

PART 9

PROCUREMENT CODE

WORCESTER CITY COUNCIL

PROCUREMENT CODE

INDEX

1. Introduction
2. Compliance and Conduct of Officers and Members
3. Procurement Overview
4. Contract / Purchase Value and Aggregation
5. Roles and Responsibilities
6. Procurement Value up to £4,999
7. Procurement Value from £5,000 to £49,999
8. Procurement Value from £50,000 to EU Threshold
9. Procurement Value over EU Threshold
10. Exceptions - Internal
11. Exceptions - External
12. Exemptions
13. Prevention of Corruption
14. Interpretation

1. INTRODUCTION

- 1.1 The purpose of the Procurement Code is to set clear rules for the procurement of goods, works and services for the Council. This will ensure a system of openness, integrity and accountability where the probity and transparency of the process will be beyond reproach. In turn this will lead to better value for money and give confidence to all concerned that the Council is fulfilling its fiduciary responsibilities.
- 1.2 This Procurement Code shall be interpreted in the context of the Council's Sustainable Procurement Strategy, of which it forms a part.
- 1.3 Any dispute or difference as to the interpretation of the Procurement Code and/or any related Guidance shall be resolved by the Monitoring Officer.
- 1.4 This Procurement Code constitutes the Council's Standing Orders relating to Contracts required by Section 135 of the Local Government Act 1972.
- 1.5 The Procurement Code applies to all procurement activity undertaken by Worcester City Council staff or parties acting on behalf of the Council (other than in relation to a Shared Service) and to such procurement from all types of Supplier.
- 1.6 Procurement guidance and frequently asked questions are also available on the intranet and from the Procurement team.

2. COMPLIANCE, CONFIDENTIALITY AND CONDUCT OF OFFICERS AND MEMBERS

2.1 Compliance

- 2.1.1 Every Purchase and Contract made by or on behalf of the Council must comply with this Procurement Code and the Council's Financial Regulations.
- 2.1.2 All Council employees and firms engaged to act in any capacity to manage a procurement exercise or supervise a Contract must comply with this Procurement Code and the Council's Financial Regulations, and each Head of Service must ensure such compliance.

Failure to comply with this Procurement Code or the associated Guidance may result in disciplinary action against the officers concerned.

All Council employees and firms engaged on the Council's behalf must ensure that any conflicts of interest are avoided.

- 2.1.3 No exemption from this Procurement Code can be made other than in accordance with section 12 of the Procurement Code.
- 2.1.4 National or European Union law overrides this Procurement Code.

2.2 Conduct

- 2.2.1 In all their dealings, members and officers of the Council shall present the highest standards of honesty, integrity, impartiality and objectivity. This includes compliance with the Members' Code of Conduct, the Employees' Code of Conduct, the

Procurement Code of Ethics and the Protocol for Member/Officer Relations as appropriate.

2.2.2 The Monitoring Officer shall record in a book to be kept for the purposes particulars of any notice given by an Officer of the Council under Section 117 of the Local Government Act 1972 of a pecuniary interest in a Contract and the book shall be open during office hours for inspection by any member of the Council.

2.2.3 Any officer, member or agent of the Council, whilst acting on the Council’s behalf in relation to any contractual matter directly or indirectly concerning the Council, shall conduct themselves in such a manner that the independence and integrity of the Council’s procedures are at all times maintained and are seen to be maintained.

2.2.4 Officers must declare to their Head of Service any interests which could bring about conflict with the Council’s interests.

2.3 Confidentiality

2.3.1 Apart from the debriefing required to bidders after the result of the selection exercise or contract award, the confidentiality of quotations, tenders and the identity of tenderers must be preserved at all times and information about one tenderer’s response must not be given to another tenderer.

3. PROCUREMENT OVERVIEW

3.1 The method of the procurement process to be undertaken will depend on the estimated Total Value and complexity of the contract.

3.2 Where the estimated Total Value of the proposed contract is within the values of the first column, the procedure in the second column must be followed unless it falls under an internal or external exception or an exemption is obtained.

3.3 Purchases / Contracts **must not** be divided in order to avoid the application of the thresholds in this Code. It should be noted that it is unlawful to deliberately disaggregate purchases so as to avoid the application of the Procurement Code and Public Contracts Regulations 2015.

Table 1

TOTAL VALUE (excludes VAT, staff costs & fees)	PROCUREMENT PROCEDURE MINIMUM ACTION REQUIRED
Below £5,000	<ul style="list-style-type: none"> ○ Use an existing Corporate Contract if there is one or use an existing Framework Agreement provided costs are competitive. ○ Check that there is not an aggregation of contracts beyond this value. ○ Either select a supplier that offers Best Value or must seek at least two or more written quotes. ○ Complete the Demonstrate Best Value Form and return to the Procurement Team.

	<ul style="list-style-type: none"> ○ The Lead Officer must approve if sufficient specific budget available. ○ The Head of Service must approve if insufficient specific budget available. ○ Consider using the E Procurement Portal Quick Quote process. Please contact the Procurement team for further information. ○ Raise an official Purchase Order. <p>Please contact the Procurement team for further information and templates.</p>
<p>From £5,000 to £49,999</p>	<ul style="list-style-type: none"> ○ Consult the Procurement Team. ○ Check that there is not an aggregation of contracts beyond this value. ○ Use an existing Corporate Contract if there is one or consider using an existing Framework Agreement provided costs are competitive. ○ Must seek at least three written quotes. ○ The Head of Service must provide written approval before an official Purchase Order is placed. ○ The Head of Service must approve if insufficient service budget available. ○ Use the E Procurement Portal. Please contact the Procurement team for further information. ○ Use the Invitation to Quote template as a starting point. This will need to be individually tailored to your requirements. ○ Ensure you have appropriate terms and conditions for your contract. Please contact the legal team for guidance. ○ Raise an official Purchase Order. ○ Forward a signed copy of the contract to the Legal team to archive. ○ Maintain appropriate records for all purchases. <p>Complete the contracts register and forward to the Procurement Team to include on the Council Register of Contracts in order to comply with the Transparency Code 2015.</p> <p>Please contact the Procurement team for further information and templates</p>

From £50,000 to EU Threshold	<ul style="list-style-type: none"> ○ Seek advice and guidance from Procurement and Legal teams at planning stage. ○ Consider using an existing Framework Agreement. ○ A Full Tender process must be undertaken in accordance with the Procurement Code. ○ The Head of Service must seek at least three written Tenders and will advertise the opportunity appropriately to ensure adequate competition. ○ Corporate Director must provide written approval if sufficient budget available or written approval from CLT if insufficient budget available. ○ Advertise contract in accordance with the Procurement Code using the E Procurement Portal. Please contact the Procurement team for further information. ○ Use Council’s formal Invitation to Tender template as a starting point. This will need to be individually tailored to your requirements. ○ Ensure you have appropriate terms and conditions for your contract. Please contact the legal team for guidance. ○ Raise an official Purchase Order. ○ Forward a signed copy of the contract to the Legal team to archive. ○ Complete the contracts register and forward to the Procurement Team to include on the Council Register of Contracts in order to comply with the Transparency Code 2015. <p>Please contact the Procurement team for further information and templates</p>
Over EU Threshold	<p>Seek advice and guidance from the Procurement and Legal teams at planning stage.</p> <ul style="list-style-type: none"> ○ Ensure the appropriate approvals have been obtained. ○ Advertise contract in accordance with the Public Contract Regulations 2015 (‘the Regulations’) and make documentation available on the E Procurement Portal. ○ Ensure you have appropriate terms and conditions for your contract. Please contact the legal team for guidance. ○ Forward a signed copy of the contract to the Legal team to archive.

- Raise an official Purchase Order.
- Complete the contracts register and forward to the Procurement Team to include on the Council Register of Contracts in order to comply with the Transparency Code 2015.

Please contact the Procurement team for further information and templates.

4. CONTRACT/PURCHASE VALUE AND AGGREGATION

- 4.1 It is important to properly estimate the total value of a Purchase / Contract on the basis that different rules apply depending on the nature and value of a Purchase / Contract.
- 4.2 The estimated total value of a Purchase / Contract shall be the total value of the Purchase / Contract net of VAT. This is the total consideration estimated to be payable over the full term of the Contract by the Council to the Supplier, including any extensions.
- 4.3 Purchases of the same or similar nature must be aggregated wherever practicable; and it is unlawful to deliberately disaggregate purchases so as to avoid the application of the Procurement Code and Public Contracts Regulations 2015.
- 4.4 In the case of Supply/Goods Purchases / Contracts which are regular in nature (i.e. a series of similar individual purchases throughout the year), there is a requirement to aggregate these and assess their value on the basis of spend over the preceding 12 months or, where such data is unavailable, the estimated value over the 12 months following the first order and this calculation is to be used as the relevant Purchase / Contract value for the purposes of the application of this Procurement Code
- 4.5 Where, in relation to Contracts for Services, the Contract period or total value of the Contract is indefinite or uncertain, the estimated value shall be calculated on the basis that the Contract will be of four years' duration.
- 4.6 Where the Purchase / Contract is one where the benefit to the Supplier is made up entirely or in part from benefits *other* than simple monetary payments from the Council (e.g. concession contract), a best estimate of the total financial value should nonetheless be ascertained and this should be treated at the relevant Purchase / Contract value.
- 4.7 Where the Contract has an option to extend, then the proposed extension period must be included in determining the Contract value.
- 4.8 The estimated value of a Framework Agreement is the total value of all the Contracts which could be entered into by the Council (and other Contracting Authorities if appropriate) over the duration of the Framework Agreement.
- 4.9 For Contracts above EU Threshold under the Regulations purchase requirements should be divided into lots where appropriate so as to attract the interest of SME and

VCFS organisations. Where this is not practicable the justification for the decision must be recorded on any associated report and/or Procurement Initiative Plan.

4.10 Where purchase requirements are divided into lots, the estimated value of Contracts should be the estimated value of all lots envisaged for the total term.

5. ROLES AND RESPONSIBILITIES

5.1 Agents / Consultants

5.1.1 Any Agent or Consultant appointed to act for the Council in a procurement exercise must be required to comply with these Rules.

5.2 Committee

5.2.1 Committee approval is required:

- To advertise a contract;
- To approve the evaluation model; and
- To award a contract

for purchases **over EU threshold**. The appropriate Committee may decide to delegate the award of contract to officers provided the approved evaluation model is followed.

Please contact Democratic Services for information on Decision Making Processes and Procedures.

5.2.2 Any exception request for a contract over the value over EU threshold shall be made to the relevant Committee.

5.3 Corporate Leadership Team (CLT)

5.3.1 The appropriate CLT member shall consult with the Lead Officer on any procurement over the value between £50,000 and EU Threshold prior to advertisement.

5.3.2 Approval must be signed by the appropriate CLT member if insufficient budget is available.

5.3.3 The appropriate CLT member shall consider any exemption request for contracts valued between £5,000 and £50,000.

5.4 Lead Officer

5.4.1 Each Procurement exercise shall have a Lead Officer allocated to it.

The Lead Officer;

5.4.2 shall be responsible for ensuring that the Procurement Code is followed and that the purchase is made successfully;

5.4.3 shall liaise with the Procurement Team at the outset of the procurement exercise;

5.4.4 shall liaise with the Legal Team to collate the contract terms and conditions;

- 5.4.5 is responsible for ensuring that the Specification is sufficiently detailed and accurate to cover all aspects of the supplies, works or services required;
- 5.4.6 with the assistance of the Procurement Team, is also responsible for evaluating the Quotations/Tenders received;
- 5.4.7 shall liaise with the Legal Team to finalise the contract before the contract start date.

5.5 Legal Team

The Legal Team:

- 5.5.1 shall be responsible for providing and approving the terms and conditions of all contracts with a value above £50,000 and shall provide standard terms and conditions to apply where appropriate;
- 5.5.2 shall assist the Lead Officer with the finalisation of contracts.
- 5.5.3 shall advise on procurement law and the application of this Code.

5.6 Managing Director

The Managing Director;

- 5.6.1 shall consider exemption requests for contracts valued between £50,000 and EU threshold.

5.7 Monitoring Officer

The Monitoring Officer

- 5.7.1 has the delegated authority to sign and to arrange to seal all contracts; and
- 5.7.2 shall be final arbiter on the interpretation and application of this Code.

5.8 Procurement Team

The Procurement Team:

- 5.8.1 shall be a key advisor for high value procurements;
- 5.8.2 shall act in an advisory capacity for lower value procurements;
- 5.8.3 shall prepare and maintain standard tender and evaluation document templates;
- 5.8.4 shall receive copies of all exemptions and exceptions granted;
- 5.8.5 shall maintain the Register of Contracts;
- 5.8.6 shall provide procurement training to officers involved in procurement;

5.8 Project Team

5.8.1 Where the estimated Total Value is over £49,999, the Lead Officer shall consider whether a multi-discipline project team should be formed at the outset of the procurement exercise.

5.8.2 A project team should include a Procurement Officer, a member of the Legal team and officers directly involved with the Supplies, Works or Services to be procured. It may also be appropriate for a member of Finance to be part of the project team.

5.9 Heads of Service/Deputy Directors and Corporate Management Team (CMT)

5.9.1 Each Head of Service (which, for the purposes of this Code shall include Deputy Directors) is able to procure supplies, works and services up to EU Threshold provided that they are satisfied that their team's Lead Officer has consulted with the Relevant Corporate Director on any procurement over the value of £50,000. Please refer to paragraph below for purchases over EU Threshold.

5.9.2 Heads of Service, delegating as necessary, must take all reasonable measures to ensure that procurement carried out complies with these Rules and that adequate training in these Rules, provided or approved by the Procurement Team is given to all potential Lead Officers.

5.9.3 The level of training to be given will depend on the Lead Officer's responsibility for and involvement in procurement.

5.9.4 Heads of Service shall maintain appropriate records for all purchases worth over £4,999 and shall forward to the Procurement Team to include on the Register of Contracts in order to comply with the Local Government Transparency Code 2015 Local Government Transparency Code 2015.

6. PROCUREMENT CONTRACT VALUE UP TO £4,999

This section refers to low value procurement, for which Lead Officers will use the most expedient method of procurement to achieve Best Value.

6.1 Preparation

Before approaching the market the Lead Officer must establish if there is a Corporate Contract or a Framework Agreement which could be used. Please see section 10 of this Procurement Code.

The Lead Officer will ensure the following:

6.1.1 Approvals

Any approvals required by the Council's Constitution have been obtained, together with any necessary consents, permissions or other approvals.

6.1.2 Estimate

An estimate of the total cost of the goods or services is prepared and sufficient budget is available to meet the total cost.

6.1.3 Specification

A description of the goods or services required is produced, that is sufficiently detailed to support the selected procurement process.

6.1.4 Procurement Procedure

- a. A procurement procedure is selected that complies with the Procurement Code and is the most expedient means of obtaining Best Value.
- b. Use an existing Corporate Contract if there is one or consider using an existing Framework Agreement provided costs are competitive.
- c. Consider using the E procurement portal quick quote process. Please contact the Procurement team for further information.
- d. Ensure you have appropriate terms and conditions for your contract. Please contact the legal team for guidance.

6.2 Inviting and Receiving Quotations

The Lead Officer is required to ensure Best Value is achieved by one of the following two options:

6.2.1 Either: ensure a Supplier is selected that is known to offer Best Value without requesting quotations.

In this case, the Lead Officer will be required to demonstrate that Best Value has been achieved by completing the Demonstration of Best Value form and returning it to the Procurement team.

6.2.2 Or, ensure: a Supplier is selected by seeking at least two or more quotations.

In this case, the Lead Officer must ensure that:

- a. quotations are submitted In Writing, by the stated deadline and that quotations include the total price for the goods or services required.
- b. quotations are evaluated after the stated deadline, recorded and kept for at least 12 months from the deadline for the receipt of quotations.
- c. The Supplier can be selected on price alone; however if the chosen Supplier is not the lowest quote, a Most Economically Advantageous quote based on both a price and quality evaluation should be used to justify choice.

6.3 Evaluation, Contract Approval and Award

6.3.1 Evaluation

Before completing the transaction or awarding the Contract to the Supplier, the Lead Officer will ensure that:

- a. the Supplier has the appropriate experience, technical and financial capability to deliver against the specification, particularly in terms of the required quantity, quality and safety of any goods, services or works.

- b. the Supplier represents Best Value.

6.3.2 Approval

The Lead Officer will ensure approval for completing the transaction or awarding the Contract is obtained as follows:

- a. The Lead Officer may approve the transaction or Contract if there is sufficient budget available that is specifically designated for the goods or services being procured.
- b. The Head of Service may approve the transaction or Contract if there is insufficient specific budget available, but there is sufficient Service Team budget available to meet the cost of the goods or services.
- c. The Corporate Director may approve the transaction or Contract if there is insufficient Service Team budget available, but there is sufficient Directorate budget available to meet the cost of the goods or services, in which case a virement may be required.
- d. The Corporate Management Team may approve the transaction or Contract if there is insufficient Directorate budget available, but there is sufficient Council budget available to meet the cost of the goods or services, in which case a virement will be required.

6.3.3 Award

- a. For the provision of goods or services to be delivered at one time to the Council, the Lead Officer will ensure that a written record of the transaction, in the form of an official Purchase Order or a Purchasing Card Statement, will be retained for at least six years from the date of delivery of the goods or services.
- b. For the provision of goods or services to be delivered over a period of time to the Council, the Lead Officer will ensure that a Contract is produced that:
 - i. details the goods or services to be provided and the total cost of the goods or services.
 - ii. is checked and signed by the Lead Officer and the Supplier.
 - iii. is retained for a period of no less than six years from the date of the last delivery of the goods or services.

The Lead Officer will be required to complete relevant Supplier checks and register the Supplier if the Supplier of goods or services has not previously been used by the Council.

6.3.4 Contract Management

All contracts must have a named Council Contract Manager for the entirety of the contract. This will normally be the appropriate Head of Service or a named deputy.

All Contract Managers will comply with this Procurement Code and any associated Council guidance.

6.3.5 Post Contract Review

The Lead Officer will ensure that a post Contract review is conducted and that recommendations inform the subsequent procurement of similar goods, services or works.

7. PROCUREMENT CONTRACT VALUE FROM £5,000 TO £49,999

This section refers to mid value procurement for which Heads of Service will require written quotations from a minimum of three Suppliers.

7.1 Preparation

Before approaching the market the Head of Service must establish if there is a Corporate Contract or a Framework Agreement which could be used. Please see section 10 of this Procurement Code.

Before commencing any procurement process, the Head of Service will ensure that;

7.1.1 Approvals

Any approvals required by the Council's Constitution have been obtained, together with any necessary consents, permissions or other approvals.

7.1.2 Estimate

A written estimate will be produced, detailing the total cost of providing and maintaining the goods, services or works for the duration of the Contract, ensuring that the estimate:

- a. is realistic and accurate.
- b. includes the maximum costs, assuming all options are exercised.
- c. is not subdivided to avoid exceeding higher Contract Value thresholds.
- d. is compiled independently of individuals or companies that may subsequently be submitting quotations.

7.1.3 Specification

An accurate specification will be produced to form the basis of the invitations to quote and for the subsequent Contract.

7.1.4 Evaluation Criteria

- a. Evaluation criteria will be produced on the basis of Best Value and should include the price and quality of goods, services or works.
- b. The Supplier can be selected on price alone; however if the chosen Supplier is not the lowest quote, a Most Economically Advantageous quote based on both a price and quality evaluation should be used to justify the selection.

7.1.5 Procurement Procedure

- a. A procurement procedure will be selected that complies with the Procurement Code and includes the collation and evaluation of written quotations from no less than three Suppliers.
- b. The E procurement portal should be used for all quotes valued over £4,999. Please contact the Procurement team for further information.
- c. The Procurement team shall be consulted at the start of the procurement process to ensure the Procurement Code and appropriate timescales are being complied with.
- d. The Legal team shall be consulted early on in the procurement process with regard to the Contract terms and conditions.

7.2 Inviting and Receiving Quotations

The Head of Service will seek at least written quotations as follows:

7.2.1 Inviting Quotations

Suppliers invited to submit quotations must do so In Writing, by the stated deadline. Quotations must include the total price for the goods, services or works required.

7.2.2 Receiving Quotations

- a. All written quotations will be evaluated after the stated deadline, recorded and kept by the relevant Head of Service for at least 12 months from the deadline for the receipt of quotations.
- b. The Supplier can be selected on price alone; however if the chosen Supplier is not the lowest quote, a Most Economically Advantageous quote based on both a price and quality evaluation should be used to justify choice.

7.3 Evaluation, Contract Approval and Award

7.3.1 Evaluation

Before completing a transaction or awarding a Contract to any Supplier, the Head of Service will ensure that:

- a. the Supplier represents Best Value according to a fair evaluation using the pre-determined evaluation criteria.
- b. the Supplier has the appropriate experience, technical and financial capability to deliver against the specification, particularly in terms of the required quantity, quality and safety of any goods, services or works.

7.3.2 Approval

The Head of Service will ensure approval for completing the transaction or awarding the Contract is obtained as follows;

- a. the Head of Service may approve the transaction or Contract if there is sufficient Service Team budget available to meet the cost of the goods, services or works.
- b. the Corporate Director may approve the transaction or Contract if there is insufficient Service Team budget available, but there is sufficient Directorate budget available to meet the cost of the goods, services or works, in which case a virement may be required.
- c. The Corporate Management Team may approve the transaction or Contract if there is insufficient Directorate budget available, but there is sufficient Council budget available to meet the cost of the goods, services or works, in which case a virement will be required.

7.3.3 Award

- a. For the provision of goods, services or works to be delivered at one time to the Council, the Head of Service will ensure that a written record of the transaction, in the form of the Purchase Order or the Purchasing Card Statement, will be retained for a period of at least six years from the date of delivery of the goods, services or works.
- b. For the provision of goods, services works to be delivered over a period of time to the Council, the Head of Service will ensure that a Contract is produced that:
 - i. details the goods, services or works to be provided and the total cost of the goods, services or works.
 - ii. is checked and signed by the Head of Service and the Supplier.
 - iii. is retained for a period of at least six years from the date of the last delivery of the goods, services or works.
 - iv. is authorised by the legal team and a copy forwarded the team for archiving.
- c. A record of each Contract executed in accordance with this section 7. of the Procurement Code shall be entered in a Register of Contracts and forwarded to the Procurement team in order to comply with the Transparency Code 2015.
- d. The Head of Service will ensure that relevant Supplier checks and registration of the Supplier according to New Supplier Registration procedures is completed, if the Supplier of goods, services or works has not previously been used by the Council.

7.3.4 Contract Management

All contracts must have a named Council *Contract Manager* for the entirety of the contract. This will normally be the appropriate Head of *Service* or a named deputy.

All Contract Managers will comply with this Procurement Code and any associated Council guidance.

7.3.5 Post Contract Review

The Head of Service will ensure that a post Contract review is conducted and that recommendations inform the subsequent procurement of similar goods, services or works.

8. PROCUREMENT CONTRACT VALUE FROM £50,000 TO EU Threshold

This section refers to high value procurement for which Head of Service will seek written Tenders from a minimum of three Suppliers.

The Procurement team shall be consulted at the start of the procurement process to ensure the Procurement Code and Public Contracts Regulations 2015 are complied with.

The Legal team shall be consulted early on in the procurement process in order to advise and assist with the production of the Contract terms and conditions.

The Head of Service should make reasonable endeavours to consider Social Value at the pre-procurement stage for contracts valued from £50,000 to EU Threshold to ensure good procurement practice as follows:

- i. consider how the proposed procurement may improve the economic, social and environmental well-being of their areas and how those improvements can be secured through the procurement process;
- ii. consider whether to undertake any community consultation on the above matters.

8.1 Preparation

Before approaching the market the Head of Service must establish if there is a Corporate Contract or a Framework Agreement which could be used. Please see Section 10 of this Procurement Code.

Before commencing any procurement process, the Head of Service will ensure that;

8.1.1 Approvals

All approvals required by the Council's Constitution have been obtained, together with any necessary consents, permissions or other approvals.

8.1.2 Estimate

A written estimate will be produced, detailing the total cost of providing and maintaining the goods, services or works for the duration of the Contract, ensuring that the estimate:

- a. is realistic and accurate.
- b. includes the maximum costs, assuming all options are exercised.
- c. is not subdivided to avoid exceeding higher Contract Value thresholds.

- d. is compiled independently of individuals or companies that may subsequently be submitting Tenders.

8.1.3 Specification

An accurate specification will be produced to form the basis of the invitations to Tender and for the subsequent Contract.

8.1.4 Evaluation Criteria

- a. Evaluation criteria will be produced on the basis of Best Value and will include the price and quality of goods, services or works.
- b. The Supplier can be selected on price alone; however if the chosen Supplier is not the lowest quote, a Most Economically Advantageous quote based on both a price and quality evaluation should be used to justify the selection.

8.1.5 Procurement Procedure

A procurement procedure will be selected that:

- a. complies with the Procurement Code and includes the collation and evaluation of written Tenders from no less than three Suppliers.
- b. includes the invitation of a number of Tenders that :
 - i. is most appropriate to the nature and size of the Contract.
 - ii. is determined with a view to obtaining Best Value for the Council.
 - iii. ensures that no less than three Tenders are obtained.
- c. the E procurement portal should be used for all Tenders valued over £49,999. Please contact the Procurement team for further information.

8.2 Inviting and Receiving Tenders

The Head of Service will seek at least three written Tenders as follows:

8.2.1 Advertising Tenders

All tenders shall be advertised on the E procurement portal, Contracts Finder, the Council Website, the Find it in Worcestershire Website and in relevant trade/local press.

8.2.2 Inviting Tenders

- a. Every Invitation to Tender shall state:
 - i. the latest date and time for the delivery of Tenders.
 - ii. the address to which Tenders will be sent (if applicable).

- b. The majority of Tenders should be submitted via the E procurement portal. Please contact the Procurement Team for further information.

Tenders shall;

- i. include the price(s) requested for the goods, services or works and all other information requested in the invitation to Tender.
 - ii. be sent to arrive via the E procurement portal by the stated deadline.
- c. Should the E procurement portal not be used Tenders should be submitted as follows;
 - i. be addressed to the Monitoring Officer or a designated Officer of the Council.
 - ii. be sent in a sealed envelope endorsed with the word "Tender" followed by the subject to which it relates, but bearing no other name or mark indicating the sender.
 - iii. include the price(s) requested for the goods, services or works and all other information requested in the invitation to Tender.
 - iv. be sent to arrive via the E procurement portal by the stated deadline.

Any Tender submitted that does not comply with the above instructions shall be disqualified from the procurement process.

8.2.3 Receiving Tenders

8.2.3.1 All Tenders received via the E procurement portal shall be;

- a. opened at one time after the deadline in the presence of two Authorised Officers of the Council.
- b. recorded in the Register of Tenders.

8.2.3.2 Should the E procurement portal not be used Tenders should be received as follows;

All Tenders will be:

- a. received and safely stored unopened by the Monitoring Officer or a designated Officer of the Council.
- b. opened at one time after the deadline in the presence of a Member of the Council and the Monitoring Officer or a designated Officer of the Council.
- c. immediately initialled and dated by the person opening them and a note of the time of opening kept.
- d. recorded in the Register of Tenders.

8.3 Evaluation, Contract Approval and Award

8.3.1 Evaluation

Before completing the transaction or awarding the Contract to any supplier, the Head of Service will ensure that:-

- a. the Tender is compliant with the invitation to Tender and, in particular, meets any specification, requirements and Contract terms set out in the invitation to Tender.
- b. the Supplier represents Best Value according to a fair evaluation using the pre-determined evaluation criteria.
- c. the Supplier has the appropriate experience, technical and financial capability to deliver against the specification, particularly in terms of the required quantity, quality and safety of any goods, services or works.

8.3.2 Approval

The Head of Service will ensure approval for the transaction or Contract is obtained as follows:

- a. The Corporate Director may approve the transaction or Contract if there is sufficient Service Team or Directorate budget available to meet the cost of the goods, services or works. If there is insufficient Service Team budget available, a virement may be required.
- b. The Corporate Management Team may approve the transaction or Contract if there is insufficient Directorate budget available, but there is sufficient Council budget available to meet the cost of the goods, services or works, in which case a virement will be required.

8.3.3 Award

The Head of Service will ensure that:

- a. For the provision of goods, services or works to be delivered at one time to the Council, the Head of Service will ensure that a written record of the transaction, in the form of the Purchase Order or the Purchasing Card Statement, will be retained for a period of at least six years from the date of delivery of the goods, services or works.
- b. For the provision of goods, services works to be delivered over a period of time to the Council, the Head of Service will ensure that a Contract is produced that:
 - i. includes details of the goods, services or works, terms and conditions, service level agreements and agreed prices.
 - ii. is in writing and has the Common Seal of the Council affixed and attested by the Managing Director, Monitoring Officer or Legal Team Manager.
 - iii. is retained for a period of at least twelve years from the date of the last delivery of the goods, services or works.
 - iv. is authorised by the legal team and a copy forwarded the

team for archiving.

- c. a record of each Contract executed in accordance with this section 8 of the Procurement Code shall be entered in a Register of Contracts and forwarded to the Procurement team or a designated Officer of the Council in order to comply with the Local Government Transparency Code 2015.
- d. any relevant Supplier checks and registration of the Supplier is completed, if the Supplier of goods, services or works has not previously been used by the Council.

8.3.4 Contract Management

All contracts must have a named Council Contract Manager for the entirety of the contract. This will normally be the appropriate Head of Service or a named deputy.

All Contract Managers will comply with this Procurement Code and any associated Council guidance.

8.3.5 Post Contract Review

The Head of Service will ensure that a post Contract review is conducted and that recommendations inform the subsequent procurement of similar goods, services or works.

9. PROCUREMENT CONTRACT VALUE OVER EU Threshold

This section refers to very high value procurement that will require a Key Decision by Committee to approve the resulting transaction or Contract.

Heads of Service are required to comply with Public Contracts Regulations 2015 (or equivalent legislation) and all other associated procurement law and will seek advice from the Procurement Team, the Legal Team and the Monitoring Officer.

[The Public Services \(Social Value\) Act 2012](#) requires contracting authorities to consider at the pre-procurement stage of **any** services contract and services framework agreement (including goods and works contracts procured in combination with services) to which the Public Contracts Regulations 2015) apply (i.e. over EU threshold contracts) the following:

- ii. consider how the proposed procurement may improve the economic, social and environmental well-being of their areas and how those improvements can be secured through the procurement process;
- ii. consider whether to undertake any community consultation on the above matters.

9.1 Preparation

Before approaching the market the Head of Service must establish if there is a Corporate Contract or a Framework Agreement which could be used. Please see section 10 of the Procurement Code.

Before commencing any procurement process, the Head of Service will ensure that:

9.1.1 Approvals

All approvals required by the Council's Constitution have been obtained, together with any necessary consents, permissions or other approvals.

9.1.2 Estimate

A written estimate has been produced, detailing the total cost of providing and maintaining the goods, services or works for the duration of the Contract, ensuring that the estimate:

- a. is realistic and accurate.
- b. includes the maximum costs, assuming all options are exercised.
- c. is not subdivided to avoid exceeding higher Contract Value thresholds.
- d. is compiled independently of individuals or companies that may subsequently be submitting tenders.

9.1.3 Specification

An accurate specification has been produced to form the basis of the invitations to Tender and for the subsequent Contract.

9.1.4 Evaluation Criteria

- a. Evaluation criteria have been produced on the basis of Best Value and include the price and quality of goods, services or works.
- b. The Supplier can be selected on price alone; however if the chosen Supplier is not the lowest quote, a Most Economically Advantageous quote based on both a price and quality evaluation should be used to justify choice.

9.1.5 Procurement Procedure

A procurement procedure will be selected that:

- a. either complies with the Public Contracts Regulations 2015 (or equivalent legislation) and all other associated procurement law.
- b. or uses an existing legally compliant contract or framework agreement.
- c. the E procurement portal should be used for all EU Tenders. Please contact the Procurement team for further information.

9.2 Inviting and Receiving Tenders

The Head of Service will ensure that Tenders are invited and received in accordance with the Public Contracts Regulations 2015 and all other associated procurement law.

The Head of Service will also ensure that Tenders are invited and received as follows:

9.2.1 Advertising Tenders

All Tenders shall be advertised in the Official Journal of the European Union, on Contracts Finder, the Council Website, and in relevant trade press.

9.2.2 Inviting Tenders

- a. Every Invitation to Tender shall state:
 - i. the latest date and time for the delivery of Tenders.
 - ii. the address to which Tenders will be sent.
- b. Every Tender submitted in pursuance of this Procurement Code shall:
 - i. be addressed to the Monitoring Officer or a designated Officer of the Council.
 - ii. be sent in a sealed envelope endorsed with the word "Tender" followed by the subject to which it relates, but bearing no other name or mark indicating the sender.
 - iii. include the price(s) requested for the goods, services or works and all other information requested in the invitation to Tender.
 - iv. be sent to arrive at the designated address by the stated deadline.

Any Tender submitted that does not comply with the above instructions shall be disqualified from the procurement process.

9.2.3 Receiving Tenders

9.2.3.1 All Tenders received via the E procurement portal shall be;

- a. opened at one time after the deadline in the presence of two Authorised Officers of the Council;
- b. recorded in the Register of Tenders.

9.2.3.2 Should the E procurement portal not be used Tenders should be received as follows;

All Tenders will be:

- a. received and safely stored unopened by the Monitoring Officer or a designated Officer of the Council;
- b. opened at one time after the deadline in the presence of a Member of the Council and the Monitoring Officer or a designated Officer of the Council;
- c. immediately initialled and dated by the person opening them and a note of the time of opening kept;
- d. recorded in the Register of Tenders.

9.3 Evaluation, Contract Approval and Award

The Head of Service will ensure that Tenders are evaluated and transactions or Contracts are approved and awarded in accordance with the Public Contracts Regulations 2015 (or equivalent legislation) and all other associated procurement law.

The Head of Service will also ensure that Tenders are evaluated and transactions or Contracts are approved and awarded as follows:

9.3.1 Evaluation

Before completing a transaction or awarding a Contract to any Supplier the Head of Service will ensure that:-

- a. the Tender is compliant with the invitation to Tender and, in particular, meets any specification, requirements and Contract terms set out in the Invitation to Tender.
- b. the Supplier represents Best Value according to a fair evaluation using the pre-determined evaluation criteria.
- c. the Supplier has the technical capability to deliver against the specification, particularly in terms of the required quantity, quality and safety of any goods, services or works.

9.3.2 Approval

The Head of Service will ensure approval for the transaction or Contract is obtained as follows:

- a. The relevant Committee may approve the transaction or Contract if there is sufficient Service Team or Directorate budget available to meet the cost of the goods, services or works. If there is insufficient Service Team budget available, a virement may be required.
- b. The Council may approve the transaction or Contract if there is insufficient Directorate budget available, but there is sufficient Council budget available to meet the cost of the goods, services or works, in which case a virement will be required.

9.3.3 Award

The Head of Service will ensure that:

- a. For the provision of goods, services or works to be delivered at one time to the Council, the Head of Service will ensure that a written record of the transaction, in the form of the Purchase Order or the Purchasing Card Statement, will be retained for a period of at least six years from the date of delivery of the goods, services or works.
- b. For the provision of goods, services works to be delivered over a period of time to the Council, the Head of Service will ensure that
 - i. a Contract Manager (on both sides) is identified with responsibility for ensuring the contract is delivered as intended.
 - ii. include details of the goods, services or works, terms and conditions, service level agreements and agreed prices.

- iii. Contracts are in writing and have the Common Seal of the Council affixed and attested by the Managing Director, Monitoring Officer or Legal Team Manager, or an officer authorised by them for that purpose.
- c. a record of each Contract executed in accordance with this section 9 of the Procurement Code shall be entered in a Register of Contracts and forwarded to the Procurement team or a designated Officer of the Council in order to comply with the Transparency Code 2015.
- d. relevant Supplier checks and registration of the Supplier according to New Supplier Registration procedures is completed, if the Supplier of goods, services or works has not previously been used by the Council.

9.3.4 Contract Management

All contracts must have a named Council Contract Manager for the entirety of the contract. This will normally be the appropriate Head of Service or a named deputy.

All Contract Managers will comply with this Procurement Code and any associated Council guidance.

9.3.5 Post Contract Review

The Head of Service will ensure that a post Contract review is conducted and that recommendations inform the subsequent procurement of similar goods, services or works.

10. EXCEPTIONS - INTERNAL

This section refers to internal procurement exceptions. Heads of Service will be required to ensure the following procedures in this section are followed in conjunction with the relevant procedures detailed in sections 6 to 9 of the Procurement Code.

10.1 Corporate Contracts

- 10.1.1 The Council has Corporate Contracts which cover items required on a daily basis such as stationery.
- 10.1.2 The majority of details relating to the products and prices within Corporate Contracts are held on the intranet. Further details can be obtained from the Procurement Team.
- 10.1.3 Corporate Contracts must be set up in accordance with these Rules but once established a product or service included in one can be ordered from the approved supplier, using the Council's order system, without any need for Quotes or Tenders.
- 10.1.4 Where there are multiple suppliers of a product on a Corporate Contract, the officer ordering the product must compare prices and choose the cheapest unless there are compelling reasons why not and these are recorded.

10.2 About Framework Agreements

A framework agreement is a general term for agreements with suppliers that set out terms and conditions under which specific purchases (call-offs) can be made throughout the term of the agreement. In most cases a framework agreement itself is not a contract, but the procurement exercise to establish a framework agreement is subject to the public procurement rules.

Framework Agreements are required to be competitively tendered in the same manner as other contracts. Once the Framework is set up, organisations can usually either order directly from a supplier on the framework or are required to seek 'mini-competitions' from all the Framework suppliers capable of meeting a specific requirement. The duration of Framework Agreements is limited to four years, except in exceptional circumstances e.g. where a large, upfront investment is required. Once a Framework Agreement has been established for that period of time, further suppliers cannot be added to it.

Using an existing Framework Agreement

- 10.2.1 In addition to conventional contracts, (where one supplier has been appointed to provide a specific good or service), Framework Agreements procured by other local authorities, public bodies or purchasing consortiums, for example the Office of Government Commerce (OGC), Buying Solutions and ESPO may also be used. These are normally used where there are likely to be a large number of lower value requirements over a period of time, as they may reduce the timescales required for commissioning such requirements. They may also be used to ensure that better value for money is obtained through economies of scale or to improve supplier relationship management.
- 10.2.2 Framework Agreements may be used if the Procurement and Legal Teams have approved their use on being satisfied that the Council can lawfully use them and that it is in the Council's interest to do so.
- 10.2.3 Officers intending to use a Framework Agreement shall consult with the Procurement Team prior to doing so.
- 10.2.4 Terms and conditions of any Framework Agreement must be approved by the Legal Team prior to use.
- 10.2.5 The use of Framework Agreements is subject to the financial levels set out in these Rules and an order shall only be placed if the necessary authority exists. For example, use of a Framework Agreement for a purchase between £50,000 and EU Threshold would need budget approval and Corporate Director approval whereas purchases over EU Threshold would require specific Committee approval.
- 10.2.6 Where purchasing Supplies, Works or Services on a price alone basis the call off procedure under the Framework Agreement shall be used.
- 10.2.7 Where quality criteria are to be applied or where it is not clear which supplier offers Best Value, a mini-competition shall be carried out and all participants in the Framework Agreement must be invited to Tender.

Setting up a Framework Agreement

- 10.2.8 A Framework Agreement may be set up for Supplies, Works or Services that are needed on a regular basis.

- 10.2.9 Before advertising the setting up of a Framework Agreement the Procurement and Legal teams must be consulted and approval be obtained in accordance with the thresholds set out in this Procurement Code
- 10.2.10 Once approval has been given an advertisement for inclusion in the Framework must be advertised in accordance with the relevant Threshold rules as set out in this Procurement Code
- 10.2.11 Selection of organisations onto the Framework Agreement must follow a Tender process and be in accordance with these Rules.
- 10.2.12 A Framework Agreement must not exceed four years except in exceptional circumstances (to be advised by the Procurement and Legal Teams).

10.3 Fixed Price Procurement

10.3.1 Definition

- a. For the purposes of this Procurement Code, Fixed Price Procurement will be defined as the procurement of goods, services or works by the Council where suppliers will be invited to quote or Tender to describe the extent to which they can deliver against the specification for a predetermined fixed price.

10.3.2 Procedures

- a. The procuring officer will ensure that appropriate Procurement Code procedures are followed, with the following exception:
 - i. The evaluation criteria will be based on the quantity and quality of goods, services or works provided only, with no reference to price.

10.4 Civil Emergency Procurement

10.4.1 Definition

- a. For the purposes of this Procurement Code, Civil Emergency Procurement will be defined as the procurement of goods, services or works by the Council during the period of a Civil Emergency, that are required to address circumstances caused by the Civil Emergency.

10.4.2 Procedures

- a. The Head of Service will ensure that for procurement under a Contract Value of the EU Threshold the Emergency Planning Group may approve exemptions from the Procurement Code and may approve procurement decisions, subject to:
 - i. The relevant Heads of Service and the Section 151 Officer are members of the Emergency Planning Group that approve the procurement decision.
 - ii. Details of the procurement decision, including reasons for the exemption, are recorded in the minutes of the Emergency Planning Group meeting at which the decision is made.

- iii. Sufficient budget is made available by the Emergency Planning Group to cover the incremental cost of the procurement decision.
- b. The Head of Service will ensure that for Procurement over the EU Threshold, the procedures in section 9 of the Procurement Code are followed.

10.5 Delegated Authority

10.5.1 Definition

- a. For the purposes of this Procurement Code, Delegated Authority will be defined as the delegation of authority to take responsibility for procurement activity and /or to approve procurement decisions.

10.5.2 Procedures

- a. Authority to take responsibility for procurement activity and /or to approve procurement decisions may be delegated in the following circumstances:
 - absence due to sickness, authorised leave or working off site for more than one week
 - unavailability caused by a civil emergency
 - vacancy of a post with procurement responsibilities
- b. Authority to take responsibility for procurement activity and /or to approve procurement decisions may be delegated to and by the following:
 - to a Head of Service by a Corporate Director
 - to a Corporate Director by the relevant committee
- c. Delegated authority will be recorded in the minutes of the meeting at which the decision is made and will be for a fixed period of time. Delegated authority may be extended at the end of the fixed period of time if required, subject to the rules in this section 10.5.2.

10.6 Disposals

10.6.1 Definition

- a. For the purposes of this Procurement Code, Disposals will be defined as the act of the Council selling goods, vehicles, equipment, plant or other fixed assets.

10.6.2 Procedures

- a. In the case of disposals, the Head of Service will ensure that the following procedures are followed:
 - i. A detailed description of the disposal item(s) is produced.
 - ii. A minimum accepted value of the disposal item(s) is agreed with the Section 151 Officer.

- iii. Payment terms for the disposal item(s) are agreed with the Section 151 Officer.
- iv. Bid evaluation criteria are agreed with the Section 151 Officer.
- v. A disposal plan is produced to include advertising channels, bid receipt and evaluation arrangements and transaction arrangements.
- vi. Disposal item(s) will be advertised for sale on local and regional government websites and may be advertised through other appropriate advertising channels.
- vii. A minimum of three bids will be sought by the stated deadline and will be kept safely by the Head of Service.
- viii. Bids will be opened and evaluated by the Head of Service.
- ix. The sale of the disposal item(s) will be awarded to the buyer with the highest bid, subject to the highest bid being equal to or greater than the minimum accepted value.
- x. The transaction will be completed when payment is received and the item is delivered / collected.

11. EXCEPTIONS - EXTERNAL

This section refers to external procurement exceptions. Sections 6 to 9 of this Procurement Code will not apply in the following circumstances, unless otherwise stated.

11.1 Collaborative Procurement and Partnerships

11.1.1 Definition

- a. For the purposes of this Procurement Code, Collaborative Procurement will be defined as the procurement of goods, services or works by two or more public authorities including the Council.
- b. Goods, services or works procured for the Council will be paid for by the Council.

11.1.2 The Council are increasingly working in partnership with other Councils and Government bodies in order to secure Value for Money. Nothing in these Rules shall prevent the Council entering collaborative procurement arrangements provided the requirements of this Rule 11.1 are met.

11.1.3 Before using collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium, the Lead Officer must consult the Procurement and Legal teams.

11.1.4 Purchases made through a local authority purchasing consortium which have a value of less than the EU Threshold are deemed to comply with this Procurement Code and associated Rules. If the value of the contract is over the EU Threshold the Procurement and the Legal teams must be satisfied that the consortium has complied with the EU Procedure and that the contract has been let on behalf of the Council and other consortium members.

11.1.5 Where a competitive process has been followed by the Lead Authority to a collaborative procurement arrangement that complies with the Procurement Code

of that Lead Authority, that process will be deemed to have complied with this Procurement Code.

11.1.6 The use of collaborative procurement arrangements is subject to the financial levels set out in these Rules and an order shall only be placed if the necessary approval exists.

11.1.7 Procedures

- a. One of the participating local authorities will accept the role of lead authority.
- b. If the Council is the lead authority, the procuring officer will follow the relevant Procurement Code procedures.
- c. If another local authority is the lead authority, their procuring officer will conduct the procurement exercise according to their Procurement Code or Standing Orders.
 - i. The Council may contribute to the production of the estimate, specification and evaluation criteria. The Council may also support the evaluation process and the production of the Contract.
 - ii. The Council will also require the awarding of the Contract to be approved according to the Council's relevant Procurement Code procedures.

11.2 Procurement by a Shared Service

11.2.1 Definition

- a. For the purposes of this Procurement Code, Procurement by a Shared Service will be defined as the procurement of goods, services or works for the Council by the host authority of a Shared Service that provides services to the Council.
- b. Goods, services or works procured by the Shared Service will be paid for by the host authority on behalf of the Council and other Shared Service partners.

11.2.2 Procedures

- a. The host authority will conduct the procurement exercise according to its Procurement Code, Constitution or Standing Orders.

11.3 Local Authority Open Contract Procurement

11.3.1 Definition

- a. For the purposes of this Procurement Code, Local Authority Open Contract Procurement will be defined as the procurement of goods, services or works by the Council from another local authority's Contract that names Worcester City Council as a participant of that Contract.

- b. Goods, services or works will be procured and paid for by the Council and according to the terms and conditions of the procuring local authority's open Contract.

11.3.2 Procedures

- a. The Head of Service will check that the open Contract is compliant and offers Best Value by ensuring that all of the following criteria are met, before ordering goods, services or works from the open Contract :-
 - i. The procurement procedures used and resulting open Contract comply with the Public Contracts Regulations 2015 and other Procurement law.
 - ii. A minimum of three Tenders were submitted and evaluated, including suppliers known to offer Best Value.
 - iii. The specification and evaluation criteria used sufficiently reflected the Council's requirements.
 - iv. The Contract and any associated terms, conditions and service level agreements sufficiently reflect the Council's requirements.
 - v. For fixed price open Contracts, market prices have not decreased since the open Contract was established.
 - vi. For variable price open Contracts, either the open Contract is less than six months old, or market prices have not increased significantly since the open Contract was established.

If any of the above criteria are not met, the open Contract shall not be used and a procurement exercise will be conducted by the Council in accordance with the Procurement Code to select a Supplier for the provision of the goods, services or works.

- b. The Head of Service will ensure that use of the open Contract is approved according to the relevant section of the Procurement Code.

12. EXEMPTIONS

Without prejudice to the Council's obligations under the Public Contracts Regulations 2015 and other related procurement law, exemption from any of the provisions of this Procurement Code may be made according to the procedures set out in sections 12.1, 12.2 and 12.3 below.

- 12.1 Where the estimated Contract Value is less than £50,000, exemption from any provision of the Procurement Code may be authorised by a CLT member on submission of a report from the relevant Head of Service and the Head of Procurement justifying the reasons for the exemption.
- 12.2 Where the estimated Contract Value is more than £50,000 but less than the EU Threshold, exemption from any provision of the Procurement Code may be authorised by the Managing Director on submission of a report from the relevant Head of Service and the Head of Procurement justifying the reasons for the exemption.

12.3 Where the estimated Contract Value is more than the EU Threshold, exemption from any provision of the Procurement Code may be authorised by the relevant committee with responsibility for that service team on submission of a report from the relevant Head of Service and the Head of Procurement justifying the reasons for the exemption.

12.4 Copies of any authorised exemptions should be forwarded on to the Procurement team for audit purposes.

13. PREVENTION OF CORRUPTION

13.1 Conflicts of Interest

Conflicts of interest can lead to allegations of corruption. Therefore when an officer is directly involved in the award or management of a contract to a particular organisation he/she must, whenever possible avoid any personal dealings with that organisation. Where that is not possible the officer must act in accordance with Rule 13.2

13.2 Declarations of Interest by Officer

13.2.1 Any officer who has a material interest, financial or otherwise, which may affect the Contract process at any stage must immediately he/she becomes aware of it declare it in writing to the Solicitor to the Council and take no further part in the procurement process unless the Solicitor to the Council gives her written approval to the officer's continued involvement in the procurement exercise.

13.2.2 The Monitoring Officer shall maintain a register of Interests, declared by Officers under Rule 13.1 which must include;

- i. the name and grade of the officer
- ii. the nature of the declaration

13.3 Gifts and Rewards

No officer must accept any gift, fee or other material reward from any organisation in return for giving them more favourable treatment in a procurement exercise.

13.4 Failure to Comply

A failure to comply with Rule 14 could be a criminal offence as well as being a disciplinary matter.

14. INTERPRETATION

The interpretation of the terms that are used throughout this Procurement Code is as follows:-

14.1 'Agent'

A person or organisation acting on behalf of the Council or on behalf of another organisation.

14.2 'Best Value'

Best Value is the optimum combination of whole life cost and quality (or fitness for purpose) to meet the user's requirements assessed in accordance with the Procurement Code and Guidance.

Local Authorities are under a general Duty of Best Value to *"make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness."*

Under the Duty of Best Value, therefore, authorities should consider overall value, including economic, environmental and social value, when reviewing service provision.

14.3 'Committee'

A Committee of the Council as defined in the Articles of the Constitution.

14.4 'Civil Emergency'

A Civil Emergency is an event which triggers the implementation of the Council's Civil Emergency Plan.

14.5 'CLT'

The Corporate Leadership Team.

14.6 'CMT'

The Corporate Management Team.

14.7 'Consultant'

Someone employed for a specific length of time to work to a defined project brief with clear outcomes to be delivered, who brings specialist skills or knowledge to the role.

14.8 'Contract'

A Contract for the purposes of this Procurement Code shall be any agreement In Writing between the Council and one or more other parties in respect of:-

- a. the acquisition of goods, works and services as such are defined in EU procurement law;
- b. the disposal of goods so defined; and includes an agreement with the financier, or any insurer of or trustees for the financier of a kind described in Section 1(2) of the Local Government (Contracts) Act 1997.

14.9 'Contract Management'

The proactive monitoring, control and management of all activities necessary to ensure a Supplier delivers the goods, works and / or services required by the Council as defined in the contract.

14.10 'Contract Manager'

The named Council Officer who is responsible for managing a contract from inception to completion.

14.11 'Contract Value'

For the purposes of the Procurement Code, Contract Value means the total Contract Value, or total estimated Contract Value including all payments of any kind and all options to extend the Contract. The Contract Value will determine the procurement procedures that shall be applied.

- a. The Contract Value shall not be reduced by disaggregating the goods, services or works into smaller Contract lots to avoid application of the appropriate Procurement procedures.
- b. Where goods, services or works are procured over a period of time by separate transactions from the same Supplier where there is no Contract, the estimated value of 12 months supply of goods, services or works shall be regarded as the total Contract Value and shall determine the procurement procedures that shall be applied.
- c. Where an extension of an existing Contract is required but is not provided for in the original Contract, the total Contract Value shall be the total estimated value of goods, services or works for the period of the original Contract plus the required Contract extension period.

14.12 'Council'

The 'Council' means Worcester City Council.

14.13 'EC Rules'

The Agreement on Government Procurement (GPA) entered into under the auspices of the World Trade Organisation; the European Community Treaty (EC Treaty) and any relevant regulations, directives or decisions of the European Community; any Acts of Parliament or statutory instruments implementing the aforementioned for the time being in force in the United Kingdom; and any relevant judgements of the European Court of Justice or the UK courts.

14.14 'E Procurement Portal'

A public sector electronic procurement system which is fully auditable.

14.15 'EU Threshold'

This is the procurement threshold values that determine the application of the EC Rules pursuant to the application of this Procurement Code.

14.16 'Guidance'

Guidance includes any procurement training materials, reference guides or templates that may be issued by the Head of Procurement.

14.17 'In Writing'

The expression 'in writing' in relation to any communication includes an electronic communication as defined in the Electronic Communications Act 2000, and in relation to the conclusion of a Contract may include conclusion by electronic means provided that the Section 151 Officer and the Monitoring Officer have approved the means of conclusion and the conclusion of the contract or class of contracts in question by such means.

Where reference is made to 'records' and 'registers' these may be electronic in form provided that approval has been given in the same way.

14.18 'Most Economically Advantageous' [MEA]

The criteria for selecting a Supplier being equivalent to "[Best Value](#) for money".

14.19 'Monitoring Officer'

The Monitoring Officer is the Council's officer responsible for legal and democratic matters according to relevant local government law.

14.20 'Procurement'

For the purpose of the Procurement Code, Procurement means the act of selecting a Supplier for the provision of goods, services or works to the Council for an agreed sum of money.

14.21 'Purchase Order'

A Purchase Order is a document sent by the Council to a supplier indicating types, quantities, and agreed prices for products or services. Acceptance of a purchase order forms a contract between the parties.

14.22 'Quote'

For the purposes of this Procurement Code Quote means an offer with a Contract value less than £50,000 submitted in response to an invitation to quote issued in accordance with this Procurement Code.

14.23 'Register of Contracts'

The register of contracts entered into by the Council maintained in pursuance of this Procurement Code.

14.24 'Register of Tenders'

The register of Tenders received by the Council maintained in pursuance of this Procurement Code.

14.25 'Section 151 Officer'

The Section 151 Officer is the Council's officer responsible for financial matters according to relevant local government law.

14.26 'Shared Service'

For the purposes of this Procurement Code, a Shared Service is a service hosted by a local authority that is governed by a joint committee or by an administrative collaborative agreement under Section 101 of the Local Government Act 1972 and that is responsible for providing services to one or more local authorities including the Council.

14.27 'Supplier'

Supplier means a provider of goods, services or works to the Council for an agreed sum of money. Types of supplier include an individual, a partnership, a contractor, a company, a limited company, a charity, a club, an association or a local authority. This list is not exhaustive and may also include any other individual, organisation or legal entity that provides goods, services or works.

14.28 'Tender'

For the purposes of this Procurement Code Tender means an offer with a Contract Value equal to or in excess of £50,000 submitted in response to an invitation to tender issued in accordance with this Procurement Code.