exceeds £25,000.
- 3.4 Exemptions from the procedure under Rule 8 may be approved by the Head of Paid Service, in consultation with the Council's Section 151 Officer where:
- (a) it is necessary to forgo the Rule 8 procedure due to an unforeseeable emergency involving immediate risk to persons, property or serious disruption to Council services. Any such exemption must only be for the minimum required to make the emergency situation safe or to ensure continued Council operations until a compliant procedure can be carried out.
 - (b) the work to be carried out or goods to be supplied comprise repairs, or parts for existing plant equipment, or vehicles, or updating computer software, or are required to be compatible with existing plant, equipment, vehicles or software
 - (c) the Contract is to extend an existing Contract and is the most economical means of obtaining what is required by the Council
 - (d) a consultant is proposed to be re-engaged to carry out further work on a project which they have worked on before and engaging new consultants would be inappropriate, or lead to extra costs
- 3.5 All exemptions, and the reasons for them, must be recorded. Exemptions shall be signed by the relevant Assistant Director and shall be reported to the Leader of the Council as soon as practicable. Records of all recorded decisions shall be held by the Council's 151 Officer and the Council's procurement team.
- 3.6 In order to secure Value for Money, the Council may enter into collaborative procurement arrangements. The Officer must consult the relevant Assistant Director and take any necessary procurement, legal, financial and professional advice where the purchase is to be made using collaborative procurement arrangements with another local Council, government department, statutory undertaker or public service purchasing consortium.

- 3.7.1 All purchases made via a local Council purchasing consortium are deemed to comply with these Contract Procedure Rules and no exemption is required. However, purchases above the EU Threshold must be let under the EU Procedure, unless the consortium has satisfied this requirement already by letting their Contract in accordance with the EU Procedures on behalf of the Council and other consortium members.
- 3.7.2 Any Contracts entered into through collaboration with other local authorities or other public bodies, where a competitive process has been followed that complies with the Contract Procedure Rules of the leading organisation, will be deemed to comply with these Contract Procedure Rules and no exemption is required. However, any relevant procurement, legal, financial and professional advice must be sought.
- 3.8 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.

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:

- (a) The supply or disposal of goods;
- (b) The hire, rental or lease of goods or equipment;
- (c) The delivery of services, including (but not limited to) those related to:
 - The recruitment of agency staff i.e. those members of staff without a direct employment Contract with the Council
 - Land and property transactions
 - Financial and consultancy services

- 4.2 Relevant Contracts do not include:

- (a) Contracts of employment which make an individual a direct employee of the Council
- (b) Agreements regarding the acquisition, disposal, or transfer of land
- (c) The engagement of barristers
- (d) The recruitment of non-agency Council staff i.e. those with a direct employment Contract with the Council

4.3 CONTRACT VALUE CALCULATION

Contract value means the estimated aggregate or recurring value payable in pounds sterling exclusive of Value Added Tax over the entire contract period including any extensions of the contract.

Where the contract term is without fixed length the estimated value of the contract should be calculated by monthly value of spend multiplied by 48 in accordance with Regulation 8 of the EU Regulations.

Contracts must not be artificially underestimated or disaggregated into two or more separate contracts where the effect is to avoid the application of Contract Procedure Rules or English law. Please refer to the Code of Practice for further information.

Where a Framework Agreement is planned the contract value must be calculated to include the total value of all the individual contract arrangements envisaged under the Framework Agreement.

4.4 EXTENSIONS and VARIATIONS

Contracts may only be extended or varied if all of the following conditions have been met

- the extension or variation is in accordance with the terms and conditions of the existing contract;
- the contract has not been extended before
- the extension or variation has an approved budget allocation;

For advice regarding acceptance thresholds for contract extensions and variations please contact the Procurement Team.

SECTION 2: COMMON REQUIREMENTS

5. STEPS PRIOR TO PURCHASE

- 5.1 The Officer must appraise the purchase, in a manner proportionate with its complexity and value and taking into account any relevant guidance and advice, by:
- Taking into account the requirements from any relevant Best Value review 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 Council, 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 £50,000
- 5.2 And by confirming that:
- There is Council 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

6. RECORDS (ACQUISITIONS AND DISPOSALS)

6.1 Where the Total Value is greater than £500 but less than £50,000, the following records must be kept:

- Invitations to quote and Quotations;
- A record:
 - of any exemptions and the reasons for them (if Total Value is less than £25,000);
 - of the reason if the lowest price is not accepted (if Total Value is less than £25,000).
- Written records of communications with the successful Contractor or an electronic record if a written record of the transaction would normally not be produced.

6.2 Where the Total Value exceeds £50,000 the Officer must record:

- The method for obtaining bids (see Rule 8.1);
- Any Contracting Decision and the reasons for it;
- The Award Criteria in descending order of importance;
- Tender documents sent to and received from Bidders;
- Any pre-tender market research;
- Clarification and post-tender negotiation (to include minutes of meetings);
- The Contract documents;
- Post-Contract evaluation and monitoring;
- Communications with Bidders and with the successful Contractor throughout the period of the Contract.

6.3 Records required by this rule must be kept for six years after the end of the Contract. However, written documents which relate to unsuccessful Bidders may be electronically scanned or stored by some other suitable method after 12 months from award of Contract, provided there is no dispute about the award.

7. ADVERTISING AND APPROVED LISTS

7.1 Officers are responsible for ensuring that all Bidders for a Relevant Contract are suitably assessed. The assessment process shall establish that the potential Bidders have sound:

- Economic and financial standing;
- Technical ability and capacity to fulfil the requirements of the Council.

7.2 This may be achieved by selecting organisations from

- a. Framework agreements maintained on behalf of Essex Procurement Hub, Central Government or any other public body
- b. A shortlist of Contractors assessed from expressions of interest in a particular Contract submitted in response to a public advertisement (for any Contract below £25,000).
- c. Advertised on Contracts Finder (for any Contract over £25,000)

- 7.3 Where the value of the proposed Contract is less than £25,000 appropriate enquires will be made, based on the degree of risk to which the Council will be exposed.

SECTION 3: CONDUCTING PURCHASE AND DISPOSAL

8. COMPETITION REQUIREMENTS FOR PURCHASE, DISPOSAL AND PARTNERSHIP ARRANGEMENTS

The Officer must calculate the Total Value.

The following procedures apply where there are no other procedures which take precedence. Other procedures may include agency agreements with government. If in doubt, Officers must seek the advice from the Council's procurement or legal services departments.

8.1 Purchasing – Competition Requirements

- 8.1.1 Where the Total Value for a purchase is within the values in the first column below, the Award Procedure in the second column must be followed. Evaluation shall be done by the persons specified in the third column.

Total Value	Award Procedure	Evaluation Panel
Up to £10,000	Quotations in writing should be obtained for purchases and it is recommended that more than one written quotation is obtained if reasonably practicable. However, if the value of the purchase is estimated as not likely to exceed £500, then at least one oral quotation will suffice. Officers must be able to demonstrate both Best Value and probity in the process. Existing Contractual arrangements must be used if they are in place.	Officer
£10,001 to £24,999	The Receipt of three written Quotations (this requirement may be waived with the written consent of the relevant Assistant Director in consultation with the Chief Finance Officer and if appropriate the relevant Portfolio Holder).	Officer
£25,000 to £50,000	Quotations sought by advertisement on Contracts Finder	Officer and Procurement Co-Ordinator / Procurement Consultant
£50,001 to EU Threshold	Invitation to Tender by advertisement on Contracts Finder	Officer, Procurement Co-Ordinator /

Procurement
Consultant and
Assistant
Director/Director

Above EU
Threshold

EU Procedure or, where this does
not apply, Invitation to Tender by
advertisement on Contracts Finder

Consult the Essex
Procurement Hub –
see Rule 8.1.4

- 8.1.2 Where it can be demonstrated that there are insufficient suitably qualified Bidders to meet the competition requirement, all suitably qualified Bidders must be invited.
- 8.1.3 An Officer must not enter into separate Contracts nor select a method of calculating the Total Value in order to minimise the application of these Contract Procedure Rules.
- 8.1.4 Where the EU Procedure is required, the Officer shall consult the Essex Procurement Hub to determine the method of conducting the purchase.

8.2 Assets for Disposal

- 8.2.1 Assets for disposal must be sent to public auction except where better Value for Money is likely to be obtained by inviting Quotations and Tenders. These may be invited by advertising on the Council's internet site. In the latter event, the method of disposal of surplus or obsolete stocks/stores or assets other than land must be formally agreed with the relevant Assistant Directors/Directors.

8.3 Providing Services to External Purchasers

- 8.3.1 The relevant Assistant Directors/Directors, as well as the relevant Financial Regulations, procedures and legislation, must be consulted where Contracts to work for organisations other than the Council are contemplated.

8.4 Collaborative and Partnership Arrangements

- 8.4.1 Collaborative and partnership arrangements are subject to all UK and EU procurement legislation and must follow these Contract Procedure Rules.
- 8.4.2 If in doubt, Officers must seek advice of the Essex Procurement Hub.

9. PRE-TENDER MARKET RESEARCH AND CONSULTATION

- 9.1 The Officer responsible for the purchase:
 - May consult potential suppliers prior to the issue of the Invitation to Tender in general terms about the nature, level and standard of the supply, Contract packaging and other relevant matters, provided this does not prejudice any other potential Bidder. Prior to any such consultation, Officers should seek advice from the Assistant Director – Legal Services and/or the Essex Procurement Hub.
 - May seek or accept technical advice on the preparation of an Invitation to Tender or Quotation from anyone who may have a commercial interest in them, unless this may prejudice the equal treatment of all potential Bidders or

distort competition, and should seek advice from the Assistant Director – Legal Service, and/or the Essex Procurement Hub.

10. STANDARDS AND AWARD CRITERIA

- 10.1 The Officer must ascertain what are the relevant British, European or international standards which apply to the subject matter of the Contract. The Officer must include those standards which are necessary properly to describe the required quality. The Director must be consulted if it is proposed to use standards other than European standards.
- 10.2 The Officer must define Award Criteria that are appropriate to the purchase and designed to secure an outcome giving Value for Money for the Council. The basic criteria shall be:
- 'Lowest price' where payment is to be made by the Council (this will only be applicable to Contracts under £25,000);
 - 'Highest price' if payment is to be received; or
 - 'Most economically advantageous', where considerations other than price also apply (applicable to all Contracts over £25,000).

If the last criterion is adopted, it must be further defined by reference to sub-criteria which may refer only to relevant considerations.

These may include price, service, quality of goods, running costs, technical merit, previous experience, delivery date, cost effectiveness, quality, relevant environmental considerations, aesthetic and functional characteristics (including security and control features), safety, after-sales services, technical assistance and any other relevant matters.

- 10.3 Award Criteria must not include:
- Non-commercial Considerations (except where such consideration will be integral to the Contract)
 - Matters which discriminate against suppliers from the European Economic Area or signatories to the Government Procurement Agreement.

11. INVITATIONS TO TENDER / QUOTATIONS

- 11.1 The Invitation to Tender or Quotation shall state that no Tender or Quotation will be considered unless it is received by the date and time stipulated in the Invitation to Tender. No Tender or Quotation delivered in contravention of this clause shall be considered except in exceptional extenuating circumstances and with adequate notification to the Council's procurement team.
- 11.2 All Invitations to Tender shall include the following:
- (a) A specification that describes the Council's requirements in sufficient detail to enable the submission of competitive offers.
 - (b) A requirement for tenderers to declare that the Tender content, price or any other figure or particulars concerning the Tender have not been disclosed by the tenderer to any other party (except where such a disclosure is made in confidence for a necessary purpose).

- (c) A requirement for tenderers to complete fully and sign all Tender documents including a form of Tender and certificates relating to canvassing and non-collusion.
 - (d) Notification that Tenders are submitted to the Council on the basis that they are compiled at the tenderer's expense.
 - (e) A description of the Award Procedure and, unless defined in a prior advertisement, a definition of the Award Criteria in objective terms and if possible in descending order of importance.
 - (f) A stipulation that any Tenders submitted by fax or other electronic means shall not be considered with the exception of the Council's electronic tender portal.
- 11.3 All Invitations to Tender or Quotations must specify the goods, service or works that are required, together with the terms and conditions of Contract that will apply (see Rule 16).
- 11.4 The Invitation to Tender or Quotation must state that the Council is not bound to accept any Quotation or Tender.
- 11.5 All Bidders invited to Tender or Quotation must be issued with the same information at the same time and subject to the same conditions. Any supplementary information must be given on the same basis.

12. SHORTLISTING

- 12.1 Where Approved Lists are used, Evaluation may be carried out by the Officer in accordance with the Evaluation criteria drawn up when the Approved List was compiled (see Rule 7.2.2). However, where the EU Procedure applies, Approved Lists may not be used.

13. SUBMISSION, RECEIPT AND OPENING OF TENDERS/QUOTATIONS

- 13.1 Bidders must be given an adequate period in which to prepare and submit a proper Quotation or Tender, consistent with the urgency and complexity of the Contract requirement. All Tender documents will be published on Contracts Finder for a minimum of 35 days. The EU Procedure lays down specific time periods (see guidance published on the Procurement section of the Intranet).
- 13.2 All Tenders must be returned to the Council's Procurement Team where they will be stored securely.
- 13.3 Tenders received by fax or other electronic means (e.g. email) must be rejected, unless they have been sought in accordance with an electronic tendering system approved by the Assistant Director of Commercial Services.
- 13.4 The Officer must not disclose the names of Bidders to any staff involved in the receipt, custody or opening of Tenders.
- 13.5 The Assistant Director – Commercial Services or the Council's procurement team (as applicable) shall be responsible for the safekeeping of Tenders until the appointed

time of opening. Each Tender must be: Suitably recorded so as to subsequently verify the date and precise time it was received; adequately protected immediately on receipt to guard against amendment of its contents; and recorded immediately on receipt in the Tender Record Log.

13.6 Submission and receipt of Paper Tenders

The Assistant Director – Commercial Services or the Council's procurement team (as applicable) must ensure that all Tenders are opened at the same time when the period for their submission has ended. Tenders must be opened in the presence of two nominated officers representing the relevant Assistant Director/Director, neither of whom can be the Officer. Where the Total Value is more than the EU Threshold, one must be an Assistant Director.

There is no legal requirement for Members to be present at tender openings. However, where the total value is more than the EU Threshold a maximum of 2 Members can (should they wish to) observe. A list of Councillors available to attend tender openings will be collated. The relevant Portfolio Holder for the service and one other Councillor (by rota) will be made aware of the opening arrangements, by email, should they be sufficiently independent and wish to observe the opening process.

A record shall be maintained of all persons invited and present at each tender opening and declaration of interest form signed by the Councillors in attendance demonstrating that they are an independent party. The independent Councillor(s) and nominated officer shall initial each tender opened and shall sign and date a list of all tenders opened.

No person shall disclose the value, number or any other detail of the tenders received to any tenderer or anyone not involved with the tender evaluation procedure

Submission of Electronic Tenders

With the implementation of the Council's E-Procurement System all tenders for the Procurement of supplies services and works will be submitted securely through the Council's electronic tender portal and will be opened through the e-procurement portal no earlier than one hour after the time specified in the invitation for the submission of tender.

- 13.7 Upon opening, a summary of the main terms of each Tender (i.e. significant issues that are unique to each Tender submission and were not stated in the Tender invitation documents such as Tender sum, construction period, etc.) must be recorded in the Tender Record Log. The summary must be initialled on behalf of the Assistant Director.

14. **CLARIFICATION PROCEDURES AND POST-TENDER NEGOTIATION**

- 14.1 Providing clarification of an Invitation to Tender to potential or actual Bidders or seeking clarification of a Tender, whether in writing or by way of a meeting, is permitted. However, discussions with tenderers after submission of a Tender and before the award of a Contract with a view to obtaining adjustments in price, delivery or content (i.e. post-tender negotiations) must be the exception rather than the rule. In particular, they must not be conducted in an EU Procedure where this might distort

competition, especially with regard to price, Officers should consult the Council's procurement and legal teams for confirmation on when and what is permitted.

- 14.2 If post-tender negotiations are necessary after a single-stage Tender or after the second stage of a two-stage Tender, then such negotiations shall only be undertaken with the tenderer who is identified as having submitted the best Tender and after all unsuccessful Bidders have been informed. During negotiations tendered rates and prices shall only be adjusted in respect of a corresponding adjustment in the scope or quantity included in the Tender documents. Officers appointed by the relevant Assistant Director to carry out post-tender negotiations should ensure that there are recorded minutes of all negotiation meetings and that both parties agree actions in writing.
- 14.3 Post-tender negotiation must only be conducted in accordance with the guidance issued by the Assistant Director – Legal Services who, together with the Assistant Director – Commercial Services, must be consulted wherever it is proposed to enter into post-tender negotiation.
- 14.4 Where post-tender negotiation results in a fundamental change (e.g. a change which introduces terms or conditions which, if they had been part of the initial award procedure, would have allowed for the admission of bidders other than those initially admitted or allowed; a change which extends the scope of the specification (or Contract terms) to encompass services not initially covered; or a change in the economic balance of a Contract in favour of the Contractor in a manner not provided for under the specification/Contract terms) to the specification (or Contract terms) the Contract must not be awarded but re-tendered. Advice on what constitutes a fundamental change should be sought from the Council's legal and procurement teams.

15. EVALUATION, AWARD OF CONTRACT, & DEBRIEFING BIDDERS

- 15.1 Apart from the debriefing required or permitted by these Contract Procedure Rules, the confidentiality of Quotations, Tenders and the identity of Bidders must be preserved at all times and information about one Bidder's response must not be given to another Bidder.
- 15.2 Contracts must be evaluated and awarded in accordance with the specified Award Criteria.
- 15.3 The arithmetic in compliant Tenders must be checked. If arithmetical errors are found they should be notified to the tenderer, who should be requested to confirm or withdraw their Tender. Alternatively, if the rates in the Tender, rather than the overall price, were stated within the Tender invitation as being dominant, an amended Tender price may be requested to accord with the rates given by the tenderer.
- 15.6 The Officer or a Procurement Officer should notify in writing all those Bidders who submitted a Tender or Quotation about the reasons they were unsuccessful. No information, other than the following, should be given without taking the advice of the Council's legal and procurement teams.
- Pricing score / Total price (not the breakdown of individual priced elements)
 - Their individual quality score (as an average from the evaluation panel)
 - What was good about their submission and areas for improvement
 - Only compare themselves and the winner, not any other Bidders

- 15.7 If a Bidder requests in writing further reasons for a Contracting Decision, the Officer must give the reasons in writing within 15 days of the request. If requested, the Officer may also give the debriefing information at Rule 15.6 above to Bidders who were deselected in a pre-tender Shortlisting process.

SECTION 4: CONTRACT AND OTHER FORMALITIES

16. CONTRACT DOCUMENTS

16.1 Relevant Contracts

- 16.1.1 All Relevant Contracts that exceed £5,000 shall be in writing in a form agreed by the Assistant Director – Legal Services and Assistant Director – Commercial Services.

- 16.1.2 All Relevant Contracts, irrespective of value, shall clearly specify:

- what is to be supplied (i.e. the works, materials, services, matters or things to be furnished, had or done);
- the provisions for payment (i.e. the price to be paid and when);
- the time, or times, within which the Contract is to be performed;
- the provisions for the Council to terminate the Contract
- ownership of Intellectual Property created by the contract.

- 16.1.3 The Council's order form (electronic order system) or standard terms and conditions issued by a relevant professional body must be used wherever possible.

- 16.1.4 In addition, every Relevant Contract of purchase over £50,000 must also state clearly as a minimum:

- that the Contractor may not assign or sub-Contract without prior written consent;
- any insurance requirements;
- health and safety requirements;
- ombudsman requirements;
- data protection requirements, if relevant;
- that charter standards are to be met if relevant;
- Equality Act requirements;
- Freedom of Information Act requirements;
- Whistleblowing requirements;
- where Agents are used to let Contracts, that Agents must comply with the Council's Contract Procedure Rules;
- a right of access to relevant documentation and records of the Contractor for monitoring and audit purposes if relevant.

- 16.1.5 The formal advice of the Assistant Director – Legal Services must be sought for the following Contracts:

- where the Total Value exceeds EU Threshold;
- those involving leasing arrangements;
- where it is proposed to use a supplier's own terms;

- those involving the purchase of application software with a Total Value of more than £50,000;
- those that are complex in any other way.

16.1.6 The following clause must be inserted in every written Council Contract

“The Council may terminate this Contract with immediate effect and recover all its loss if the Contractor, its employees or anyone acting on the Contractor’s behalf do any of the following things.

- (a) offer, give or agree to give to anyone any inducement or reward in respect of this or any other Council Contract (even if the Contractor does not know what has been done); or
- (b) commit an offence under the Prevention of Corruption Acts 1889 to 1916 or Section 117(2) of the Local Government Act 1972
- (c) commit an offence under the Bribery Act 2010 or Section 117(2) of the Local Government Act 1972; or
- (d) commit any fraud in connection with this or any other Council Contract whether alone or in conjunction with Council members, Contractors or employees.

Any clause limiting the Contractor’s liability shall not apply to this clause”

16.2 Contract Formalities

16.2.1 Agreements (Contracts and Orders) shall be completed as follows:

Total Value	Method of Completion	By
Up to £5,000	Electronic order	Authorised buyer (see Rule 16.2.3)
£5,001 to £50,000	Electronic order	Authorised Buyer approved by the relevant Assistant Director (see Rule 16.2.3)
Above £50,001	Signature on written Contract	Assistant Director – Legal Services (see Rule 16.2.3)

16.2.2 All Contracts must be concluded in writing or by email before the supply of goods, provision of services or construction work begins; except in exceptional circumstance, and then only with the written consent of the relevant Assistant Director and a Procurement Officer.

16.2.3 The Officer responsible for securing signature of the Contract must ensure that the person signing for the other Contracting party has authority to bind it.

16.2.4 All Contract documents must be placed in the central repository in accordance with Financial Regulations and Rule 2.2.1.

16.3 Sealing

16.3.1 Where Contracts are completed by each side adding their formal seal, such Contracts shall be signed in accordance with the Council's Standing Orders (Assistant Director – Legal Services).

16.3.2 Every Council sealing will be consecutively numbered, recorded and signed by the person witnessing the seal.

16.3.3 A Contract must be sealed where:

- the Council may wish to enforce the Contract more than six years after its end;
- the price paid or received under the Contract is a nominal price and does not reflect the value of the goods or services.

17. BONDS AND PARENT COMPANY GUARANTEES

17.1 The Officer must consult the Chief Finance Officer about whether a Parent Company Guarantee is necessary when a Bidder is a subsidiary of a parent company and:

- the Total Value exceeds £250,000; or
- award is based on evaluation of the parent company; or
- there is some concern about the stability of the Bidder.

17.2 The Officer must consult the Chief Finance Officer about whether a Bond is needed:

- where the Total Value exceeds £250,000, or
- where it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the Contract and there is concern about the stability of the Bidder.

18. PREVENTION OF CORRUPTION

18.1 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. High standards of conduct are obligatory. Corrupt behaviour will lead to dismissal and is a crime under the statutes referred to in Rule 18.2 below.

18.2 The following clause **must** be put in every written Council Contract:

“The Council may terminate this Contract and recover all its loss if the Contractor, its employees or anyone acting on the Contractor's behalf do any of the following things:

- (a) offer, give or agree to give to anyone any inducement or reward in respect of this or any other Council Contract (even if the Contractor does not know what has been done), or
- (b) commit an offence under the Prevention of Corruption Acts 1889 to 1916 or Section 117(2) of the Local Government Act 1972, or
- (c) commit any fraud in connection with this or any other Council Contract whether alone or in conjunction with Council members, Contractors or

employees. Any clause limiting the Contractor's liability shall not apply to this clause."

19. DECLARATION OF INTERESTS

- 19.1 If it comes to the knowledge of a Member or an employee of the Council that a Contract in which he or she has a pecuniary interest has been or is proposed to be entered into by the Council, he or she shall immediately give written notice to the Monitoring Officer. The Monitoring Officer shall report such declarations to the appropriate Committee.
- 19.2 Such written notice is required irrespective of whether the pecuniary interest is direct or indirect. An indirect pecuniary interest is distinct from a direct pecuniary interest in as much as it is not a Contract to which the member or employee is directly a party.
- 19.3 A shareholding in a body not exceeding a total nominal value of £1,000 or 1% of the nominal value of the issued share capital (whichever is the less) is not a pecuniary interest for the purposes of this standing order.
- 19.4 The Monitoring Officer shall maintain a record of all declarations of interests notified by members and Officers.
- 19.5 The Monitoring Officer shall ensure that the attention of all members is drawn to the National Code of Local Government Conduct.

SECTION 5: CONTRACT MANAGEMENT

20. MANAGING CONTRACTS

- 20.1 Assistant Directors/Directors in sponsoring departments are to name Contract managers for all new Contracts. All Contracts must have a named Council Contract manager for the entirety of the Contract.
- 20.2 Contract Managers must follow the procedures set out in the Council's Purchasing Guidance to ensure continuous improvement and Value for Money is achieved. Directors and Assistant Directors must ensure that those responsible for managing contracts ensure:
- contract performance and key performance indicators are met;
 - compliance with specification and contract terms; and
 - cost management including reconciliation of payments against work done, supplies or services delivered and, where payments are made in stages, keeping a contract register showing the state of account on each contract in accordance with Financial Regulations.

21. RISK ASSESSMENT AND CONTINGENCY PLANNING

- 21.1 A business case must be prepared for all procurements with a potential value over the EU Threshold. Provision for resources for the management of the Contract, for its entirety, must be identified in the business case.
- 21.2 For all Contracts with a value of over £50,000, Contract managers must:
- maintain a risk register during the Contract period;
 - undertake appropriate risk assessments and for identified risks;
 - ensure contingency measures are in place.

22. CONTRACT MONITORING, EVALUATION AND REVIEW

- 22.1 All Contracts which have a value higher than the EU Threshold limits, or which are High Risk, are to be subject to monthly formal review with the Contractor. The review may be conducted quarterly if permitted by the Assistant Director - Commercial Services.
- 22.2 For all Contracts with a value higher than the EU Threshold limits, or which are High Risk, an annual report must be submitted to the relevant Committee.
- 22.3 The Council's approved project management methodology must be applied to all Contracts deemed to be High Risk, High Value, or High Profile.
- 22.4 During the life of the Contract, the Officer must monitor in respect of:
- contract performance and key performance indicators are met;
 - compliance with specification and Contract terms;
 - cost management including reconciliation of payments against work done, supplies or services delivered and, where payments are made in stages, keeping a contract register showing the state of account on each contract in accordance with Financial Regulations;
 - user satisfaction and risk management.
- 22.5 Where the Total Value of the Contract exceeds £250,000, the Officer must make a written report to the relevant Committee evaluating the extent to which the purchasing need and the Contract objectives (as determined in accordance with Rule 5.2) were met by the Contract. This should be done normally when the Contract is completed. Where the Contract is to be re-let, a provisional report should also be available early enough to inform the approach to re-letting of the subsequent Contract.

Sustainable Commissioning and Procurement Strategy 2015-2020



If you would like this information in large print, Braille or another language, please contact 01702 318111.

Draft

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Rochford District Council – Sustainable Commissioning and Procurement Strategy 2015-2020

1 Introduction

- 1.1 The local government procurement landscape is changing; this strategy document aims to clarify Rochford District Council's approach to Procurement activity within this changing environment.
- 1.2 Since the last strategy was adopted in 2012 a number of new external influences have been taken into account, including:
 - Public Services (Social Value) Act (2012).
 - The current draft of the National Procurement Strategy (due to be operational from late 2015).
 - Public Contract Regulations (2015).
- 1.3 Rochford District Council ('the Council') spends approximately £7 million on the procurement of goods, works and services. This strategy outlines the Council's current method of undertaking procurement and seeks to lay foundation for the future way in which procurement is addressed. This strategy is a 'living' document that will be updated at regular intervals in accordance with Council policy or through statutory amendments.
- 1.4 The Leadership Team are responsible for ensuring that the principles of this strategy are adopted and to promote its implementation within their own service area. Members are expected to use this strategy as a sense-check to review officer procurement decision-making through the relevant committees.

2 What is Sustainable Commissioning and Procurement?

- 2.1 **Commissioning** – the whole process of deciding what services are needed, their priority, and choosing what, why, how and where to allocate resources to provide them.
- 2.2 **Procurement** – the acquisition of goods, works and services which meet the customers' and service users' needs, whilst ensuring value for money throughout the life of the product including disposal.
- 2.3 **Sustainable procurement** – the acquisition of goods/works/services in a way that achieves value for money on a whole life basis by not only generating benefits for the Council for our communities and economy whilst minimising environmental damage.
- 2.4 **Value for Money** – also often described in terms of the 'three Es' – economy, efficiency and effectiveness:
 - **Economy** – careful use of resources to save expense, time and/or effort.
 - **Efficiency** – delivering the same level of service for less cost, time and/or effort.
 - **Effectiveness** – delivering a better service or getting a better return for the same amount of expense, time and/or effort.

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- 2.5 Procurement is the method by which all goods, services and works are acquired. This includes everything from day to day purchases of consumables through to the acquisition of strategic services and works irrespective of value. However, procurement is more than just buying goods, works and services – it plays an increasingly strategic role in the way we deliver services.
- 2.6 Procurement should challenge existing service delivery models, and identifies and delivers the right future model of service provision.
- 2.7 The aim of effective procurement is to achieve best value through planned and skilful procurement, in respect of all goods, works and services sought by the Council. Also to support and encourage a vibrant local supplier market, remove barriers to trade for small to medium enterprises and voluntary organisations (such as splitting larger requirements into Lots) and giving appropriate consideration to Social Value.
- 2.8 Officers of Rochford District Council are required to comply with internal Contract Procedure Rules as well as external laws, regulations and policy guidance at all times, in every procurement exercise regardless of contract value.

3 Strategic Objectives

- 3.1 The Procurement Strategy supports the Council's Business Plan. At a general level, procurement of goods, works and services assists in delivering the Council's strategic objectives and statutory responsibilities:
- by ensuring procurements reflect relevant sustainability and environmental issues and ensure procurement processes support and reflect the aim of protecting our environment for future generations;
 - by ensuring procurement guidance is clear and simple, and that relevant contracts are advertised and accessible to all. The procurement processes used do not unfairly limit the opportunity to bid for Social Enterprises/Third Sector organisations;
 - provide feedback to bidders to support the development and overall competitiveness of these organisations;
 - by encouraging an effective local supplier market and the promotion of local social value in contracts (such as the creation of apprenticeships and local supply chains);
 - by aiming to ensure each procurement encapsulates the best value solution for the District. Using the procurement cycle to assist in identifying improvements to services and support the delivery of value for money services. To eliminate anything that does not add value to the procurement; and
 - by working closely with partner organisations such as the Essex Procurement Hub, East of England LGA, and the Procurement Agency for Essex and other partnership groups to deliver savings and efficiencies through collaboration.

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3.2 Other Corporate documents linked to this Strategy:

- Business Plan
- Financial Regulations
- Contract Procedure Rules

Links between this policy and our Corporate Priorities

3.3 This policy supports our Corporate Priorities in the following way:

- Enable communities: We will engage with all parts of our communities, including Parish Councils, businesses and our residents to encourage the most efficient way to provide services by:
 - Seeking to secure the best outcomes for the local community by making use of all available resources – without regard to whether services are provided in-house, externally or through partnership arrangements.
 - Continuously improving services through the adoption of innovative practices so that service users see an improvement in both quality and value for money.
 - Adopting a collaborative approach to procurement by participating in framework contracts.
 - Ensure we engage the diverse needs of the Community.
 - Improving understanding of procurement and commissioning for both internal and external stakeholders.
- Early Intervention: We will promote the safeguarding of our young and vulnerable residents by
 - Ensuring that arrangements are in place with contractors to safeguard children and vulnerable adults in accordance with legislation (existing contracts).
 - Ensure that the Councils procurement process required suppliers to comply with safeguarding requirements (new contracts).
 - Monitoring and reporting compliance with procurement policies and procedures.

4 Procurement Resource

- 4.1 Rochford District Council is a small District Council with limited resources and it is not feasible to employ a full-time professionally qualified procurement resource.
- 4.2 The Essex Procurement Hub (EPH), hosted by Braintree District Council, was joined in April 2014 and provides procurement expertise for all aspects of procurement at Rochford. The shared service, which has six members, ensures Rochford has access to a fully qualified procurement professional for two days a week. In addition to being used to undertake high value and high risk procurements, this resource also helps Rochford to provide guidance, a toolkit and training opportunities to all officers of the Council involved in procuring goods and services.

5 Governance and Responsibility

- 5.1 Procurement of goods, works and services across the Council has to be carried out within a number of controls including legislative and governance issues. In addition the Council has other policies, which must be adhered to as part of any procurement activity.
- 5.2 The Council will ensure that our procedure rules continue to be relevant and are compliant with EU regulations. The Council will hold the highest principles of fairness, transparency and openness within all procurement activity.
- 5.3 The key control over procurement activities is the Council's Contract Procedure Rules (CPRs), which set out the rules governing all aspects of procurement activity and outlines procedures to be followed for procurements that fall within set levels of spend. These are attached to this policy, Contract Procedure Rules.
- 5.4 The Portfolio Holder Executive Member for Finance has overall strategic responsibility for procurement at Rochford, whilst operational responsibility lies with Commercial Services and Democratic Services.
- 5.5 Training is made available to staff engaged in Procurement. Procurement workshops are run in conjunction with the Essex Procurement Hub.
- 5.6 All the Official Journal of the European Union (OJEU) procurement projects must have sign off at PQQ in full and evaluation provided by Financial services and Procurement Consultant. .
- 5.7 All procurement must consider responsibilities and requirements for:
 - Safeguarding
 - Sustainability
 - Equalities
 - Social Value

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- Health and Safety

- 5.8 The Project Initiation Document (PiD) should allow considerations to be identified and assessed at the pre-procurement stage.
- 5.9 All procurement of contracts with a value of above £25,000 must have designated performance management criteria determined at the start of the contract, the results of which must be reported back to Members in June each year as part of the Annual Performance Monitoring of contractors.

6 E-Procurement

- 6.1 The National Procurement Strategy (NPS) places certain responsibilities on all Councils.
- 6.2 The Council has deployed Essex Marketplace solution for electronic ordering of goods and services. From April 2016 this system will be replaced with Access Focal Point. This will enable a more integrated approach to the Council's Finance and Procurement systems.
- 6.3 The Council is using its website to promote good practice.
- 6.4 To support the delivery of this strategy the Council will continue to utilise electronic procurement systems. Electronic procurement systems can achieve efficiencies in the procure-to-pay cycle including reduction in processing time and reduction in transaction costs. This will help free resources that can be directed into front line services.

7 Sustainable Procurement

The Environment

- 7.1 We also will require operators of (*significant*) contracts to adopt whole life-cycle thinking in the delivery of services on the Council's behalf. Where relevant, examples may include the purchase and use of vehicles, equipment, energy, water and chemicals.
- 7.2 One of the goals of the Council's Climate Change Commitment is to lead the local community in minimising its environmental impact. Through green procurement the Council is setting an example and influencing the market-place by providing industry with real incentives for developing green technologies.
- 7.3 Sustainable procurement is the process of acquiring goods, works and services from a supplier that provides the optimum combination of whole life costs and benefits to meet the customer's requirement. In order to achieve this we will:
- Account for environmental aspects of a product alongside societal and economic aspects in the tendering process. Deliver appropriate training for purchasing staff, ensuring access to environmental information.

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- Adopt a life-cycle thinking approach to avoid shifting environmental impact. Products with Eco-labels should be purchased wherever possible.
- Develop an energy efficiency standard for the procurement of electrical goods.
- Encourage an ethic of reduce, reuse, recycle amongst purchasing staff. New cars purchased for the Council Fleet should have the lowest emissions standard possible whilst remaining fit for purpose.

The Community

- 7.4 We will encourage a diverse and competitive supply market by ensuring that local businesses are given an equal opportunity to participate in competition for Council business, whilst still maintaining a competitive supply market by:
- Encouraging local businesses to register with Contracts Finder.
 - Providing clear advice and guidance to local businesses about how to bid for the Council's work.
 - Encouraging the employment of local labour by the Council's successful contractors.
 - Ensuring contracts are structured so as not to prejudice local businesses.
 - Exploring how to better engage with ethnic, disabled and other minority group suppliers.

8 Partnering and Collaboration

- 8.1 The Council defines partnering as the creation of sustainable, collaborative relationships with suppliers to deliver services, carry out projects and acquire goods.
- 8.2 Collaboration is the process of working with other authorities or agencies to combine buying power and leverage based on higher levels of spend, to gain more favourable pricing and terms from suppliers when procuring goods, works or services.
- 8.3 The Council welcomes partnerships with other agencies which share its community and corporate aims. Therefore, to exploit these, the Council will:
- Include partnership options when undertaking service reviews and other appraisals.
 - Through the EPH and in collaboration with neighbouring authorities develop sub regional and local procurement programmes and combine procurement options for the management of contracts as well as provision of services, works and supplies.
 - Support the voluntary sector to engage with the Council and explore the potential for partnerships with local voluntary sector agencies interested in the provision of services for local people.
-

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- Explore partnering opportunities with other agencies for significant construction projects.

9 Conducting Procurement Activity and Resources

Social Value

- 9.1 The Social Value Act requires service related procurements over the EU threshold to consider social value. The act requires considerations to be proportionate and relevant to the particular requirement therefore where appropriate, the Council will use the full procurement cycle to consider how to improve the economic, social and environmental well-being of the District.
- 9.2 Considerations can be built in to the procurement process and could include adapting evaluation criteria or a requirement for contractors to support an apprenticeship scheme.

Equality

- 9.3 Procurement processes and documentation will reflect the Council's Equalities and Diversity Policy.
- 9.4 The Council will work with partners and suppliers to ensure that suppliers are, as a minimum, compliant with the relevant legislation, both at the inception of contracts and through their effective life.

Safeguarding and Health & Safety

- 9.5 All services commissioned by the Council are required to operate within the requirements of the Council's Safeguarding Children and Vulnerable Adults policy. Where relevant, contractors will need to demonstrate that they meet these requirements.
- 9.6 Procurement activity will be treated proportionately to the health and safety risks which arise from the contract. Potential risks will be assessed and contractors must provide evidence to demonstrate that their organisation actively promotes and manages health and safety.

Sustainability

- 9.7 Any procurement decision will aim to minimise harm to the environment and to promote conservation of natural resources.

Forward Planning

- 9.8 Forward Planning, particularly of major expenditure, is essential to maximise the potential savings through efficient and effective procurement.
 - Forward planning will be a key focus within the procurement cycle, particularly within the 'contract management', 'identification of need' and 'analysis of the requirement' stages.

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- Specifications where possible should be output based. Output based specifications will allow greater flexibility of design and support innovation throughout the supply chain.

9.9 Planning annual procurement activity in advance will enable the Council to become a more efficient buyer of goods, works and services.

Relationships with Suppliers

9.10 Effective procurement is measured by the outcomes and not by the completion of the process.

- Contracts will be managed throughout their life to ensure that the benefits identified in the business case are delivered. Regular review meetings with incumbent suppliers are crucial in ensuring that set Key Performance Indicators and Service Level Agreements are achieved and maintained.
- The Council will expand the use of contract management and build on areas of current best practice.
- Risk registers shall be prepared for all major procurement processes in accordance with the Risk Management Strategy and will be revisited at key milestones in the procurement process and throughout the life of the contract.
- When suppliers and contractors handle information on behalf of the Council, where possible, we will ensure that equivalent standards are applied or seek to influence our supplier's and contractor's standards.

Data Protection

9.11 The Council will expect Contractors to have appropriate information/data handling policies/procedures in place to handle confidential and commercially sensitive information, including personal and sensitive data, to ensure compliance with the Data Protection Act 1998.

9.12 The Council will ensure that all relevant Contracts include provisions relating to the ownership and control of any Intellectual Property created for, during and at the end of a contract.

Information Requests

9.13 Rochford District Council is a relevant authority for the purpose of the Freedom of Information Act 2000 and the Environmental Information Regulations 2004. The Council will expect that Contractors will support and assist the Council in discharging its obligations in responding to requests for information.

Our Conduct

9.14 In all our dealings in the procurement process, the Council will preserve the highest standards of honesty, integrity, impartiality and objectivity and shall comply with the Council's Codes of Conduct at all times.

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- 9.15 In selecting contractors the Council will generally evaluate offers received on the basis of the most economically advantageous tender (MEAT) and will take into account, where appropriate, whole life costing seeking an appropriate balance between cost and quality.
- 9.16 In any procurement the Council will ensure that its approach to the market is consistent with these principles.

10 Performance Measures and Targets

- 10.1 Efficiencies gained through the adoption of procurement best practice when monitoring both our existing and future providers in support of overall Value for Money (VFM) can be redistributed to support long term sustainability of front line services.
- 10.2 Projects are monitored through the monitoring of Business Plan progress. Significant projects and exemptions are reported to members.

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Appendix A – Action Plan

What	How	Why	Who	When
Commissioning Toolkits	Develop commissioning toolkits	Introduce a consistent approach across the Council.	Procurement Consultant	March 2016
Analyse Spend	Carry out regular spend analysis	To ensure that all spend is within regulations and that contracts are in place where applicable. Improve management of categories of spend, and reduce invoice numbers. Identify areas for collaboration.	Procurement Assistant	Quarterly, ongoing
Procurement Training	Key staff to be trained in Procurement practices and Contract Relationship Management.	To ensure key staff are aware of Contract Procedure Rules and to develop opportunities to deliver efficiencies through Contract Relationship Management. Training to be cascaded through teams as appropriate.	Procurement Section.	Initial training December 2015 then ongoing.
Credit cards/ Procurement cards	Analyse which invoices / transaction types below £100 could be paid by a more efficient/ cost effective mechanism in the future	To reduce the volume of transactions processed by the organisation and the associated administrative cost	Payments and Income Manager	Quarterly, ongoing
Deliver a new online Procurement system	Deliver Access Focal Point across the Authority	New system will assist in meeting Procurement requirements and will integrate with Finance system.	Procurement Consultant and Senior Accountant	April 2016

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What	How	Why	Who	When
Best Practice	Ensure that all tenders will have the appropriate KPIs and provision that allows a break or termination.	<p>Ensuring contractors are competent and can carry out the specification; Typical risks that will be assessed include (subject to contract value):</p> <ul style="list-style-type: none"> • Financial stability • Quality control • Technical skill • Depth of skills and supply chain <p>A clear mechanism established for measuring the performance of the contractor</p>	All staff	Ongoing
Good Governance	Ensure contract performance outcomes are given visibility in regular monitoring reports.	To ensure that Members and others charged with governance are provided with regular data on contract performance and any necessary action taken or required.	Performance and Risk Team and Contract Managers	Ongoing
Risk Management	Production and maintenance of risk registers pertinent to each contract	Ensure risks are identified assessed and mitigated throughout the life of the contract.	Performance and Risk Team and Contract Managers	Ongoing
Supplier Engagement	Encourage Suppliers and Contractors to attend Business Breakfasts and annual meetings	By engaging with Suppliers and Contractors we will be able to build relationships, creating a secure and successful business networking forum and provide the opportunity for businesses to talk to us about sustained and innovative business propositions.	Economic Development/ Procurement Team	Ongoing

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What	How	Why	Who	When
Sustainability	Check whether all products specified are as sustainable as possible whilst maintaining value for money through quality questions.	The environment is important to us all, sustainable products are not always as expensive as people think. Also staff need to be aware of different factors, such as FSC paper being more environmentally friendly than recycled paper.	All staff	Ongoing
Expert Procurement Advice	Continue relationship with Essex Procurement Hub	To have expert advice in regards to Procurement, Legal, Due diligence and Best practice.	Senior Procurement Consultant	Ongoing

Appendix C – Glossary of Commonly used Procurement Terms and Acronyms

Best Value: Often defined as ‘value for money’, Best Value is the optimum combination of whole life costs and quality to meet the customer’s requirement.

(Source: Draft Joint note on social issues in purchasing 2005)

Collaboration: In this context, public sector organisations that engage in a joint procurement for works, services or supplies with the intention of obtaining better value for money through economies of scale and reduced tendering costs.

Commissioning: Commissioning is a broad concept and there are many definitions, the following definition from the Audit Commission perhaps best captures the key elements of the commissioning tasks: *“Commissioning is the process of specifying, securing and monitoring services to meet people’s needs at a strategic level.”*

Competitive Tendering: Awarding contracts following a process of obtaining competing tenders.

Contract: A binding agreement between two or more parties that is enforceable in law.

Contract Management: The activities of a buyer before, during and after a contract period to ensure that all parties to the contract fulfil their contractual obligations. An important aspect of this is managing the relationships between all parties in the most effective way so as to ensure the contract meets the optimum combination of cost, time and quality.

(Source: Adapted from CIPS definition in the contracts management Knowledge Summary)

E-Procurement: is the ability to purchase/sell through electronic trading via the Internet.

Evaluation: A detailed assessment and comparison of offers made by the Council in accordance with published criteria of responses to a request for quotations or tenders.

Framework Agreement: A framework agreement is a general term for agreements with suppliers which set out terms and conditions under which specific purchases (call-offs) can be made throughout the term of the agreement.

Invitation to Tender (ITT): A formal document inviting an organisation to tender to provide services or, supply goods to or carry out works for the Council. It will include the instructions for submitting a tender, the specification for the requirement, the criteria against which the tender will be assessed, the proposed terms and conditions for the contract and, sometimes, a business questionnaire.

Key Performance Indicator (KPI): KPIs are placed against certain elements of a contract or SLA and indicate the items that are to be measured to see if the contractor has achieved the required contract standard.

MEAT: Most Economically Advantageous Tender.

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Method Statement: A document used in the invitation to quote or to tender which sets out specific questions for the bidder to answer to explain to the Council how a service is to be delivered/works to be carried out. It will be evaluated and form a part of the contract.

Official Journal of the European Union (OJEU): The on-line publication in which notices advertising a Council tenders that fall within the EU thresholds must be placed at the start and end of all the procurement.

Pre-Qualification Questionnaire (PQQ): A document asking the tenderer to provide information about his/her business and experience. Most commonly used in EU level procurements.

Procurement: Often used interchangeably with Purchasing. Procurement is the totality of acquisition starting from the identification of a requirement to the disposal of that requirement at the end of its life. It therefore includes pre-contract activities e.g. sourcing and post contract activities e.g. contract management, supplier relationship management activities. Procurement generally relates to goods, works and service(s) requirements.

Public Procurement Directives: The EU procurement Directives set out the legal framework for public procurement. They apply when public authorities and utilities seek to acquire goods, services, and works. They set out procedures which must be followed before awarding a contract when its value exceeds set thresholds.

Quotation: An offer by a supplier to supply goods or services or to carry out works requested either orally or in writing.

Regulations: The Public Contracts Regulations 2006 that implement the various EU Procurement Directives

Risk Management: Involves three key activities, risk analysis, risk assessment, and risk mitigation, all of which facilitate the taking of decisions and actions to control risk appropriately by providing a disciplined and objective approach.
(Source: www.cips.org Knowledge Summary on risk management)

SME: In this context Small and Medium Enterprises (businesses).

Specification/Statement of Requirements: A description of the requirements for the service or of the service to be provided.

Supplier Relationship Management: (SRM) is the discipline of strategically planning for, and managing all interactions with contractors that supply goods and/or services in order to increase the value of those interactions. In practice, SRM entails creating closer, more collaborative relationships with key suppliers in order to uncover new value and reduce risk.

Tender: The offer submitted by the tenderer in response to the Invitation to Tender.

Draft



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