

4.8 CONTRACT PROCUREMENT RULES

4.8.1 Introduction

(4) These Contract Procedure Rules (the Rules) provide a corporate framework for the procurement of all goods, services and works for the Council. The Rules are designed to ensure that all procurement activity is conducted with openness, probity and accountability. Above all, the Rules are designed to ensure both that the Council complies with the statutory framework and obtains value for money including the required level of quality and performance from all contracts that are let. Every contract for the supply of goods and services and for the execution of works made by or on behalf of the Council shall comply with these Rules and the Public Contracts Regulations 2015, [the Concession Contracts Regulations 2016](#), and [the Utilities Contracts Regulations 2016](#) as [appropriate](#) ("the Regulations").

Formatted: Indent: Left: 2.05 cm, Right: 0 cm, Space After: 8 pt, Line spacing: Multiple 1.08 li, No bullets or numbering

~~(2)~~(1) E-procurement procedures shall be used wherever possible. These include e-tendering, purchase cards, etc. Where appropriate e-auctions may be used, so long as provision is made for this in the advert. Requests for quotations, ~~pre-qualification questionnaires~~ [Selection Questionnaire](#) and invitations to tender should wherever practical be issued to tenderers by electronic means. Where e-tendering is utilised then this must be undertaken by way of the corporate e-tendering system which is managed on the Council's behalf by the Procurement Unit.

~~(3)~~(2) Before any tendering exercise is considered, reference must be made to the Council's procurement and equalities guidelines. The Council is committed to dealing fairly with all relevant discrimination groups as defined in the Equalities Act 2010. A failure to take into account special requirements for these groups in a tender would be a significant corporate failure, affecting the reputation and standing of the Council.

~~(4)~~(3) All procurement arrangements must ensure compliance with the Council's- responsibility in respect of the Freedom of Information Act, Environmental -Information Regulations 2004 and the Data Protection Act and the General -Data Protection Regulation.

~~(5)~~(4) Generally the rules set out in part 4.8.5 must be followed when procuring all good, services or works. Part 4.8.4 contains the exemptions to the normal rules.

~~(6)~~(5) Any employee who fails to comply with Contract Procedure Rules may be subject to disciplinary action.

Part 4.8 Procurement Rules
Last Updated May 2021

(7) Definitions of terms used in these rules;

Code of Practice Means the Council's Code of Practice for Procurement including accompanying guidance.

Contract Means any form of contract, agreement or other arrangement for the supply of goods, services or works.

Contracting/Commissioning Officer Means any officer who proposes to procure goods services or works.

DDL Means Dragonfly Developments Limited Company number 10314889 Registered office address The Arc High Street, Clowne, Chesterfield, Derbyshire, S43 4JY(a Company wholly owned by Bolsover District Council)

DMBL Means Dragonfly Management (Bolsover) Limited (DFM) Company number 14767220 Registered office address The Arc High Street, Clowne, Chesterfield, Derbyshire, S43 4JY(a Company wholly owned by Bolsover District Council and structured as a Teckal Company)

Goods Covers all supplies and materials that the Council purchases or obtains.

Senior Officer Means one of the following: Chief Executive, Strategic Directors, Assistant Directors and Heads of Service.

Services Includes all services which the Council purchases or obtains including advice, specialist consultancy work, agency staff, etc.

The Regulations means the Public Contracts Regulations 2015, the Concession Contracts Regulations 2016, and the Utilities Contracts Regulations 2016 and any statutory enactment of them

Threshold means the financial thresholds determined from time to time under the Regulations

Works Includes all construction and repairs in respect of physical assets (buildings, roads, etc.).

4.8.2 Compliance with Contract Procedure Rules

(1) The provisions contained in these Rules are subject to the statutory requirements of ~~both the European Union and~~ the United Kingdom. ~~The European rules will remain in place following Britain's departure from EU until at least 31st December 2020. A review of the legal requirements will need to be carried out following the end of the EU transitions period. However it~~ should be noted that the majority of Council contracts are below the ~~thresholds set by the EU and so will not be affected by~~ Brexit Thresholds. The letting and content of contracts shall conform ~~to with~~ the Regulations and all other statutory requirements ~~and be subject to any over-riding directives of the European Union relating to contracts and procurement. These Rules~~

~~(1)~~(2) The Regulations cannot be waived, since a failure to comply with legislation may result in a legal challenge with consequent reputational and financial risk. These Rules can only be waived in the circumstances listed in 4.8.4. If you are uncertain, advice should be sought from a member of the Procurement Service or Legal Services.

~~(2)~~(3) In estimating relevant contract values, officers shall have regard to the following rules regarding aggregation. The estimated or proposed contract value is the value or consideration for the contract as a whole (not an annual value) and any contract with an option to extend the contract period will be valued to include any provision for such extension period. For example, a three year option to extend for a further two years will be valued as the consideration for a five year contract.

Partnerships

(3) These Rules apply, in addition to other procurements, to any proposal for the Council to become involved in a joint venture or partnership, including the monitoring of any such arrangement.

Where Partnership arrangements, or working with other public bodies, are used in order to procure goods or provide services then consultation must take place with both the Director of Governance & Monitoring Officer and the Director of Finance and Section 151 Officer Head of Finance and Resources prior to entering into such arrangements. Such arrangements should only be pursued on the basis that appropriate approval from the Council's statutory officers and from appropriate Council bodies have been secured prior to any formal commitments being given.

4.8.3 Normal Procedure

(1) These Rules relate to five categories of procurement based on the estimated value of the contract:-

- (a) £1 to £1,000
- (b) £1,001 to £5,000
- (c) £5,001 to £25,000
- (d) £25,001 to £75,000
- (e) £75,001 to [EUthe relevant](#) Threshold
- (f) Over the [EUrelevant](#) Threshold

The specific rules for each of the above categories is contained in part 4.8.5 of these rules.

(2) In all instances, goods, services or works should be obtained via one of the methods outlined below:-

- (a) in-house services (for example, printing and design etc.)
- (b) established corporate contracts or framework agreements
- (c) request for quotation
- (d) Tender
- (e) framework contracts established by Purchasing Consortia or other Local Authorities (following advice from the Procurement Service)
- (f) for low-value purchases, Purchasing Cards can be used provided they are not used with the intention of undermining the use of approved or corporate contracts, or to circumvent the procedures set out within this document.

In considering whether to utilise any of the above options officers must take into account the fact that their use is subject to EU and/or UK Statutory requirements.

(3) **Orders and payments for goods, services and works shall be undertaken in accordance with the Financial Procedure Rules.**

Formatted: Tab stops: 1.75 cm, Left + 2 cm, Left

(4) Before entering into a contract, the ~~Contracting~~Commissioning Officer must:-

- (a) Be satisfied that a specification (where appropriate) that will form the basis of the contract has been prepared (the specification should be retained on the appropriate contract file held within the service), and
- (b) Have prepared and documented an estimate of the cost of the contract including, where appropriate, any maintenance and on-going costs (the estimate should be retained on the appropriate contract file held within the service), and
- (c) Ensure that all evaluation criteria have been determined -in advance, put into order of relative importance with -weightings for each element and published in the tender -pack; and
- (d) For contracts where there are clear risks, and for all contracts over £75,000, produce and maintain a documented risk register for the procurement process and for the eventual contractual relationship. As a minimum documentation should be maintained analysing all risks, identifying how they will be managed, and naming responsible officer(s).

(5) Before entering into a contract the ~~Contracting~~Commissioning Officer must:-

- (a) Be satisfied about the technical capability of such proposed contractor and be satisfied that s/he has the power and authority to enter into the contract; and
- (b) Ensure that these Rules have been complied with, and that the proposed contract represents value for money; and
- (c) For all contracts that exceed £75,000, the ~~Contracting~~Commissioning Officer shall undertake appropriate checks to ensure that the proposed contractor has the financial and resource capacity (taking account of contract value and risk) to perform the contract (unless the contractor has already been subjected to a recent satisfactory financial check). Financial vetting shall be undertaken by a designated financial officer, who shall advise on what, if any, security should be provided by the contractor.

Part 4.8 Procurement Rules
Last Updated May 2021

(6) Advertising;

All tenders shall be advertised [as required by the Regulations](#) and, ~~where appropriate~~, full details should be available ~~for download from the website~~ [electronically ~~http://www.sourcederbyshire.co.uk/http://www.sourcederbyshire.co.uk/~~](#). As part of the Government's Transparency Agenda details of all forthcoming contracts should be published on the Council's website at the earliest opportunity. Such details should be notified via email to the Chief Financial Officer. Where the contract value is above £25,000 details must also be published on the **Government's Contracts Finder website**. Details of such contracts must be provided to the Procurement Service who will arrange for appropriate advertising to be undertaken. ~~Again such communication should be via email.~~ Contract award notices shall ~~also be published on the website and on~~ [Contracts Finder](#) within 90 days of the contract being advertised.

Formatted: Strikethrough

Formatted: Strikethrough

Officers should consider whether the contract will be of benefit to other public sector bodies. If so, consideration should be given to including text along the following lines in the advert;

Formatted: Strikethrough

Formatted: Strikethrough

Formatted: Strikethrough

"Tenderers should be aware that although the contracting authority for the purposes of this procurement is Bolsover District Council, one or more other local authorities and/or public bodies from the Counties of Derbyshire ~~and~~ Nottinghamshire [DDL and DMBL](#) may choose to access the concluded contract, without creating any obligation on behalf of any of them to do so."

Such text should only be incorporated with the approval of the Procurement Service.

- (7) All ~~EU above Threshold public sector procurement~~ notices shall be referred, in advance of ~~sending to posting on the~~ [OJEU Governments Find a Tender website](#), to the Procurement Service to advise on wording.

Formatted: Font colour: Custom Colour (RGB(4,12,40))

- 8) Where the contract is over the ~~OJEU threshold~~ [relevant Threshold](#) the Council must offer unrestricted and full direct free of charge access online to the procurement documents from the date of publication of the notice ~~in OJEU on the Find a Tender website~~

4.8.4 Exemptions to Contract Procedure Rules (only applicable to below Threshold matters)

(1) In exceptional circumstances and subject to statutory requirements tenders need not be invited in accordance with these Rules in the following cases:-

(a) In the case of the supply of goods

(i) the goods or materials are proprietary articles and, no reasonably satisfactory alternative is available. A proprietary article is an item which the vendor has exclusive rights to sell.

(b) The work to be executed or the goods or services to be supplied are controlled by a statutory body and there is no reasonable prospect that works, goods or services can be executed or supplied by another statutory or ~~nonstatutory~~ non statutory body.

(c) The work to be executed or the goods or services to be supplied constitute an extension to an existing contract and it would not be in the interests of the service or the Council to tender the contract. -.

(d) The contract is for the execution of work or the supply of goods or services to be required so urgently as to preclude the invitation of tenders.

(e) The contract relates to commissioning of projects funded by external grant where, for example, there is no (or insufficient) marketplace to tender for the supply of goods, services or works required.

~~OR~~

(f) The contract relates to a project where there is no (or insufficient) marketplace to tender for the supply of (g) goods, services or works required

(h)

Formatted: Justified

Formatted: Justified, Indent: Left: 0 cm, Hanging: 1.27 cm, Tab stops: 3 cm, Left

Formatted: List Paragraph, Indent: Left: 0 cm

Formatted: List Paragraph, Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 2 + Alignment: Left + Aligned at: 4.55 cm + Indent at: 4.55 cm

A decision on whether any of the above exemptions applies shall be made only by a Senior Officer by a formal Delegated Decision. In making the decision the Senior Officer shall consult with the Procurement Service and the relevant Portfolio Holder.

Formatted: Indent: Left: 0 cm

~~(3)~~ (2) Tenders need not be invited where they have been undertaken by any consortium, collaboration or similar body, where the Council is able to access contracts. Officers should contact the Procurement Service to ensure that any contracts let by such a consortium, collaboration or similar body are in accordance with UK and EU procurement directives and regulations.

Formatted: Indent: Left: 0 cm, Hanging: 2.03 cm, No bullets or numbering, Tab stops: 3 cm, Left

~~(4)~~(3) Where the Council acts as lead body on a consortium or collaborative arrangement, the procedures for tendering contained within these Rules shall be followed.

(4)(i) For below Threshold matters all contracts may be awarded directly to DMBL without a Tender / request for quote process

4(ii) for above Threshold matters, subject to compliance with the conditions set out in Regulation 12 of the Public Contract Regulations 2015 contracts may be awarded directly to DMBL without a Tender / request for quote process

(5) For below Threshold matters contracts may be awarded directly DDL without a Tender / request for quote process at the discretion of a Senior Officer by a formal Delegated Decision. In making the decision the Senior Officer shall consult with the Director of Governance & Monitoring Officer and the relevant Portfolio Holder.

4.8.5 Contracting & Financial Guidelines

- (1) ~~Contracting~~Commissioning Officers should look to order goods and services that are required in-house or through a framework or consortium arrangement as illustrated in Rule 4.8.3.(2) If, however, the Council or the consortium providing them do not have the goods or services or resources available to meet the reasonable needs of

Part 4.8 Procurement Rules
Last Updated May 2021

the service or there is no suitable framework then an alternative supply may be sourced following the rules set out below. In these circumstances the authorised officer must record why the goods or services have been procured through other means, and retain a formal copy of that document. In all circumstances a purchase order must be issued as required by financial regulations.

- (2) It is good practice (for all but small value and routine purchases) to obtain a written quotation. For further information on this, please contact a member of the Procurement Service.

(3) Contracts £1 to £1,000

- Procurement of goods and services estimated to be for amounts up to £1000 shall be by oral or written quotation and preferably from at least three suppliers. There is no mandatory procurement involvement— [but any subsequent award of goods or services must be reported by the Commissioning Officer to the Procurement Service for noting on the Council's Contracts Register. There is a spreadsheet to record these purchases managed by Finance: S:\Finance and Revs&Bens\Finance BDC\PU B\BDC Quotation Database.](#)

Formatted: cf01

(4) Contracts £1,001 to £5,000

- Procurement of goods and services estimated to be for amounts in the range £1,001 to £5,000 shall be by written quotation from at least three suppliers. There is no mandatory procurement involvement. [but any subsequent award of goods or services must be reported by the Commissioning Officer concerned to the Procurement Service for noting on the Council's Contracts Register. There is a spreadsheet to record these purchases managed by Finance: S:\Finance and Revs&Bens\Finance BDC\PUB\BDC Quotation Database.](#)

(5) Contracts £5,001 to £25,000

- Procurement of goods and services estimated to be for amounts in the range £5,001 to £25,000 shall be by request for quotation (RFQ) from at least three suppliers. [Contracting Commissioning Officers should seek advice from Procurement prior to commencing the procurement Any subsequent award of goods or services must be reported by the Commissioning Officer concerned to the Procurement Service for noting on the Council's Contracts Register](#)

Part 4.8 Procurement Rules
Last Updated May 2021

(6) Contracts £25,001 to 75,000

Procurement of goods and services estimated to be for amounts in the range £25,001 to £75,000 shall be by formal request for quotation (RFQ) from at least three suppliers. Unless Procurement Services ~~advices~~ advises that a formal Invitations to Tender should be undertake. Details must also be published on the Government's Contracts Finder website, which must be done through the Procurement Service, as a mandatory requirement.

(7) Contracts £75,001 to ~~EU~~ the relevant Threshold

Procurement of goods and services estimated to be for amounts in the range of £75,001 to ~~EU THRESHOLD~~ the relevant Threshold shall be by formal open Invitation to Tender (ITT), ~~whereupon mini competition will be encouraged with all appropriate suppliers. For evaluation purposes,~~

~~a standing invitation to the evaluation meeting shall be made to officers from Finance, Legal) and Audit, along with the relevant Portfolio Holder or substitute and the appropriate commissioning officer advertised on Contracts Finder .~~

Formatted: Indent: Left: 2.58 cm, Hanging: 0.37 cm

8) Contracts ~~EU~~ having a value of the relevant Threshold ~~and/or~~ above

Procurement of goods and services estimated to be for amounts in the range ~~EU THRESHOLD~~ of the relevant Threshold AND ABOVE shall be by formal ~~open~~

Invitation to Tender (ITT) ~~managed through the corporate e-tendering system and advertised on the Find a tender website .~~

Where contracts of this value are undertaken then appropriate professional support must be secured from either the Procurement Service or from an appropriately qualified external advisor. Both the Director of Governance & Monitoring Officer and the Chief Financial Officer must be made aware of the position.

Formatted: Tab stops: 2.75 cm, Left

~~-~~ In considering whether or not a procurement exercise is subject to OJEU requirements caught by the Thresholds you must consult with Procurement Services. In particular you should consider whether extensions to a contract, or operating it for a period in excess of one year, will ~~breach OJEU financial limits, exceed the relevant Threshold~~ Where any contract has a value above or approaching OJEU the relevant Threshold limits it is the responsibility of the client officer to ensure that appropriate legal advice is secured throughout the tendering and contractual process.

Formatted: Not Highlight

(9) SME Participation

To facilitate SME participation in awards of contracts consideration should be given to dividing contracts into smaller lots where appropriate. Procurement Services will advise on whether a contract could be divided. Where a contract may be divided the relevant officer shall consult with a Senior Officer. If a decision is taken not to divide a contract into lots then the responsible officer must maintain a written summary of the reasoning underlying that decision.

4.8.6 Probity

- (1) In every instance appropriate written documentation must be retained together with the rationale for the decision making process. This documentation shall meet as a minimum the requirements specified in the 2015 Public Contract Regulations. In addition, any information that may be required for submitting annual reports to the Government or other agencies must be maintained.
- (2) Documentation in either paper or electronic format must be appropriately filed and retained for an appropriate period of time. The Council's Document Retention Policy will provide appropriate background guidance but ultimately the ~~senior officer~~ Senior Officer involved must determine the retention period.
- (3) All contracts for goods, services and works must be registered on the Contracts Register and the original contract documents held centrally and securely in Legal Services.
- (4) Tenderers may be offered a debrief, to assist them in preparing future bids. The ~~Contracting~~ Commissioning Officer should also keep a record of all debrief requests and responses.
- (5) In accordance with ~~EC Procurement Directive 2004/18/EC~~ the Regulations, any company responding to an ~~EU invitation to~~ tender shall be excluded from the tender process if it, or its directors have been convicted of; corruption, bribery, cheating the revenue, fraud or theft, fraudulent trading, an offence in connection with taxation, an offence under Counter Terrorism legislation or money laundering. Where a service has information relating to the above, contact Legal Services or the Procurement Service for advice.

Formatted: Strikethrough

4.8.7 Receipt and Custody

- (1) Tenders are managed by way of a corporate e-tendering system operated ~~on the Council's behalf~~ by the [Council's](#) Procurement Service. This provides a clear electronic audit trail of the tender process.
- (2) Responses to ~~pre-qualification questionnaires (PQQs)~~ [Selection Questionnaire \(SQ\)](#) and quotations (RFQs) are not deemed to be tenders and should be returned to the originating officer, either via hard copy or electronically via email or e-tendering system.

Formatted: Strikethrough

Formatted: Strikethrough

4.8.8 Opening and Evaluation of Tenders

- (1) Where e-tendering is used, all tenders will be submitted to and held in a secure electronic vault. This may only be opened by the Procurement Service after the due date for tenders has closed.
- (2) The lead officer of the evaluation team is responsible for ensuring that the team is adequately resourced to ensure compliance with the Public Contract Regulations and with accepted good practice. A report outlining the results of the evaluation process will then be presented to Executive, if necessary, to approve the award of the contract.

4.8.9 Extension of Deadline for Receipt of Tenders

Where a tender is submitted in competition and is received after the specified time then it shall be disqualified. Before the specified time has been reached, the [Director of Governance &](#) Monitoring Officer may determine whether to extend the deadline.

4.8.10 Acceptance

- (1) Contracts shall be evaluated and awarded in accordance with the evaluation criteria issued with the tender documentation. Only those tenders that comply with the evaluation criteria shall be considered for acceptance. Tenders must be evaluated on the basis of "most economically advantageous" tender (MEAT) that complies with the requirements of tender documents, is not excluded by virtue of Regulation 57 of the Regulations and meets the selection criteria.

Part 4.8 Procurement Rules
Last Updated May 2021

Cost-effectiveness and price quality ratio may be taken into account when determining MEAT.

- (2) A tenderer who submits a qualified or conditional tender shall be given the opportunity to withdraw the qualification or condition without amendment to the tender. If the tenderer fails to do so the tender must be rejected.
- (3) Prior to final contract award, the contractor must provide evidence of adequate insurance to cover both public and employers' liability, and produce such evidence during the life of the contract at the reasonable request of the authorised officer.
- (4) For all [above Threshold](#) procurements ~~covered by the EU Directives~~, a statutory minimum standstill period after the award decision is issued is required to allow companies an opportunity to challenge the decision. The standstill time depends on the circumstances and is set out in Regulation 87 of the Regulations.
- (5) A voluntary waiting period is operated for procurements below the ~~EU threshold~~ [relevant Threshold](#), at the discretion of the Procurement Service.
- (6) The notification of the award decision to unsuccessful bidders, based on the most economically advantageous tender, must be issued in line with the timescales of the standstill period and should contain:-
 - the award criteria
 - the reasons for the decision, including the characteristics and relative advantages of the successful tender and the score (if any) obtained by the recipient and the successful tender;
 - the name of the winning tenderer
 - confirmation of the dates and duration of the standstill period.

For all sub-~~OJEU threshold~~ [Threshold](#) contracts, the following details of contracts that have been awarded should be advertised on the

Contracts Finder website:-

Formatted: Font: 10 pt

Part 4.8 Procurement Rules
Last Updated May 2021

- name of contractor;
 - date contract entered into;
 - contract value;
 - whether contractor was SME or VCSE.
- (7) All contracts must be notified to the Procurement Service, including performance monitoring information, with a copy to the [HeadDirector](#) of Finance ~~and Resources~~.
- (8) All contracts with a value above the Key Decision threshold must be approved by the Executive. All other contracts may be authorised by ~~a~~ Senior Officer
- (9) Where a contract is awarded via a delegated decision following a procurement exercise, the procurement process carried out and the results of the procurement will be published to Members along with the delegated decision notice.

4.8.11 Nominated/Named Sub-Contractors and Suppliers

It is recommended that contracts are awarded to a single entity or lead contractor, who in turn will take contractual responsibility for the performance (and risks) for all sub-contractors and supply-chains. This reduces the risk of the Council becoming party to disputes between contractors.

4.8.12 Engagement of Consultants

- (1) The Council may only appoint external consultants or advisors providing professional or consulting services if such services are not available within the Council or if Council officers providing them do not have the resources to meet the needs of the service. Where such services are available in-house, the [ContractingCommissioning](#) Officer must consult with a Senior Officer before taking any decision to make an external appointment.
- (2) Consideration should be given to using appropriate framework agreements for business, professional, and ICT consultancy services. Advice should be sought from the Procurement Service.
- (3) External consultants and technical officers engaged to supervise contracts must follow these Rules as applicable and their contracts for services must state this requirement.

Part 4.8 Procurement Rules
Last Updated May 2021

- (4) Procurement plans and/or tenders prepared by external consultants on behalf of the Council **must** be referred to the Legal Services and Head of Finance and Resources for approval and advice and the relevant Portfolio Holder be informed.
- (5) The [ContractingCommissioning](#) Officer is required to submit a Request for Service form (found on the intranet) to the Procurement Service in respect of all consultancy and advisor contracts where the value of the contract is above £5,000. In estimating relevant contract values, officers shall have regard to the rules regarding aggregation-see rule 4.8.2.
- (6) All contracts for external consultants and advisors shall explicitly require that the consultants or advisors provide without delay any or all documents and records maintained by them relating to the services provided on request of the authorised officer, and lodge all such documents and records with the [ContractingCommissioning](#) Officer at the end of the contract.
- (7) The [ContractingCommissioning](#) Officer shall ensure that any consultant working for the Council has appropriate indemnity insurance.

4.8.13 Contract Conditions

4.8.13.1 ~~All~~Subject to compliance with the financial thresholds for contract formalities set out in 4.8.17 all commissions for goods works or services must be evidenced by means of either an official order, an award letter or a formal contract ~~for goods and services regardless of value shall~~ and shall specify:

- (1) the work, materials, matters or things to be furnished had or done;
- (2) the terms and conditions that apply
- (3) the price to be paid, with a statement of discounts or other deductions; and
- (4) the time, or times within which the contract is to be performed

Formatted: Indent: Left: 3 cm, Tab stops: 4.25 cm, Left

(5) Every contract over £75,000 shall be in a form approved by _____ Legal Services.

Formatted: Indent: Left: 3 cm, First line: 0 cm, Tab stops: 4.25 cm, Left

~~4.8.13.2 Where a contract is placed by means of an award letter this must be supported by referring to: either standard terms and conditions or terms drafted under the direction of the Director of Governance & Monitoring Officer~~

4.8.14 Extending Existing Contracts

- (1) Rule 4.8.4 (1)(c) enables contracts to be extended. The Contracting Commissioning Officer must ensure that there is sufficient budget available for the extension.
- (2) If the original contract was subject to the EU or FTS procurement regulations, the contract can only be extended if it meets one or more of the six statutory grounds as set out in Regulation 72 of the Regulations.

4.8.15 Performance Bonds and Guarantees

~~In, Where appropriate, the case of all contracts valued above £75,000 the authorised officer Commissioning Officer, shall determine,~~

Formatted: Font: Arial

Formatted: Font: Arial

~~(1) based on advice from the Head of Finance Director of Finance and Section 151 Officer, the degree of security (if any) required include provision in the Contract to protect the Council from a contractor default. This may be a parent company guarantee or performance bond or some other form of financial or performance guarantee. Such performance bonds should provide for a sum of not less than 10% of the total value of the contract or such other sum as the Director of Finance and Section 151 Officer Head of Finance considers appropriate~~

Formatted: Indent: Left: 1.62 cm, Right: 0 cm, Space After: 0 pt, Line spacing: Multiple 1.08 li, No bullets or numbering

~~(2)(1)~~ Where an order is placed with an in-house service and work forming part of that order is sub-contracted to an external company, then the provisions of Rule 4.8.15 (1) will apply.

~~(3)(2)~~ Where a performance bond and/or parent company guarantee is required, then the tender documents must provide for this.

4.8.16 Liquidated Damages

Part 4.8 Procurement Rules
Last Updated May 2021

Any contract which is estimated to exceed £100,000 in value or amount, and is for the execution of works, or for the supply of goods or materials by a particular date or series of dates, shall [where appropriate](#) provide for liquidated damages. The amount to be specified in each such contract shall be determined by a Senior Officer in consultation with Legal Services.

4.8.17 Further Information

(1) Agreements shall be completed as follows:-

Total Value	Method of Completion
Up to 75,000	Signature of an officer authorised to sign contracts
£75,001 and above	Sealed See (3) below

Total Value	Method of Completion
Up to £75,000	<p>The Corporate Director concerned must issue an official order, award letter, or such other contract must be made in such terms that have the prior approval of the Director of Governance & Monitoring Officer and be signed by at least one authorised officer</p> <p>the Head Director of Legal and Governance & Monitoring Officer (taking into consideration the risks involved) may deem an official order or simple contract inappropriate in any particular case, even where the value of the scheme is less than £75,000.00. In this case, the Corporate Director shall ensure that a formal contract</p>

Formatted: Not Expanded by / Condensed by

Formatted: Not Expanded by / Condensed by

Formatted: Not Expanded by / Condensed by

Formatted: Condensed by 0.05 pt

Formatted: Not Expanded by / Condensed by

Formatted: Not Expanded by / Condensed by

Part 4.8 Procurement Rules
Last Updated May 2021

under seal relating to the scheme is made in such terms that have the prior approval of the Director of Governance & Monitoring Officer

Corporate Directors may authorise, in writing, other officers to sign official orders or simple contracts on their behalf at a value agreed with the Chief Finance Officer ~~provided Corporate Directors that their officers have received relevant financial training as approved by the Chief Finance Officer.~~

Corporate Directors shall supply the names and signatures of signing officers together with the corresponding signing/ authorising limits to the Chief Finance Officer and Director of Governance & Monitoring Officer. Corporate ~~Director~~ Directors shall prepare and keep up-to-date a register of names and signatures of signing officers together with the corresponding signing limits, which shall be made available to the Director of Finance and Section 151 Officer ~~Chief Finance Officer~~ and the Director of Governance & Monitoring Officer upon request.

Corporate Directors shall ensure that:
(1) no official order or award letter ~~be~~ issued or formal contract made for a scheme which will commit Council to expenditure unless provision exists to finance that expenditure,

~~(2) only official order forms in a format approved by the Director of Governance & Monitoring Officer may be used~~

(3) each official order or formal contract ~~indicates clearly~~ award letter must set out

(i) the nature and quantity of the work, goods, materials or services,
(ii) the agreed value or price and provisions for payment, any trade or

Formatted: Expanded by 0.05 pt

Formatted: Expanded by 0.05 pt

Formatted: Not Expanded by / Condensed by

Part 4.8 Procurement Rules
Last Updated May 2021

	<p>cash discount or allowance, the time, or times, within which such order or contract is to be performed, together with any reference to a <u>(iii) the quotation, or tender when raising a purchase order including the official reference number under which the goods works or services were sought</u></p> <p>(Reference to these documents on a purchase order ensures those specific terms apply to the purchase, rather than the Council's standard purchase order terms of agreement) (4) each official order or supplier's form of order used to call off, draw down or make other similar arrangements where a formal contract in respect of such requirements is already made (whether such contract be under seal or a simple contract) contains full details of the contract in question, including as a minimum: the date of the contract, the names of the parties to it and a description of the works, supplies or services (as the case may be) which form the subject-matter of the contract</p> <p>(5) as soon as possible after any official order <u>or award letter</u> has been made the matter must be notified <u>notified</u> to the Procurement unit for noting on the Contracts Register.</p> <p>(6) a scanned copy of every executed formal contract is sent <u>must be provided</u> to the Senior Procurement Manager for storing on the <u>City Council's e-tendering system,</u> together with an electronic record of the names of the City Council and supplier contacts relevant to each such contract.</p>
--	--

Formatted: Condensed by 0.05 pt

Formatted: Expanded by 0.05 pt

Formatted: Not Expanded by / Condensed by

Formatted: Not Expanded by / Condensed by

Formatted: Expanded by 0.05 pt

Formatted: Indent: Left: 0.05 cm, First line: 0.25 cm

Formatted: Expanded by 0.05 pt

Part 4.8 Procurement Rules
Last Updated May 2021

<p><u>£75,001.00 and above</u></p>	<p><u>a formal contract under seal executed by both parties must be completed under the direction of the Director of Governance & Monitoring Officer</u></p> <p><u>Provided that these provisions shall not apply when the selected procurement route is by use of a framework agreement AND the framework terms and conditions provide that documents are to be executed as a simple contract and not as a deed</u></p>

Deleted Cells

Formatted Table

~~— Provided that these provisions shall not apply when the selected procurement route is by use of a framework agreement AND the framework terms and conditions provide that documents are to be executed as a simple contract and not as a deed~~

Formatted: Right: 0 cm, Space After: 0.5 pt, Line spacing: Multiple 1.08 li, Tab stops: 2.58 cm, Centred + 5.23 cm, Centred + 9.25 cm, Centred + 14.17 cm, Centred

(2) Signature

The Contracting/Commissioning Officer responsible for securing signature of the contract must ensure (1) that the person signing for the other contracting party has authority to bind it; and (2) they hold authorisation from the Council i.e. an Executive minute or a formal Delegated Decision or if below the DD limit (£50,000) a written authorisation from the Senior Officer— to commit the Council to the contract such authorisation must be provided prior to the document being submitted for signature by an approved signatory

(3) Sealing

Where contracts are completed by each side adding their formal seal, the affixing of the Council's seal will be attested by the Director of Governance & Monitoring Officer or anyone authorised by the Director of Governance & Monitoring Officer together with a Councillor.

Part 4.8 Procurement Rules
Last Updated May 2021

An entry of every sealing shall be made and consecutively numbered in a book kept for the purpose. The seal must not be affixed without the authority of the Council, Executive, a committee or under delegated powers. A contract must be sealed where:

- the Council may wish to enforce the contract more than six years after its end; or
 - the price paid or received under the contract is a nominal price and does not reflect the value of the goods or services;
- or
- where there is any doubt about the authority of the person signing for the other contracting party; or
 - the Total Value exceeds £75,000

(4) Archiving and lodgement of records

The original signed/sealed contract must be recorded on the Contracts Register and stored securely within Legal Services.

Formatted: Width: 29.7 cm, Height: 21 cm

Appendix A - Financial Thresholds and Aggregation Rule

Contract Value		Process	Award Procedure based on	Contract Opportunity Publication/Route	Documentation
From	To				
£0	£1,000	Oral quotation	Preferably at least 3 oral quotations	No mandatory procurement involvement	Employee identifying need to record details on quotation database.
£1,001	£5,000	Written quotation	Minimum of three written quotations	No mandatory procurement involvement	Employee identifying need to record details on quotation database.
£5,001	£25,000	RFQ (Request for quotation)	Quotations based on a RFQ document with simplified Ts&Cs	Advise to be obtained from Procurement Services before commencing procurement.	Must be based on a written specification provided to the supplier by the Council. Quotation may be delivered by e-mail or provided through an electronic RFQ system. Council Ts&Cs must be accepted.

Formatted Table

OFFICIAL-[SENSITIVE]

£25,001	£75,000	<p>RFQ (Request for quotation)</p> <p>Procurement may advise to undertake a formal tender in which case the procedure below should be followed.</p>	<p>Quotations based on a RFQ document with simplified Ts&Cs</p>	<p>Mandatory procurement involvement. Advertised in Source Derbyshire on Councils Website and the electronic RFQ system (INTEND). Contracts over £25,000 also published on the Contracts Finder website</p>	<p>Must be based on a written specification provided to the supplier by the Council. Quotation may be delivered by e-mail or provided through an electronic RFQ system. Council Ts&Cs must be accepted.</p>
---------	---------	---	---	---	---

OFFICIAL-[SENSITIVE]

£ 75,001	Up to EU Threshold as relevant Thresholds amended each year	Formal tender (report to Executive if over the Key Decision Threshold)	Full tender process	Mandatory procurement involvement. Advertised in Source Derbyshire Councils Website and on the Contracts Finder website , if appropriate -INTEND, Specialist publication if appropriate	ITT documentation as relevant with sealed bids which may be submitted via an electronic tendering process. Must be based on a written specification provided to the supplier by the Council. Council Ts&Cs must be accepted.
EU Above Threshold	above	Formal tender	Full tender process	Mandatory procurement involvement. QJEU , Advertised in Source Derbyshire on the Find a Tender Website the Councils Website , if appropriate INTEND, Specialist publication if appropriate	PQQ and ITT documentation as relevant with sealed bids which may be submitted via an electronic tendering process. Must be based on a written specification provided to the supplier by the Council. Council Ts&Cs must be accepted.

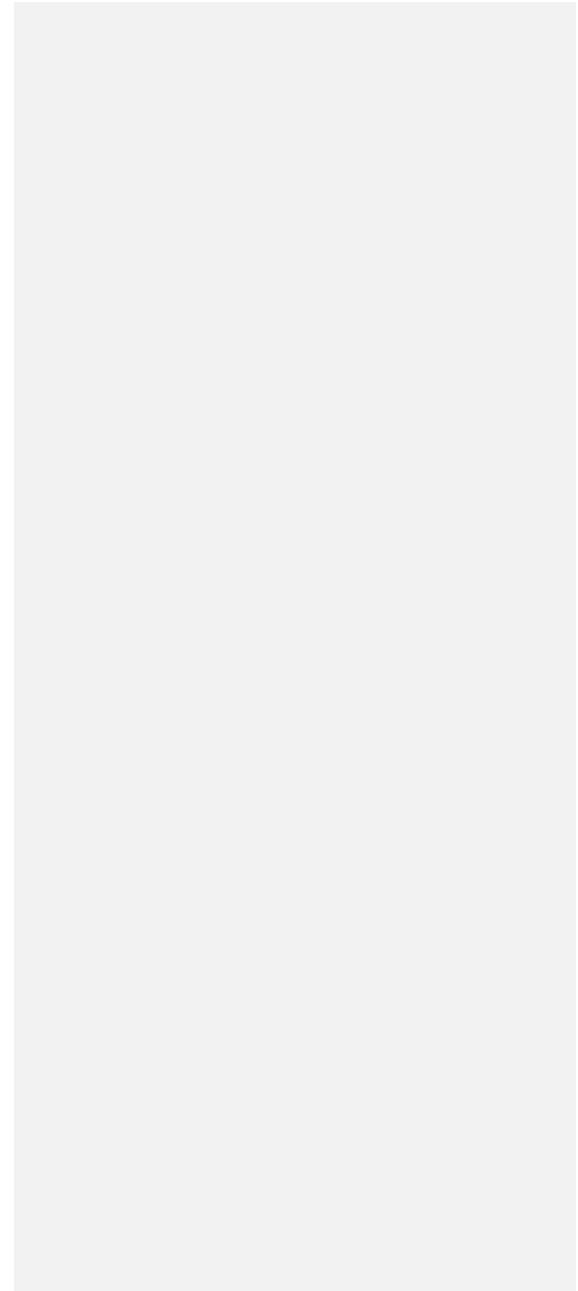
Formatted Table

NB The Contract Value shall be calculated as follows: The estimated or proposed contract value is the value or consideration for the contract as a whole (not an annual value) and any contract with an option to extend the contract period will be valued to include also any provision for such extended period (e.g. a three year contract with an option to extend for a further two years will be valued as the consideration for a five year contract).

Formatted: Font: Times New Roman, 1 pt

OFFICIAL-[SENSITIVE]

OFFICIAL-[SENSITIVE]



OFFICIAL-[SENSITIVE]

494 The calculation will be inclusive of VAT.

Formatted: Font: Times New Roman, 1 pt

Formatted: Left, Indent: Left: 1.06 cm

Formatted: Font: 1 pt

OFFICIAL-[SENSITIVE]