

ANNEX A



# **CORPORATE PROCUREMENT GUIDANCE MANUAL**



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# Corporate Procurement Manual

## **Section 1**

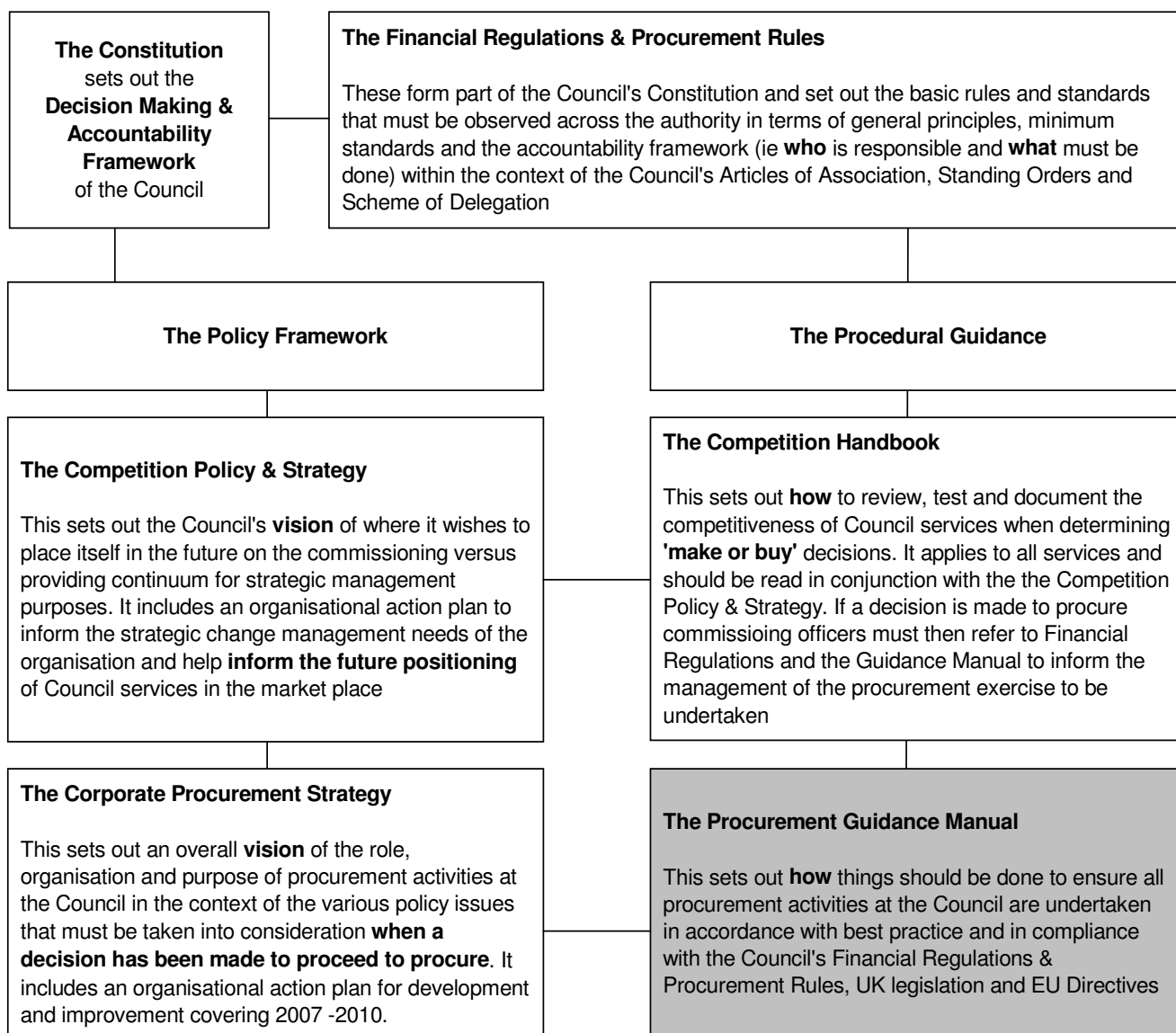
### Scope and Purpose

# Section 1 General Introduction

## Introduction

1. This manual provides practical advice and guidance on good practice procurement techniques, standards and legislation. It has been produced to help all involved understand what is expected when goods, services or works are being procured on behalf of the Council. The manual should be read in conjunction with the Council's financial regulations and understood in the context of the Council's Corporate Procurement Strategy and medium term action plan. Exhibit 1 below shows how the manual sits in relation to other key component parts of the Council's policy and decision making framework for procurement.

## Exhibit 1



- 2 All procurement carried out by the council, whether undertaken by officers, members or on behalf of third parties, must be conducted in accordance with Financial Regulations & Procurement Rules and Procedures and the guidance contained within this manual. This is important for the following reasons:
- To ensure compliance with the council's Financial Regulations & Procurement Rules and Procedures;
  - To ensure that the council obtains value for money in the way it spends money, so that it may in turn provide value for money services to the public;
  - To comply with the law governing the spending of public money; and
  - To protect staff and members of the council from undue criticism or allegation of wrong doing.

## Scope & Structure of the Manual

- 3 The manual is divided into six sections:

**Section 1** Scope & Purpose

**Section 2** Introduction: A guide to getting started

**Section 3** Best Practice Procurement

**Section 4** Guidance for Procurement up to £5,000

**Section 5** Guidance for Procurement Over £5,000 and less than £30,000

**Section 6** Guidance for Procurement over £30,000 and less than £144,371

**Section 7** Guidance for Procurement over £144,371



# Corporate Procurement Manual

## **Section 2**

Introduction: A guide to getting started

## What Does “Procurement” Mean?

- 1 Procurement can be defined as the “the acquisition of goods, works and services from third parties”. In essence it is about obtaining the best out of the marketplace. To achieve this requires the application of professional skills and techniques. Procurement is a broader term than “purchasing” as it includes alternative forms of acquisition such as hire, rental and leasing for example and concerns the entire process of acquisition. At a strategic level it plays an important role in challenging existing service delivery methods.

## The “Procurement Process”

- 2 When we talk about “procurement we tend to concentrate upon the actual buying activity, but in fact procurement concerns the whole process of acquisition. This process starts with the identification of a specific need and ends with that need being satisfied. An overview of the procurement process is provided at Exhibit 2.

## Legal Implications of Procurement

- 3 All procurement results in contract between buyer and seller. Be careful – a contract does not have to be formal document or be in writing to be valid. A conversation for example with a potential supplier could create a legally binding contract. Almost all commercial transactions are governed by contract law which provides both buyer and seller with legal rights.
- 4 If the procurement process results in an agreement with a body or organisation that is not part of the council, it is very likely that it will be a legally binding contract.
- 5 Council Financial Regulations & Procurement Rules and Procedures provide the framework by which all procurement must comply, whether the purchase is for supplies, services or works.
- 6 Council Financial Regulations & Procurement Rules and this manual cannot cover every eventuality. If you are unsure how to proceed seek advice from the Council’s Corporate Procurement Team.

## Initial Considerations

- 7 Lack of time and inadequate preparation are the main barriers to effective procurement. Ensure that you know the timescales involved in carrying out the required exercise and the amount of preparation that will be needed.

- 8 The first task is to consider your requirement:
- Evaluate whether there is a genuine need for the good/service;
  - Ensure that you understand your requirement fully and familiarise yourself with the market place;
  - Check if there is an existing Corporate Contract or Framework in place;
  - Calculate (or estimate, as appropriate) the total monetary value of your proposed contract over its entire duration;
  - Stop and think how to go about it;
  - Give yourself enough time;
  - Take an innovative and critical view of any traditional arrangements;
  - Ensure that you have the necessary budgetary approval;
  - Ensure that you are not duplicating someone else's efforts; and
  - Decide how to proceed;

## Deciding How to Proceed

- 9 It is important that you establish a best estimate of the total monetary value of your requirement at the outset of the procurement process. This is important as it identifies the processes that you must follow.
- 10 A flowchart is provided at Exhibit 2 to help you quickly find the guidance relevant to your specific needs. As some contracts will fall into the scope of existing Corporate Contracts a list of these is provided at Appendix 1 for quick reference. Use of corporate contracts will save you time, effort and money and must be used where appropriate to ensure compliance with Financial Regulations & Procurement Rules & Procedures.
- 11 If, as in the case of call-off contracts or framework agreements, there is no definite quantity within the contract, establish an estimated total value over the full contract period. Where no period is specified, the estimated value of the contract over four years should be used. To do this, add up the capital cost of the requirement and any ongoing annual costs and multiply the ongoing cost by 4.
- 12 Do not attempt to split up your requirements simply to avoid compliance with rules or legislation concerning value, this would not only be bad practice and breach the Council Financial Regulations & Procurement Rules and Procedures, but could also be unlawful.
- 13 When you know you want to purchase something, you should review the options open to you before you make a full and final decision. When considering supplies or services, the "make or buy" process

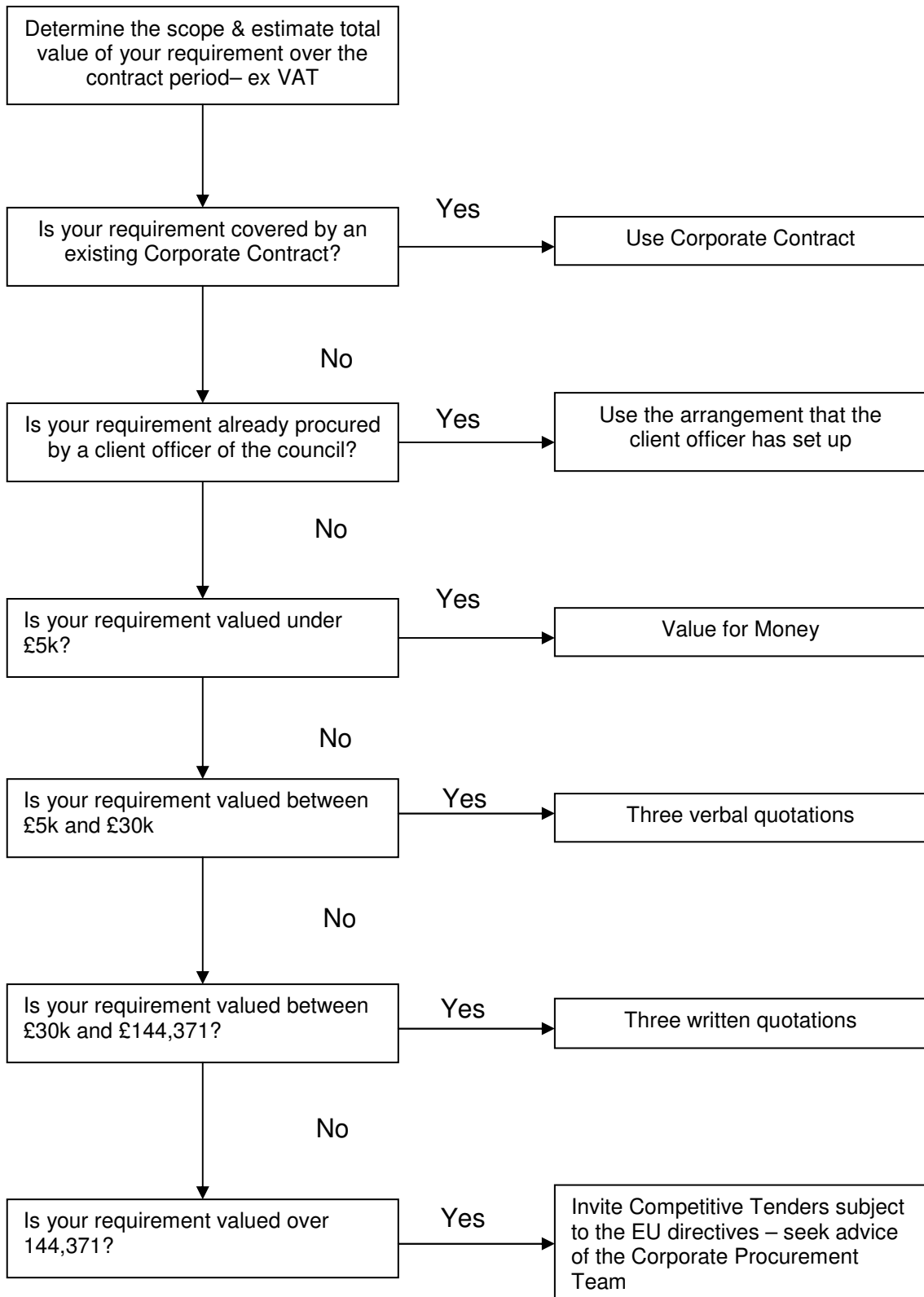
should be used. Where a decision is taken to acquire services, supplies or works in-house, further guidance should be sought from the Council's Competition Strategy.

- 14 Financial Regulation thresholds for Procurement processes are set out at Exhibit 1 below (Please also see Table 1, Appendix 2 of the Council Financial Regulation & Procurement Rules and Procedures)
- 15 These thresholds do not mean that the more robust higher value procedures cannot be used for lower value transactions – sometimes there may be commercial or other benefits to be achieved by following this approach. If you require further advice on this matter please contact the CPT.
- 16 Remember that even if you are procuring goods, services or works on behalf of another organisation, local authority, government body or agency, the requirements of Council Financial Regulations & Procurement Rules and Procedures and the guidance contained within this manual apply and must be followed.

<b>Exhibit 1</b>	
<b>Value</b>	<b>Regulations</b>
<b>Less than £5,000 – Value for money</b>	<p>There is a presumption that all procurement activity will ensure the Council achieves best value for money (VFM) and that contracts will be placed with the persons or companies who will offer best value for money in the execution of the contract. The test of VFM includes considerations of cost, quality, efficiency and effectiveness. Where the estimated value of a supply is less than £5,000, officers are expected to take all reasonable steps to secure VFM.</p> <p>The Procurement Guidance Manual sets out the kind of VFM considerations to be taken into account in decision making.</p>
<b>Over £5,000 and less than £30,000 – Verbal quotations</b>	<p>Where the estimated value of a proposed contract exceeds £5,000 but is less than £30,000 officers must seek and document at least 3 competitive quotes from persons/companies capable of executing the contract. Where the supply of goods, services or the execution of works is such that an existing in-house contract could be extended to include it the in-house contractor may be awarded the work on that basis provided it passes the test of reasonableness set out above and the value of the extension does not exceed 50% of the original contract value.</p>
<b>Over £30,000 and less than £144,371 – Written quotations</b>	<p>Where the estimated value of a proposed contract exceeds £30,000 but is less than £150,000 (or the EU threshold for tendering whichever is the lesser amount) officers must seek at least 3 written competitive quotes from persons/companies capable of executing the contract. Where the supply of goods, services or the execution of works is such that an existing in-house contract could be extended to include it there is no assumption that the work will be awarded to the in-house contractor. Instead, the in-house contractor may be invited to submit a quotation in addition to at least 3 other quotes being received from other suitable contractors. The commissioning officer is responsible for inviting quotations.</p> <p>And must ensure in doing so that:</p> <ul style="list-style-type: none"> <li>– the date and time by which quotations are to be received is clearly specified;</li> <li>– notice is given that the Council will require information relating to health &amp; safety and race relations/equalities considerations;</li> <li>– notice is given that the Council will require that the contractor complies with the Construction (Design &amp; Management) Regulations 2006 where applicable.</li> </ul>
<b>Over £144,371 – Invitation to tender</b>	<p>Where the estimated value of the contract exceeds £150,000 (or the EU threshold for tendering whichever is the lesser amount) the Council's formal tendering procedures must be observed along with all EU requirements. EU thresholds for competitive tendering fluctuate according to exchange rates. It is therefore crucial for all commissioning officers to check the relevant thresholds with the CPT if they are in any doubt and ensure they observe the relevant parts of these Rules before beginning any given tendering exercise.</p>

## Exhibit 2

### Deciding How to Proceed



## Corporate Procurement Team Contacts

<b>Contact</b>	<b>Tel.</b>
Head of Risk, Insurances and Procurement Services	Ext: 2261
Corporate Procurement Manager	Ext: 2930
Procurement Officer	Ext: 2941
CIPFA Trainee	Ext: 2939
Procurement Trainee	Ext: 2946
Procurement Assistant	Ext: 2957
Procurement Assistant	Ext: 2952

## Key Corporate Contacts

<b>Contact</b>	<b>Tel.</b>
Simon Wiles, Director of Resources (Chief Finance Officer)	Ext: 1100
Liz Ackroyd, Assistant Director, Audit and Risk Management (Chief Internal Auditor)	Ext: 1706
Suzan Hemingway, Head of Civic, Democratic and Legal Services (Monitoring Officer)	Ext: 1004

# Corporate Procurement Manual

## **Section 3**

### Best Practice Procurement





## Section 3 Best Practice Procurement

### Introduction

- 1 This section of the manual sets out procurement best practice to be followed for each procurement conducted. It sets out the principles to ensure an efficient and effective procurement route which obtains best value for the Council.

### Specifying the Requirement

- 2 The specification of your requirement is the most crucial document within the procurement process. The specification is your tool to evaluate whether the product or service is fit for purpose and delivers value for money. It is important to ensure that your requirements are clear, complete and reliable to enable tenderers to understand and respond to the documents quickly and accurately.

### Preparing a Specification

- 3 The following table provides guidance on how to prepare for writing a specification:

Identify your requirement	Give full consideration to the requirement
Assess the Risk	Assess the risk of a supplier failing to fulfil specifications against the risks of continuing with the existing situation
Determine the scope of your requirement	Include the likely demands on a supplier and the range of goods or services which will be required
Input/output specification	The Council promotes an output based specification.
Other Requirements to consider for your specification	<ul style="list-style-type: none"><li>- Environmental and sustainability issues to be addressed</li><li>- Health and safety requirements</li></ul> These need to be determined upfront and within the context of your requirement
Evaluation Criteria	Determine the evaluation criteria so that the specification clearly indicates the relative importance of each requirement. Consider whole life costing as part of this process.

## Writing the Specification

- 4 Detailed guidelines for writing a specification are set out in appendix 3 of this manual. Officers are advised to read this before starting their document.

## Sourcing your Suppliers and Market Sounding

- 5 Once you have checked that no suitable arrangement is already available within the Council (Corporate Contract, Framework), you will need to research and understand the market from which you will be buying. This can be done by identifying and talking to possible suppliers and accessing alternative sources of market information such as professional industry bodies etc. Do not under-estimate the value of stimulating market interest, but always ensure that those you talk to understand that ultimately there will be competition. Be careful not to give any undertaking that will compromise your independence, or otherwise allow any supplier to attain an unfair commercial advantage through your discussions. Market sounding can be a very useful process, however it needs to be very strictly controlled. Before you engage any suppliers in this exercise please contact the CPT for further advice.
- 6 Sources of information for potential suppliers include:
  - Internet (search engines);
  - Professional Bodies and Institutes;
  - Local & National Press;
  - Trade Press & Professional Journals;
  - Catalogues & Brochures;
  - Telephone & Supplier Directorates;
  - Other local authorities.

## Considerations for Quotation and Tender Documentation

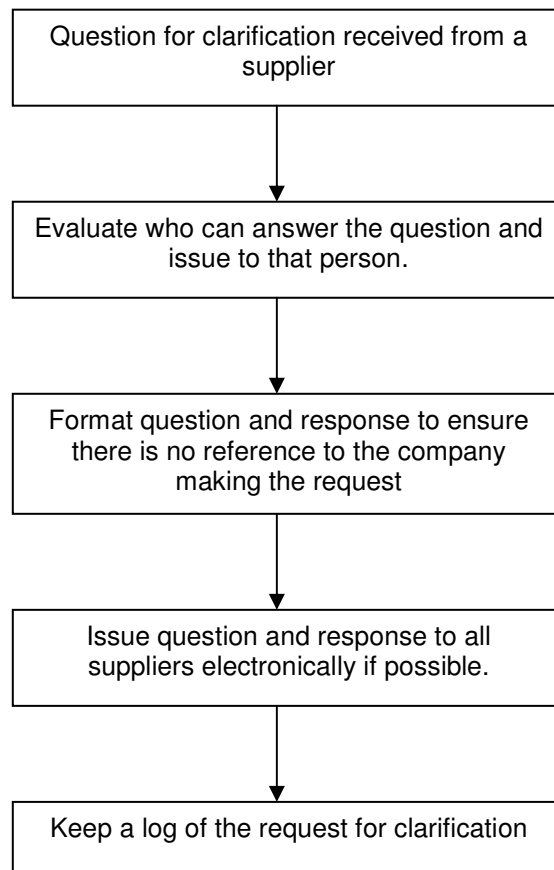
- 7 Your tender or quotation document will consist of the following:
  - Instructions to tender;
  - Format of tenders;
  - The evaluation criteria must be clearly stated in the tender; documentation in order of importance and will include the weightings that will be applied for each criterion;
  - An introduction to the Council and the Service
  - Background to the requirement;
  - Scope of the project/requirement;
  - An estimated timetable of the procurement process;
  - Your specification document, including any environmental and sustainability requirements;
  - Terms and Conditions;

- A pre – qualification questionnaire for tenders over £144,371
  - Freedom of Information clauses;
  - Contact information and procedure for clarification questions;
  - Form of Tender.
- 8 Your document needs to be issued with an appropriate invitation letter setting out briefly what is required, the closing date for submission of quotations/tenders and the address to return them to. The same documentation must be issued to all suppliers at the same time.
- 9 Standard documentation is available from the CPT for all of the above, and suggested invitation letters are annexed to this Manual at appendix 4. These documents will also be available via the Council's new Supplier Contract Management System (SCMS). The SCMS system will enable you to complete and issue the documents electronically directly to suppliers. CPT will issue further information about this system shortly.

## Dealing With Clarification

- 10 Once your documentation has been issued to the suppliers they may contact you with clarifications surrounding the requirement or the process. There is a strict way in which suppliers should be dealt with during this process to ensure that the procurement is transparent and fair to all involved.
- 11 You should set out in your tender or quotation document the clarification process that suppliers should follow. This should include:
- an email address to send questions;
  - the format in which you expect to receive the questions (CPT recommend that all questions are sent in a written format so that they can be tracked and recorded);
  - a paragraph highlighting to suppliers that all questions and answers are issued to all suppliers involved in the tender;
  - a closing date for submission of questions to allow all suppliers time to incorporate the clarification into their submission. This is usually a week before the closing date.
- 12 The clarification process that should be followed once you receive a question from a supplier is set out in Exhibit I below:

## Exhibit 1



## Evaluation of Tenders and Quotations

- 13 Evaluation is the process that you must undertake to identify which supplier has the product or service that meets your needs. In conducting an evaluation, which must be a fair, consistent and transparent process, you must consider whether the proposal provides best value to the Council. Where the procurement is not being sought on a straight forward Lowest Cost basis the processes for evaluating tenders is known within the Council as MEAT (Most Economically Advantageous Tender) for Tenders over the EU Threshold and MEAOw (Most Economically Advantageous Offer aWard) for all tenders or quotations below the EU Threshold.
- 14 Formal evaluations must be conducted on all Tenders and Quotations above and below the EU threshold.
- 15 All evaluation models must be referred to the CPT for consideration prior to the issue of the tender or quotation.

- 16 There is a formal two stage process to be followed in evaluating and awarding any contract:
- Selection - Prequalification stage (PQQ);
  - Tender evaluation & award.

## Selection Process

- 17 The purpose of the selection process is to identify a shortlist of suppliers who you believe are capable of carrying out the contract to the required standard and budget. This is achieved by issuing a pre qualification questionnaire (PQQ) to potential suppliers that requests information relevant to their:
- Eligibility in terms of insolvency, grave misconduct etc;
  - Economic and Financial standing;
  - Capability and capacity for the requirement and track record in providing similar services.
- 18 Information regarding the evaluation of the pre-qualification questionnaire and the relevant weightings to be applied to each area is attached in appendix 8. A standard PQQ can be obtained from the CPT.

## Tender Evaluation and Award

- 19 A structured formal approach to evaluation using a price/quality assessment is an important part of delivering best value to the Council. Financial regulations stipulate that you can not weight any evaluation more than 60% in favour of quality (60/40).
- 20 The split will vary depending on the nature of the product or service you are procuring. You must therefore give careful consideration to the most appropriate price/quality split in relation to the nature of the product or services being procured.

## Quality

- 21 The quality questions (both essential and desirable) around which the tenders will be assessed must form part of the Invitation To Tender (ITT) document along with their relevant weightings (or be in order of priority). Where tenderers meet all the essential criteria and especially where the prices are close, the 'desirable' questions can be used to identify value for money differentiations when making a decision as to who to appoint.
- 22 There is no definitive list of quality criteria, however it is critically important that the questions are meaningful and will add value to the

process. It is accepted that many of the questions will be qualitative however some questions may also have a more quantitative financial cost/saving which may be used as a basis for calculating price. Exhibit 2 below provides examples of both types of question that may be considered for inclusion, however they must be relevant to the contract you are awarding. The criteria shown within Exhibit 2 is not weighted or in order of priority.

- 23 Some of the questions in Exhibit 2 may have been included at the selection stage (PQQ). If no separate selection stage has been conducted (i.e. an open EU procedure or quotation then all of the criteria contained within table 1 need to be assessed). You can not include duplicated criteria i.e. you can not evaluate the same questions at both the PQQ and tender evaluation stage.

## Exhibit 2

Quality Evaluation Criteria	
Financial Standing	If not supplied in PQQ stage
Insurances	If not supplied in PQQ stage
References	If not supplied in PQQ stage
Acceptance of CYC terms and conditions	Terms and conditions of contract should be included at tender stage. Any changes to Terms need to be highlighted and a risk assessment completed
Capability	Qualitative
Capacity	Qualitative
Experience	Qualitative
Performance standards	Qualitative
After sales service	Quantitative *
Warranties	Quantitative *
Cost of Spares/availability of spares	Quantitative *
Inspection	Qualitative
Standardisation	Quantitative *
Training manuals provided	Qualitative
Management information	Qualitative
Sustainability/environmental issues	Quantitative *
Lifetime cost (including disposal costs) – Whole Life Costing	Quantitative *
Cost effectiveness	Quantitative *
Security of supply	Qualitative
Flexibility and development options	Qualitative

- 24 The asterisked entries in Exhibit 2 above show some of the questions forming the quality evaluation which may have quantifiable cost answers. In some cases these costs can be readily identified and included in the assessment while others may be of a more subjective nature.

## Non-Compliant Bids

- 25 Once tenders have been received, you may conduct a high level evaluation based upon the criteria in Exhibit 3 below to ensure that the responses received are compliant. You may exclude suppliers on the following grounds:



### Exhibit 3

<p>Non Compliance</p>	<ul style="list-style-type: none"> <li>• Have they completed the pre qualification questionnaire and tender properly</li> <li>• Has all the documentation requested been supplied</li> <li>• Has the document been signed.</li> <li>• Was the tender received in accordance with the deadline. (NB if a supplier informed you of a late arrival you can use your discretion about whether you accept however the bids you have received MUST NOT be opened until all the bids are received.)</li> </ul>
<p>Variant Bids</p>	<p>Variances of bids will be allowed to encourage innovation, however a core requirement with options for the variance must be transparent so that bids can be compared fairly.</p> <p>If there is a significant departure of what the authority is trying to achieve the variant bid maybe ruled out.</p>
<p>Abnormally low offer/bid</p>	<p>If one tender is received that is substantially lower than the other tenders this may pose a risk to the council as although it may seem VfM it may be masking a serious issue. If assessment of quality is a low weighting and/or price is the deciding factor, it is important to clarify why the price is so much lower. Reasons could be:</p> <ul style="list-style-type: none"> <li>• Misunderstanding of the requirement</li> <li>• Misunderstanding of the risks</li> <li>• Loss leader</li> <li>• Loophole seeking (i.e. supplier submits low price to win the business then may try to claw back the loss through interpretation of the contract)</li> </ul> <p>If you are satisfied through clarification no risk is posed, and it is VfM then you can award to the lowest bidder, however you may also exclude on grounds of abnormally low offer providing you have completed the clarification questions.</p>

### Price

- 26 To evaluate cost on a fair and transparent manor you must ensure that you are comparing bids on a like for like basis. The easiest way to achieve this is to include a pricing schedule within your tender or quotation document which explains to suppliers how to breakdown and identify key areas of cost. For example, services, goods and delivery.

- 27 Your cost criteria must also highlight the necessity to provide all relevant whole life costs to be taken into consideration. Further advice on whole life costing is set out in paragraph 36 below.

## Evaluation Panel

- 28 An appropriate tender evaluation panel must be established at tender specification drafting stage. It must be appropriate to the size and complexity of the procurement. The panel must be consistent, (i.e. no changes in membership) throughout the whole process and be made up of appropriately knowledgeable staff. The panel must have no fewer than 3 members.
- 29 For high value/risk procurements the panel must include staff with the following skills and knowledge:
- Understanding of the requirement (to assess the responses received against the requirement);
  - Market knowledge (to understand suppliers responses in context);
  - Business knowledge (to relate the responses received to the wider organisational aims i.e. relation between requirement and relevant strategies, other contracts and projects etc).
- 30 The CPT team should be kept informed of the process to ensure relevant knowledge of procurement law and policy are applied and are compliant with the constraints of EU Legislation.

## Scoring Quality and Price

- 31 There is currently no prescriptive advice on which evaluation model and technique is to be adopted. However, a formal scoring system should be used to allow an objective and informed decision to be made.
- 32 There are 2 recognised marking schemes these are:
- a numeric mark is given to each criterion and then multiplying each score by a weighting factor reflecting the relative importance of the respective criterion;
  - A qualitative assessment to determine the degree of compliance, the mark allocated reflecting the extent to which the proposal meets the requirement.
- 33 Scoring schemes must be appropriate to the complexity and importance of the criteria to be assessed. It must be usable and understood by the evaluation panel to ensure it remains transparent and consistent.

- 34 The scoring scheme must be consistently applied to all tenders and must have a degree of sensitivity built in. i.e score between 1-5 not 1-3 when scoring quality.
- 35 All evaluation models must be drawn up in consultation with the CPT (To comply with Financial Regulations) so they can ensure they are appropriate, fair and transparent. Guidance will be issued shortly by the CPT setting out the appropriate evaluation models to be used for scoring price and quality.

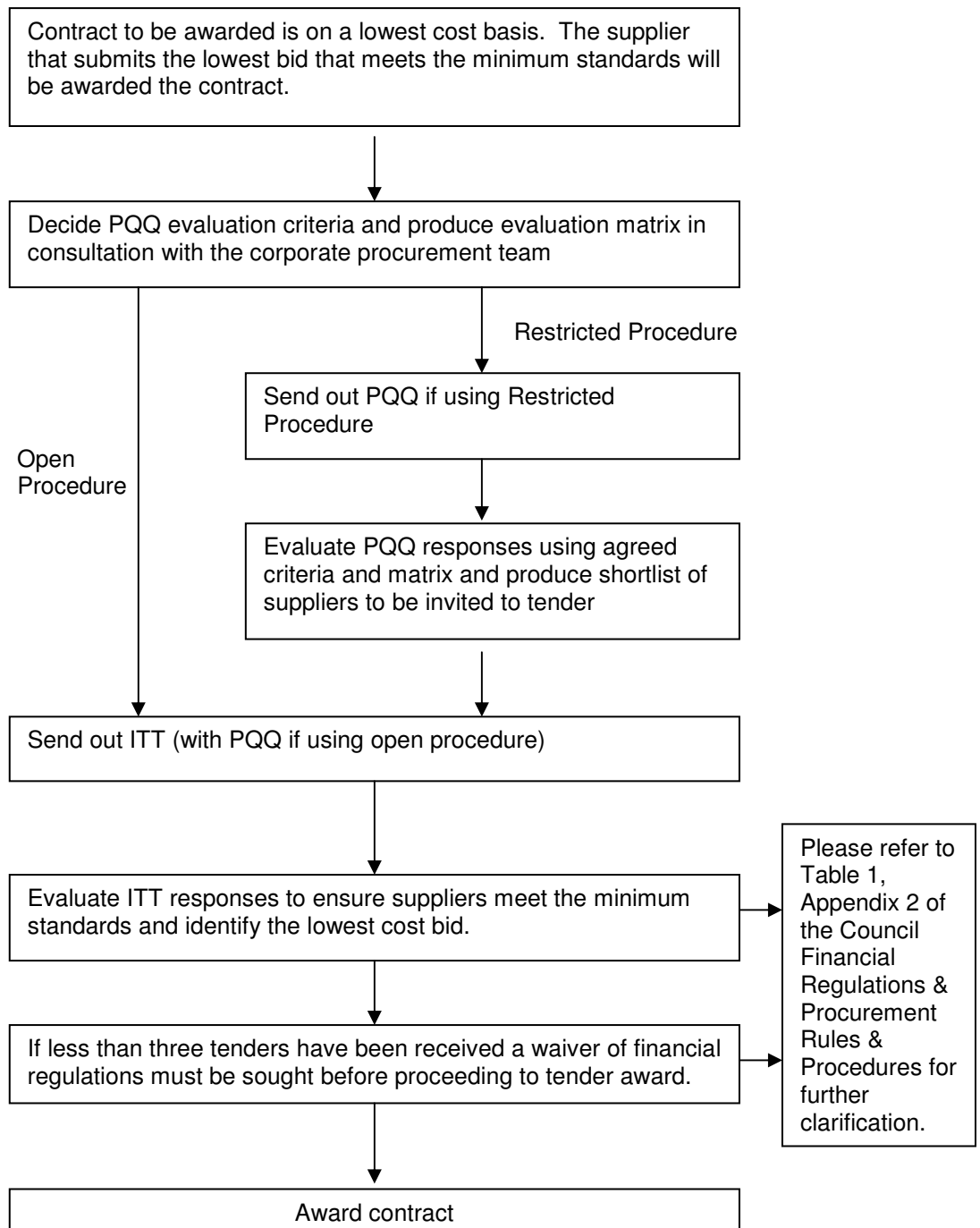
### Whole Life Costing Considerations

- 36 The evaluation of tenders should be performed in terms of whole life costs. The cost of using an item can be broadly divided into three categories:

Acquisition costs	Acquisition costs are incurred before the solution is ready for implementation
Running Costs	Running costs are incurred as a result of actually using it or keeping it available
Disposal costs	Disposal costs are incurred on disposal or when dealing with site contamination or other harmful effects. There may also be some income that will be realised on disposal if there are assets with a resale or residual value. This and any rental income when assets are not in use can be offset against the costs in determining the whole life cost.

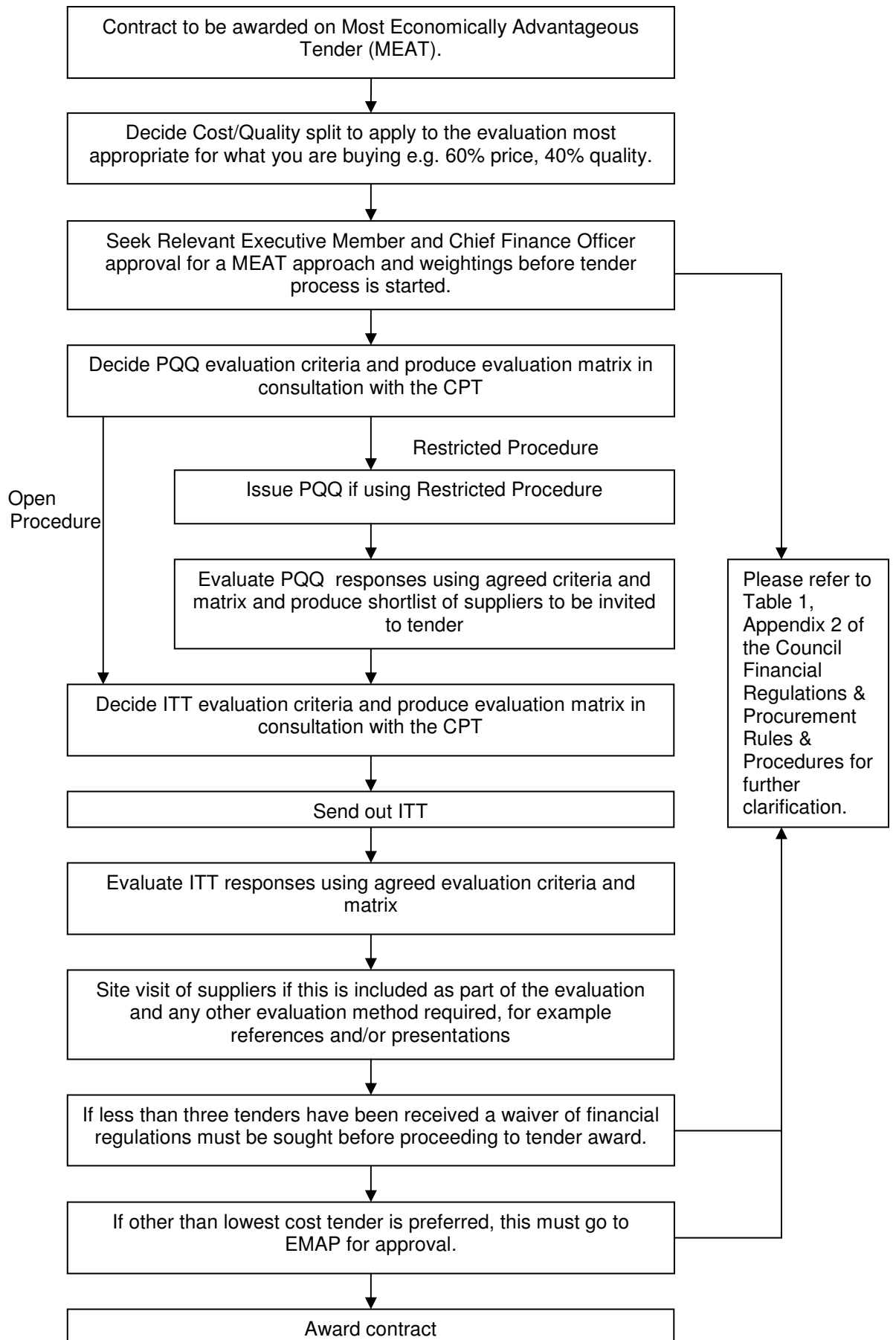
- 37 Detailed criteria should be published in the contract notice and contract documents, to ensure that all potential bidders have equal access to full information about the tendering procedure, including the evaluation criteria to be applied, and to enable them to improve the quality of their bids by adapting them to the actual requirement. The criteria for deciding which delivers the best vfm include quality, price, period for completion, running costs, profitability and technical merit.
- 38 The consideration of Whole Life Costing needs to form part of your tender specification and detailed guidance on how to do this is detailed in appendix 2.

## Evaluation Procedure for Procurement in Excess of £144,371 – Lowest Cost Evaluation

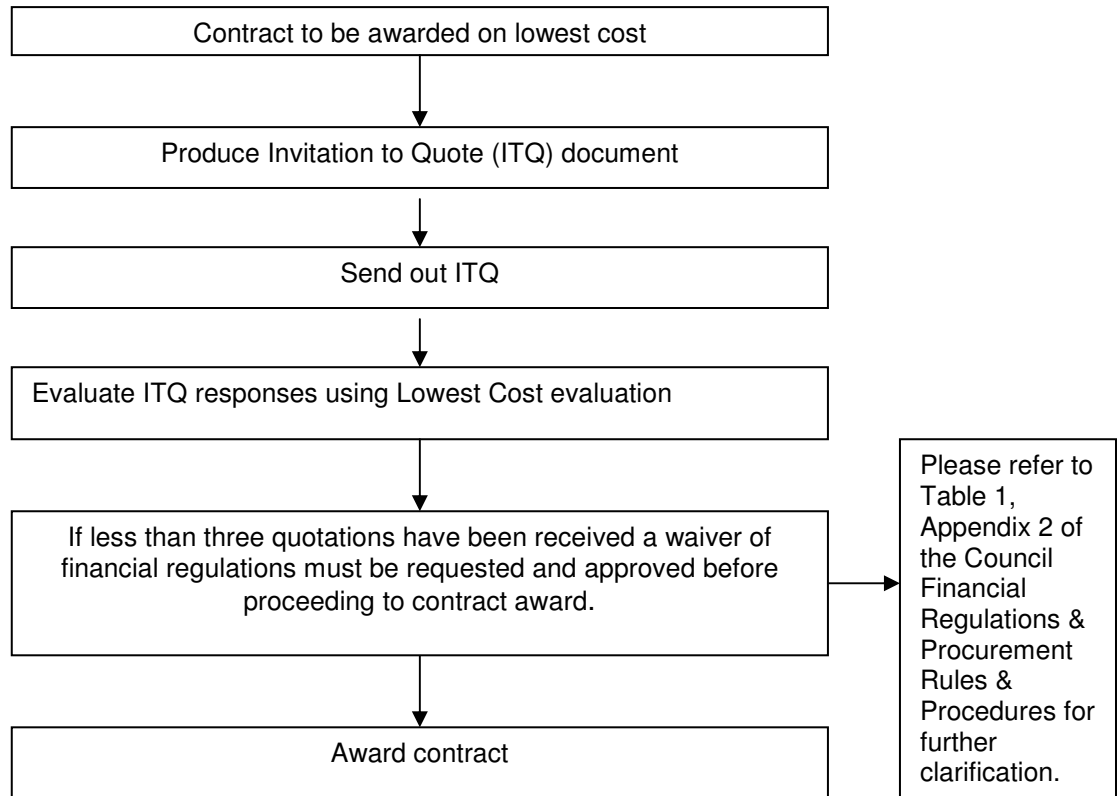


# Evaluation Procedure for Procurement in Excess of £144,371

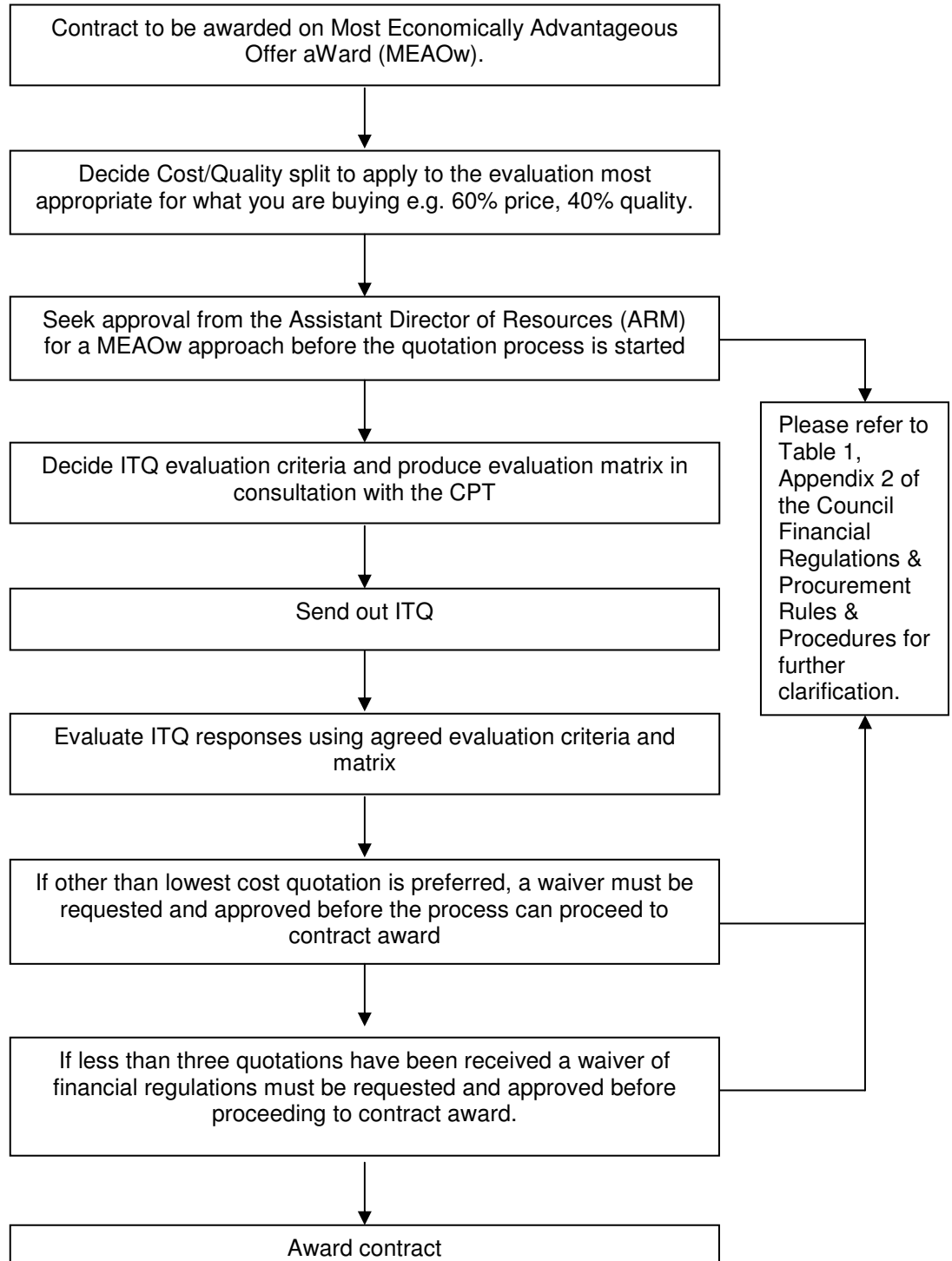
## MEAT Evaluation



## Evaluation Procedure for Procurement Over £30,000 and Less Than £144,371 Using the Lowest Cost Method



# Evaluation Procedure for Procurement Over £30,000 and Less Than £144,371 Using the Most Economically Advantageous Award (MEAOw)



## Receipt of Tenders and Quotations

- 39 All tenders and quotations under the EU tender threshold can be received by the officer conducting the exercise. However the following guidelines must be complied with to ensure fairness and that we are not open to challenge.
- Tenders must be requested to bear no identifying mark as to who the response is from;
  - Tenders to be delivered within the deadline, any tender received after the deadline cannot be evaluated (unless there are genuine mitigating circumstances, **and** the other tenders have not been opened);
  - Tenders to be kept in a secure place until you are ready to open them;
  - You must keep a tender register, which consists of the suppliers tendering, the date and time of opening, who is present at the opening and a witness;
  - All tenders to be opened at the same time and witnessed;.
  - All tender prices to be recorded at time of opening;
- 40 For all procurements that exceed the EU tender threshold (£144,371) the tenders must be sent to Legal Services. An elected member must also be present at the opening of the tenders. Legal services must be given prior notice before a tender is issued.

## Negotiation

- 41 During the procurement process you may be involved in negotiation. There are strict guidelines on what can be negotiated.
- 42 You **may not** negotiate:
- on price or enter into any sort of 'Dutch Auction', however you may clarify what is included for the price.
- 43 You **may** negotiate
- delivery and completion timescales;
  - Service Level agreements or performance targets;
  - Terms and conditions – although these must not be substantially altered from our standard terms;
- 44 However, throughout the negotiation process you must ensure that the outcome of the negotiations is substantially the same as the original tender requirements.

## Award of Contract

- 45 Once you have completed your evaluation, identified the successful supplier and completed your negotiation with that supplier you may



move onto contract award. Appropriate unsuccessful and successful letters are attached at appendix 6.

- 46 Unsuccessful suppliers should be provided with an appropriate letter informing them as to the broad reasons why their quotation or tender was unsuccessful. A debrief meeting may be offered in relation to high value contracts where a significant investment of supplier time and resource has occurred. The meeting will provide more detail about the evaluation process and the reasons why they were unsuccessful.
- 47 A supplier is notified of its success at 'preferred supplier' stage. This is the point after evaluation but before you have agreed terms and conditions. It informs the supplier of their status prior to the Alcatel period and agreement of Terms and Conditions. It ensures that no promises of a contract is made until the contract has been signed. A supplier may at this stage request a statement of intent. These must not be entered into without checking with the CPT or legal services first.

## Document Retention and Record Keeping

- 48 All records relating to the purchase must be kept up to date and provide an acceptable audit trail.
- 49 ITQ and ITT documentation and all corresponding documentation, e.g. contract documents, should be held for a minimum of 6 years.

## Freedom of Information

- 50 The Freedom of Information Act (Fol) applies to and is fundamental to procurement on several levels. The Fol Act puts an express obligation on Councils to provide information to members of the public who request information from public authorities, this includes suppliers who ask for information on contracts and tendering documentation. It is intended to promote a culture of openness and accountability in the public sector in general, and therefore improve public understanding of how public authorities carry out their duties.
- 51 All documentation that is issued to suppliers at pre-tender stage must include guidance on the Fol informing suppliers how the Fol Act applies to any information provide as part of a tender submission. This will provide clarification to suppliers about the data that we are legally obliged to publish any information that is exempt. Relevant procurement exemptions are shown in the Exhibit 3 below.

### Exhibit 3

Section of Fol Act	Exemption Description	Points to consider
S.40	Personal Information	<p>Information requested about a third party:</p> <ul style="list-style-type: none"> <li>• Does the request for data directly relate to an individual?</li> <li>• Is the data in the public domain? – if yes then it is not an exemption and is disclosable.</li> <li>• Remember not all information relating to an individual is considered personal.</li> <li>• Bidders C.V's etc may be considered personal data and would be exempt under the DPA, however if they are in the public domain (i.e. on the companies website) they are disclosable.</li> </ul>
S.41	Information Provided in Confidence	<p>Information is exempt if:</p> <ul style="list-style-type: none"> <li>• It was obtained by the public authority from any other person (including another public authority), and</li> <li>- the disclosure of the information to the public by the public authority holding it would constitute a breach of contract actionable by that or any other person</li> <li>- the duty to confirm or deny does not arise if, or to the extent that, the confirmation or denial that would have to be given to comply with section (1 (1) a would constitute an actionable breach of confidence.</li> </ul> <p>Note: that is something is supplied internally then it is not constituted as a breach of confidence.</p>
S.43	Commercial Interests	<p>Commercial interests is where the information provided is likely to prejudice or give unfair commercial advantage to the requester.</p>
S.44	Prohibitions of Disclosure	<p>Information that is:</p> <ul style="list-style-type: none"> <li>Prohibited by or under an enactment</li> <li>Incompatible with any Community obligation</li> <li>Contempt of Court</li> </ul>

52 All requests relating to Fol must be handled in accordance with Council's Fol policy.

53 During a Procurement exercise, the exemption that is most likely to apply is Commercial Interest. Should an FOI request be submitted

during a procurement exercise it is most likely that the information is not disclosable. However, you will still need to consider:

- whether a substantial prejudice is likely to occur if disclosure of any bidding information is released;
- public interest test – the public interest in conducting a fair procurement exercise rather than the public interest in knowing the information is in favour of withholding the information;

54 If you are at all unsure as to whether the information requested can be released seek advice from the CPT.

55 Disclosure once the contract has been completed is less likely to cause substantive prejudice. Therefore information can be disclosed subject to the application of the exemptions set out above. In any event public interest is likely to favour disclosure of details of the successful bid, and in some case the unsuccessful bids. Remember that the more time that has passed the less sensitive the information is likely to be.

56 Be aware that just because something is marked Confidential or Commercially confidential does not automatically mean that it is exempt from the act. You will need to apply public interest tests to the information in consideration of the exemptions above.

## Public Interest Tests

57 All FoI requests are subjected to the Public Interest Test. The principles of this test are set out below and must be considered before any exemption is applied.

- accountability of public money being spent;
- protection of the Public from unsafe products or rogue traders or practices;
- circumstances the information was received (i.e in confidence);
- FOI Competition issues;
- information to be provided in the tender documents;

58 Examples of Confidential information include:

- how prices are calculated;
- profit or loss on a particular item or service;
- trade secrets (e.g the coca cola recipe);
- technical business information;
- intellectual property;

59 It is important to consider that just because something is marked copyright this does not mean that it is exempt from the FoI. If the request is for an item that is under copyright then submitting the

information is not a breach of copyright, however any reproduction of the information is subject to copyright.

60 Examples of non confidential information include:

- price of an individual item or service;
- payment arrangements;
- performance measures;
- performance and financial arrangements;
- indemnities;
- liquidated damages and service credit clauses;
- clauses dealing with intellectual property rights;

61 The relevant FoI clauses to be inserted into tender documentation and contracts can be found at appendix 7 (if documentation not provided by CPT).

## Contract Management

62 It is important that once all relevant contract documentation has been completed a robust system of contract management is implemented. This ensures that all parties to the contract fully understand their obligations and fulfill them as efficiently and effectively as possible to maximise the Value of the contract to the council.

63 Good contract management should include:

- managing the relationship with suppliers;
- monitoring costs and volumes;
- reviewing and reporting on performance and service level agreements;
- managing a formal change control process;
- authorising payment;
- if dispute resolution and conciliation fails, applying the sanctions provided for in the contract, which may include termination;
- assessing and managing risk;
- encouraging continuous improvement;
- maintaining ethical standards;
- contingency planning;
- researching the market and benchmarking;
- ensuring that a management trail is maintained;
- managing the change from one contractor to another;

## Environmental & Sustainability Considerations

- 64 All procurement activities will be undertaken with regard to the need to ensure integrated, sustainable development and environmental issues. The headline principles of this are set out at Appendix 9 and policy at Appendix 10. The corporate procurement strategy covers the Councils approach in detail.
- 65 In summary CYC Environmental Policy requires procurement to consider the environmental impacts of the service, goods or contract being procured. The procurement goals of the CYC Environmental Policy are:
- to develop a comprehensive environmental purchasing policy which seeks to minimise the environmental impact of the goods and services we purchase;
  - to work in partnership with our supply chain suppliers to minimise the environmental impacts of our supply chain;
- 66 When considering purchase of any goods or equipment, it is important to consideration is given to the two hierarchies below:
- Waste hierarchy - Reduce, Reuse, Recycle;
  - Energy hierarchy - Minimise, Efficiency, Renewables;

## Call-Off Arrangements & Framework Arrangements

- 67 Call-off contracts and framework arrangements provide an efficient and effective means of procuring supplies and services that are required on a regular basis over a period of time. The benefits of using these frameworks are:
- they reduce timescales;
  - the suppliers are pre-approved (of a suitable quality and are financially stable);
  - the contract complies with the relevant EU regulations;
  - some of the frameworks have pre-negotiated rates with the suppliers;
- 68 The frameworks are formal agreements that simply set out the terms, prices and specifications agreed with the supplier. A framework arrangement is not in itself a contract, however, each order raised under it, once accepted by the supplier becomes an individual contract bound by the agreed terms. These types of arrangement typically run for a period of between 1 year and 5 years.
- 69 Under a framework arrangement no guarantees are given to the seller as to the minimum quantities that will be purchased by the buyer. A "Call Off" arrangement is similar to a framework arrangement but here the buyer specifies the minimum quantity that

they guarantee to purchase from the seller. Arguably the most competitive terms can be obtained through a call off arrangement, as the buyer is providing certainty in terms of the level of business they can expect, however the buyer is legally obliged to purchase the minimum quantity specified, whether it is required or not.

- 70 Detailed guidance on how to establish a framework arrangement or 'call off' contract can be obtained from the Corporate Procurement Team.

### Mini Competition under a Framework Agreement

- 71 Frameworks of suppliers have been set up by organisations such as YPO and the Office of Government Commerce (OGC). The suppliers on these frameworks have the benefit of being pre-tendered. However, if suppliers on these frameworks are to be used a 'mini-competition' should be run between all the Suppliers on the Framework who are capable of fulfilling the requirement to ensure compliance with the Council's Financial Regulations and EU Legislation. A 'mini-competition' process ensures that best value is achieved and that the supplier is appointed through a fair and open process. All mini competitions and the use of Framework agreements arranged by other bodies are still subject to the Council's Financial Regulations.

### Approved Lists of Suppliers

- 72 Where there is a regular or periodic requirement it may be decided to maintain an Approved List of suppliers to eliminate the repetitive application of the selection process. Approved lists are not pre-tendered and the rules of Aggregation under the EU Directives apply.
- 73 Approved lists require careful management as well as appropriate advertising and selection criteria. You should consider whether a more efficient and effective procurement solution is available. More detailed advice and guidance with regard to the use of approved suppliers can be provided by the CPT.

### Use of Consultants

- 74 If you are considering appointing a consultant the formal procurement process is still required to be undertaken. If you require further advice and guidance on the process of appointing a consultant please contact the CPT.

## Partnering

- 75 Where the Council is looking to enter a partnership for the procurement of Supplies, Services or Works even where the Council does not actually procure anything itself a competitive process should be undertaken for the appointment of the partner.
- 76 Where the value of the Supplies, Services or Works is in excess of the EU threshold this should be undertaken through the OJEU process to ensure full transparency and to comply with both Financial and European regulations.
- 77 In some circumstances the partnership may be involved in the disposal of Council land. It is important that 'best consideration' is achieved with regard to any 'disposal' and that the sale is appropriately advertised. Further guidance with regard to 'best consideration' will be issued in due course.
- 78 The Councils approach to partnership supports the use of the 2-stage tendering process used by Property Services for major construction projects. The expressions of interest for potential 'partners' to form the components of the 'construction team' must be sought through OJEU.
- 79 Where the project is below the European threshold Contract Procurement Rules (Financial Regulations) 7.1 provides the following advice:
- Officers shall ensure that, where proposed contracts, **irrespective of their Total Value**, might be of interest to potential candidates located in other member states of the EU, a sufficiently accessible advertisement is published. Generally, the greater the interest of the contract to potential bidders from other member states, the wider the coverage of the advertisement should be.*
- 80 Examples of where such advertisements may be placed include:
- the Council website;
  - portal websites specifically created for contract advertisement;
  - national official journals;
  - the Official Journal of the European Union (OJEU) even if there is no requirement within the EU procedures;
- 81 In the context of this manual the above advice is in relation to procuring a partner however it should be noted that Financial Regulations 7.1 applies equally to procuring any Supplies, Services or Works.

## Equalities, inclusion and ethical procurement

- 82 The Council is committed to ensuring equal opportunities, access and treatment for all. All procurement activity will be conducted in a way that is non-discriminatory and promotes equality of opportunity for staff, the public and business. The headline principles of this are set out at Appendix 9 and policy at Appendix 10. The corporate procurement strategy covers the Councils approach in detail.
- 83 The Exhibit 4 below provides a brief summary of the main points for consideration within the procurement cycle:

### Exhibit 4

Procurement Stage	Points to consider
Identifying your requirement	<ul style="list-style-type: none"> <li>• Determine if race equality is a core requirement.</li> <li>• Consult all users and potential users.</li> <li>• Evaluate existing provisions and identify improvements.</li> <li>• Document all race requirements that have been determined.</li> </ul>
Specification and Tender Documents	<ul style="list-style-type: none"> <li>• Include all race requirements in specifications and contract documents.</li> <li>• Consider whether specific contract conditions covering race might be included.</li> <li>• Provide clearly in the specification any race equality criteria that must be adopted.</li> </ul>
Selection	<ul style="list-style-type: none"> <li>• Check that the company has no known history of discrimination.</li> <li>• Check that the company has the ability to promote race equality in employment and service delivery.</li> </ul>
Evaluation and Award	<ul style="list-style-type: none"> <li>• Apply the relevant criteria relating to race equality bearing in mind the offer that provides best overall value for money.</li> </ul>
Contract Management	<ul style="list-style-type: none"> <li>• Check that the Contractors performance meets race equality requirements.</li> <li>• Help to alleviate any difficulties as and when they arise.</li> </ul>



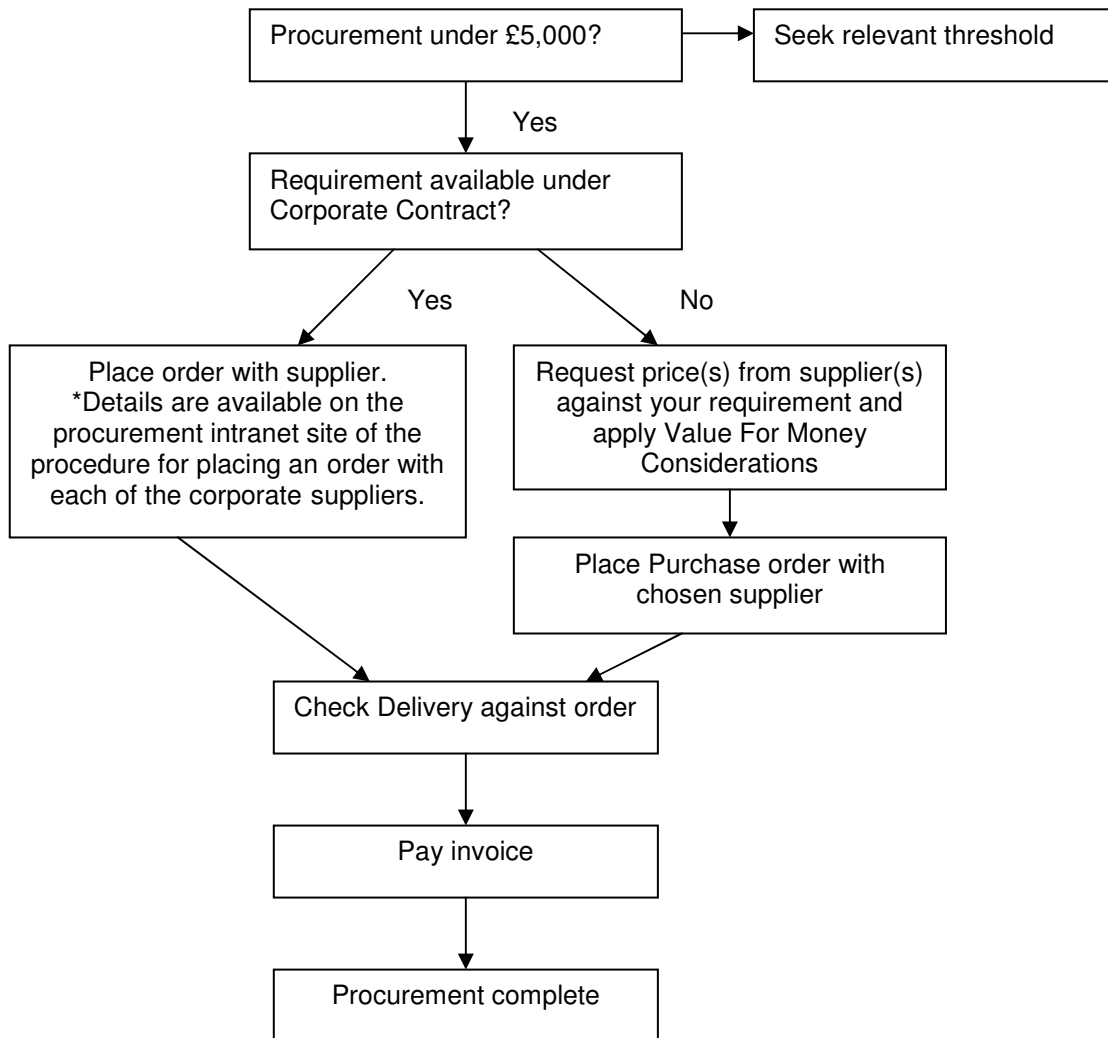
# Corporate Procurement Manual

## **Section 4**

### Guidance for Procurement under £5,000

## Section 4

### City of York Council Procurement Procedure for Purchases up to £5,000



### TIPS for Procurement up to £5,000

For all purchases below £5,000, make sure that:

- ✓ The product/service is not available through corporate contracts, or internal providers;
- ✓ A written official purchase order is placed specifying the requirement, agreed price, quantity, delivery and terms;
- ✓ The accepted offer is the lowest price consistent with specification and required quality (VFM); and
- ✓ Details of quotations are recorded for the audit trail.

# Corporate Procurement Manual

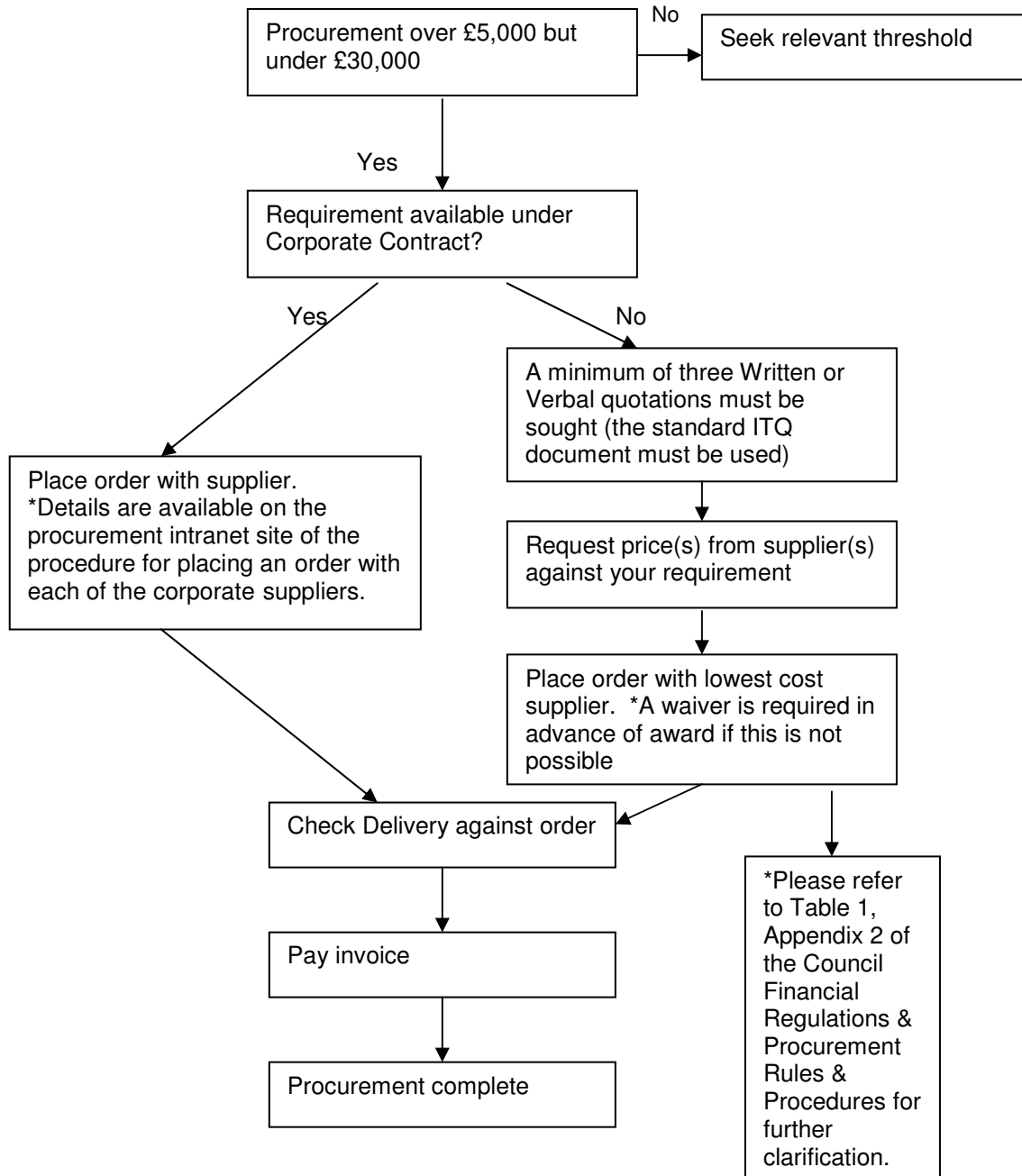
## **Section 5**

### Guidance for Procurement over £5,000 and less than £30,000

To be read in conjunction with Council Financial Rules and  
Procurement Rules and Procedures

## Section 5

### City of York Council Procurement Procedure for Purchases Over £5,000 and Under £30,000



## TIPS for Procurement over £5,000 and under £30,000

For all purchases over £5,000 and under £30,000, make sure that:

- ✓ The product/service is not available through corporate contracts, or internal providers;
- ✓ A written official purchase order is placed specifying the requirement, agreed price, quantity, delivery and terms; and
- ✓ The accepted offer is the lowest price;
- ✓ If other than the lowest cost is preferred a request to waive the financial rules must be made in advance of the award of contract;
- ✓ If it has not been possible to obtain 3 quotes a request to waive the financial rules must also be sought before the award of contract;
- ✓ Written details of quotations are recorded for the audit trail;

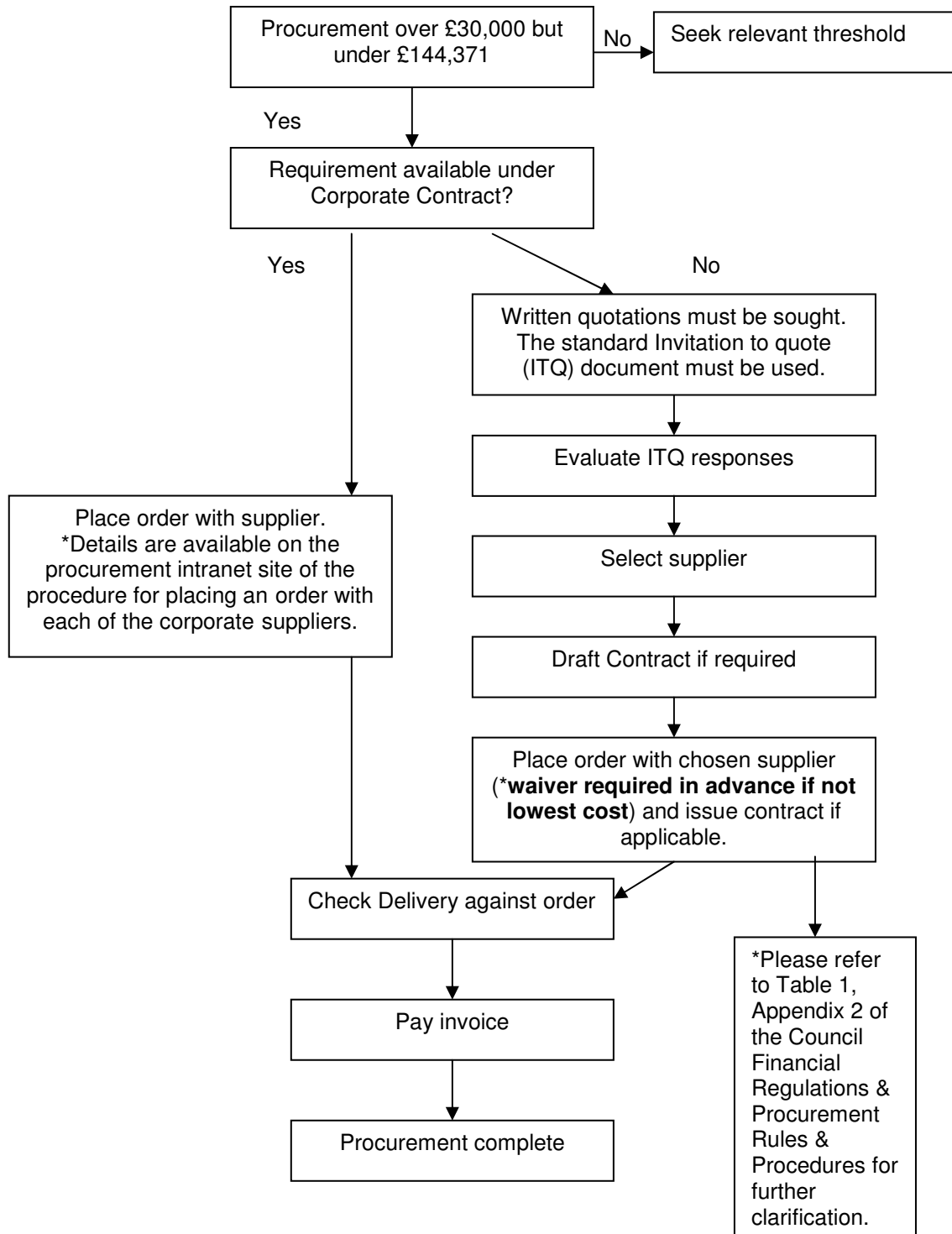
# Corporate Procurement Manual

## **Section 6**

Guidance for Procurement over  
£30,000 and Less than  
£144,371

## Section 6

### City of York Council Procurement Procedure for Purchases Over £30,000 and Under £144,371



## TIPS for Procurement over £30,000 and less than 144,371

For all purchases over £5,000 and under £30,000, make sure that:

- ✓ Invite at least 3 suitable companies to submit a quotation;
- ✓ Use an ITQ document;
- ✓ Try to invite quotations in a way which would enable them to be evaluated on a “like for like” basis in terms of specification and price. This will make the evaluation more straightforward;
- ✓ It is accepted that the use of electronic media such as fax or email can reduce the time taken to obtain quotations and these are permitted for use;
- ✓ Do not disclose prices that you have obtained to other competitors to see whether they can better them. While you may think this will give “best value”, it is considered bad business practice as it undermines trust in the procurement process;
- ✓ Quotations do not need to be addressed to Legal and Democratic Services. They may be returned to you;
- ✓ Keep quotes in a secure location – you are responsible for their safe custody;
- ✓ Remember as per the council Financial Regulations and Procurement Procedure Rules you should accept the lowest cost quotation. If you wish to accept other than the lowest quotation you will need to apply for a waiver to the Assistant Director of Audit and Risk Management;
- ✓ Remember to keep copies of the quotations for your audit trail;



# Corporate Procurement Manual

## **Section 7**

Guidance for Procurement over  
£144,371

## Section 6 Guidance for Procurement Over £144,371

### EU Procurement Regulations

- 1 The EU Procurement Regulations apply to all public sector bodies including local authorities. The regulations require set procedures and timescales to be applied to various categories of purchase where the value exceeds set financial thresholds unless there is a specific a specific exemption.
- 2 Failure to apply the rules may lead to a challenge from the European Commission or legal action in the UK . This may result in the council having to pay financial damages.
- 3 All procurements above the EU threshold must be conducted in consultation with Corporate Procurement Team. To comply with Financial Regulations any such exercise must be registered at least three months in advance of commencement with the:
  - Assistant Director of Resources (Audit & Risk Management);
  - Monitoring Officer;
  - Corporate Procurement Team;
- 4 The regulations have been designed to:
  - Increase opportunity to compete for public contracts across Europe;
  - Increase transparency of procedures and practices;
  - Ensure a common approach to supplier appraisal and to the tendering, evaluation and award of contracts; and
  - Establish audit trails and gather statistical information about public procurement in the EU;
- 5 Threshold applicable 31st January 2006 – 31 December2007 is £144,371.
- 6 This threshold applies to all contracts for the purchase, lease, rental or hire products with or without the option to buy, inclusive of the installation of the goods. The term ‘products’ includes utilities such as electricity, gas and water.
- 7 Hire or lease of equipment without an operator is considered to be supplies. Hire or lease of equipment with an operator is considered to be services contract.
- 8 Contracts for “off the shelf” software should be regarded as supplies. Contracts for bespoke software should be regarded as services.

## Services Contracts

- 9 Threshold applicable 31st January 2006 – 31 December 2007 is £144,371.
- 10 The regulations apply to public services contracts under which a person or organisation is appointed by a contracting authority to provide a service.

## Works Contracts

- 11 Threshold applicable 31st January 2006 – 31 December 2007 is £3,611,319.
- 12 Works contracts are those for the execution of building or civil engineering works, or for the design and execution of such works. Advice from the Corporate Procurement Team should be sought when deciding whether a contract classifies as works.

## Mixed Contracts

- 13 Where a contract covers a mixture of services and supplies, the element having the greater value will determine which regulations should be followed. A mixed supplies/works contract or services/works contract should be classified according to its prominent purpose. Mixed contracts relating to Works can be particularly complex and therefore advice should be sought from the Corporate Procurement team.

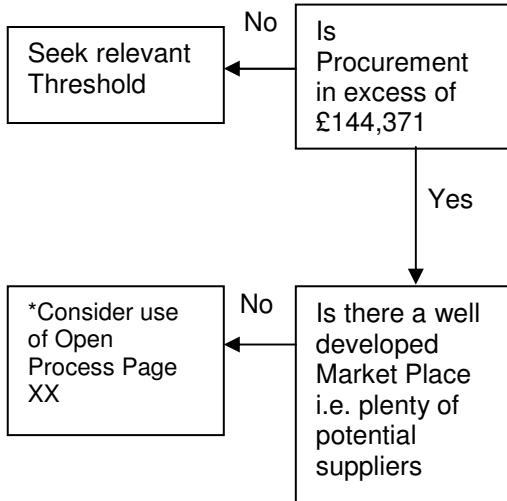
## Procedures

- 14 Within the EU directives there are 4 main types of procedure available these are, Open, Restricted, Negotiated and Competitive Dialogue . Each procedure has its advantages and disadvantages. The Negotiated and Competitive Dialogue procedures may only be used in certain circumstances. The procedures are the same for works, services and supplies.
- 15 The decision tree at Exhibit 1 below provides guidance as to the appropriate EU procurement route to be taken:

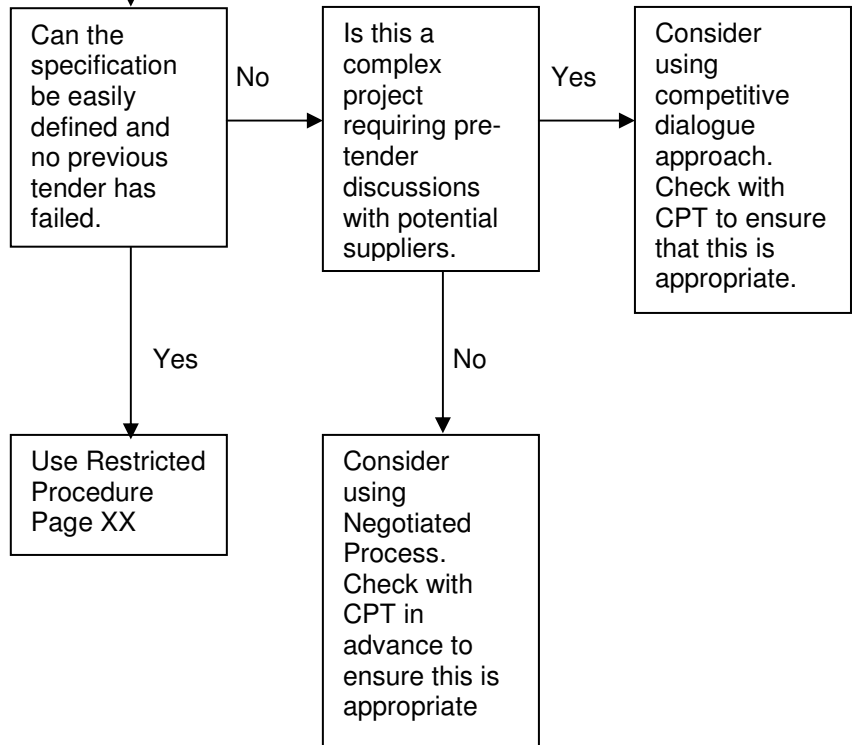
Exhibit 1

## EU Procurement Route Decision Tree

### Non-complex Procurement



### Complex Procurement



\* If the procurement involves a complex project or is difficult to define consider Complex Route.

- 16 Each of the procedures in Exhibit 1 are explained in more detail below. Where an EU procurement procedure is to be undertaken advice from the CPT must be obtained in advance as to the most appropriate procedure.

## Open Procedure

- 17 Under the Open Procedure (Exhibit 2) all applicants who respond to a Contract Notice may submit a tender. You must give not less than 52 calendar days from issuing of a contract to OJEU to the deadline for submission of tenders. Invitation to Tender documents must be sent to an applicant within six calendar days of receiving a request. A Contract Award Notice must be issued within 48 calendar days of the date of award.
- 18 Whilst timescales specified under the Open Procedure are shorter overall than those under the Restricted Procedure, all tenders received must be evaluated against the full range of award criteria. This can be burdensome if there is a high level of interest - It has been known for in excess of 20 tenders to be submitted in certain circumstances.

## Circumstances for Use of the Open Procedure

- 19 The Open procedure is usually used in the following circumstances:
- Your market place is limited and you wish to open the requirement up to maximum competition;
  - Your product is easily specified and you are looking for a standard product or service;
  - You are looking for a lowest cost tender where quality standards are easily specified in the tender documentation;

Advantages and disadvantages of the Open Procedure are:

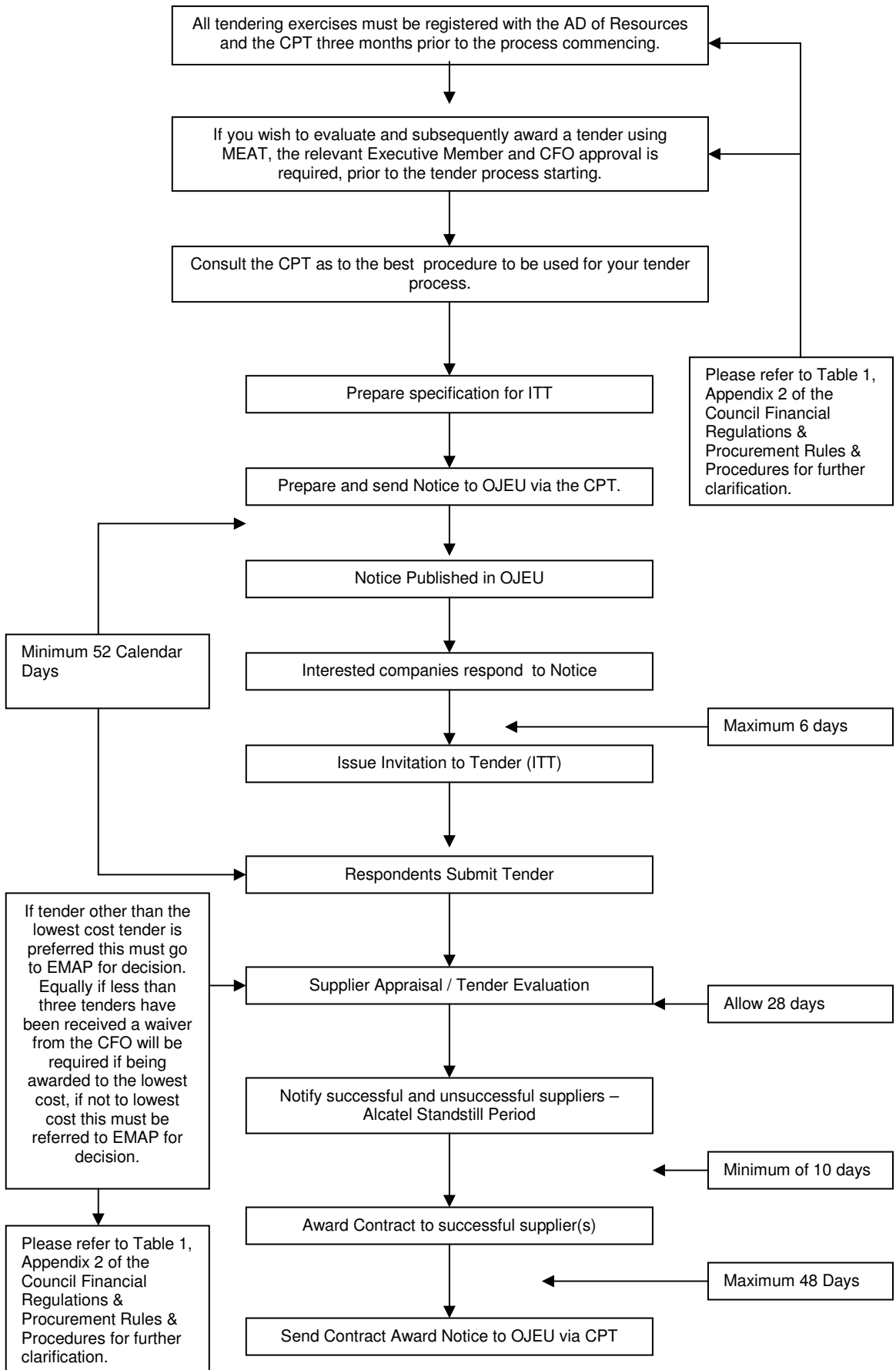
<b>Advantages</b>	<b>Disadvantages</b>
It allows for maximum competition	Timescales increase due to amount of evaluation
	Costly on resource to evaluate
	All tenders must be evaluated

## Tips for the Open Procedure:

- ✓ The time between submitting the OJEU notice and the tender return can be shortened to a minimum of 36 days if a prior information notice (PIN) has been issued for Works or Services provided the PIN appeared at least 52 days and not more than 12 months before the date of despatch of Contract Notice;
- ✓ Remember as per the council Financial Regulations and Procurement Procedure Rules if you wish to accept other than the lowest tender you will need to seek Member approval through the appropriate Member Fora e.g. EMAP;

**Exhibit 2**

**Open Procedure Process Flow Chart**



## Restricted Procedure

- 20 The Restricted Procedure (Exhibit 3) is a two stage process and is the most commonly used procedure. Under this process a Contract Notice is issued to OJEU and not less than 37 calendar days must be given for applicants to express an interest. Applicants are required to complete and submit a Pre-Qualification Questionnaire prior to the closing date. These Pre-Qualification responses are then evaluated and only the respondents passing the financial and economic standing assessment and appraisal of technical capability are invited to tender.
- 21 Once a short-list has been determined, invitation to tender documents are issued and not less than 40 calendar days must be given for these to be completed.

## Circumstances for Use of the Restricted Procedure

- 22 The restricted procedure allows you to ensure that all suppliers who are invited to submit a tender are able to fulfil the contract. It is used for most of the Councils requirements that fall within the EU Threshold. You will use the Restricted Procedure in the following instances:
- When there is a well established market place for your requirement and;
  - You are able to define your requirements;

## 23 Advantages and disadvantages of the Restricted Procedure

<b>Advantages</b>	<b>Disadvantages</b>
All short listed tenders are able to fulfil your requirement	There are 2 evaluations to conduct
Less tenders to evaluate therefore timescales and resource costs are reduced	

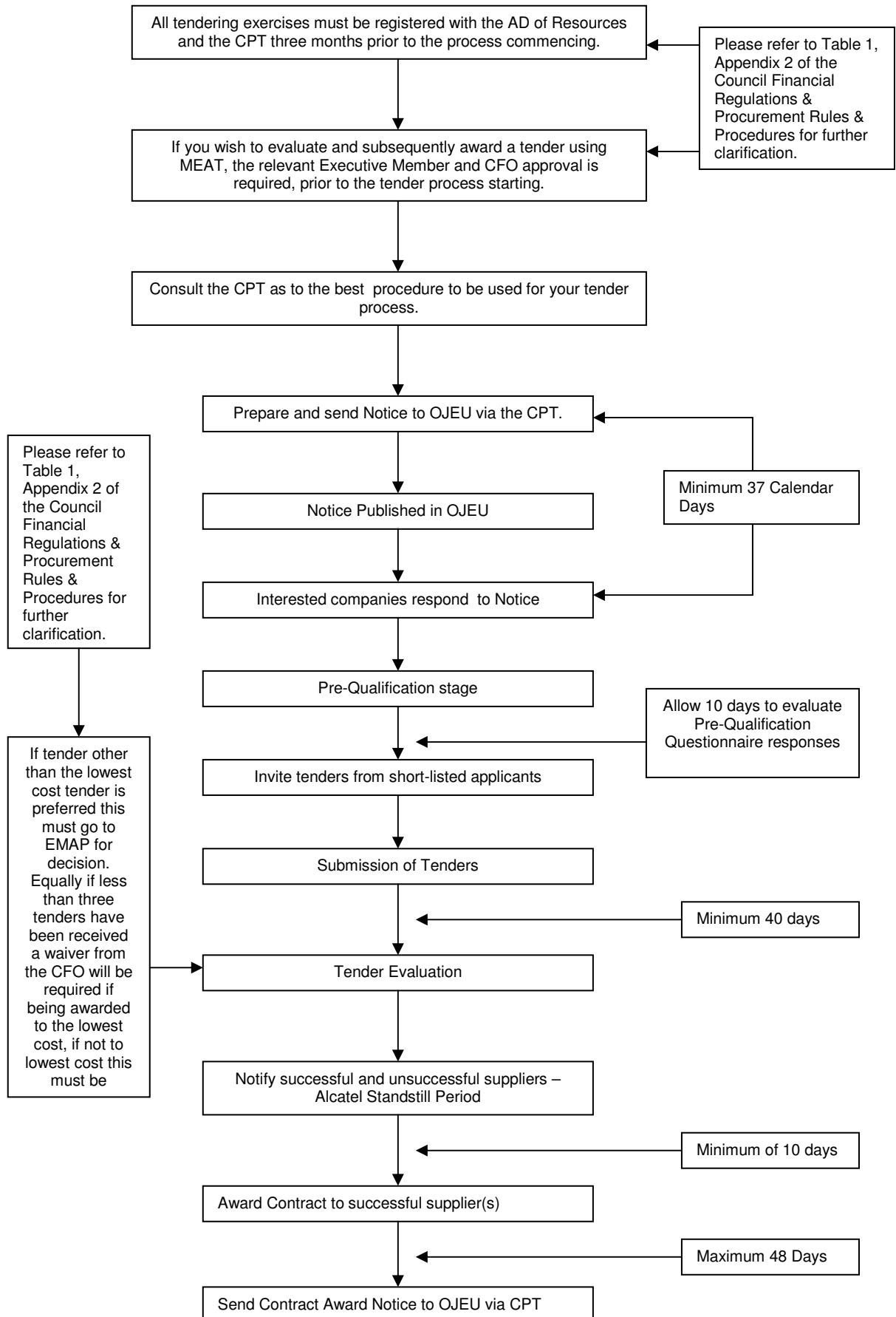
## Tips for the Restricted Procedure

- ✓ The time between issuing the Invitation to Tender and the tender return can be shortened to a minimum of 26 days if a prior information notice (PIN) has been issued for Works or Services provided the PIN appeared at least 52 days and not more than 12 months before the date of despatch of Contract Notice.
- ✓ Remember as per the council Financial Regulations and Procurement Procedure Rules if you wish to accept other than the lowest tender you will need to seek Member approval through the appropriate Member Fora e.g. EMAP.



### Exhibit 3

## Restricted Procedure Flow Chart



## Negotiated Procedure

- 24 There are two types of Negotiated Procedure (Exhibit 4): with the publication of a notice, and without the publication of a notice. There are very strict rules concerning the use of the Negotiated Procedure and very few contracts qualify.
- 25 Rules governing the advertisement are similar to those for an open and restricted procedures. Suppliers have a minimum of 37 days in which to respond to the OJEU notice.
- 26 At least 3 bidders are to be chosen to negotiate, you may negotiate with just 1 or 2 suppliers should the market place be very limited, however a financial waiver must be sought to continue on this basis. You are able to evaluate at this stage on:
  - Financial Standing;
  - Technical Requirements;
- 27 Criteria must be clear and not on proposed or likelihood of the bid at this stage.
- 28 You must conduct negotiations with each of the invitees with a view to concluding a contract. Remember you are looking for the most economically advantageous offer which will emerge from each invitee at the end of the period of negotiations.
- 29 It is required to state in the notice or contract/tender documents the precise criteria to be taken into account, so thought must be made to this when in the preliminary stages of the project.
- 30 There are no express rules on how to conduct negotiations. They could take the form of informal discussions or a tendering procedure, where you ask bidders to submit their own proposals and follow considerations of these proposals with either a formal tendering procedure based on a favoured proposal, or a formal request for 'final' offers with each provider making a bid on the basis of its own proposal.
- 31 At all times 'equality of treatment' principle must be adhered to.
- 32 Once you have negotiated your requirement you will conclude negotiations by agreeing the price. You must obtain a price from a minimum of 2 suppliers.

## Circumstances for Use of Negotiated Procedure

33 The negotiated route with advertisement may apply in the following circumstances

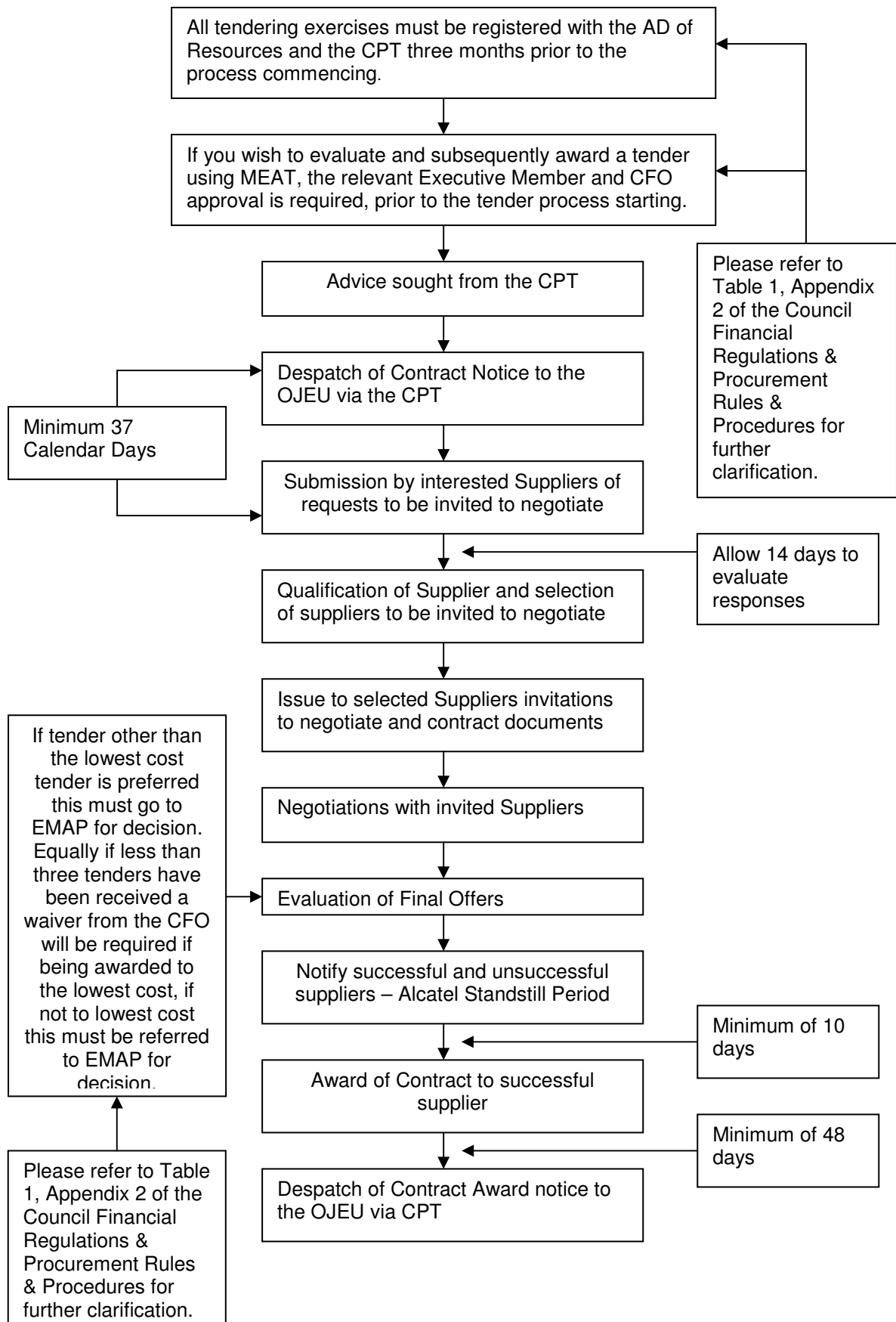
- when, for reasons of extreme urgency brought about by unforeseeable events, the time limits for the Restricted or Open Procedures cannot be met;
- An Open or Restricted Procedure has been carried out and failed;
- Where specifications cannot be drawn up;
- Difficult to define requirements in detail as they cannot be precisely measured in terms of the end product. This is usually only used for research requirements;

34 The advantages and disadvantages of the Negotiated Route are:

<b>Advantages</b>	<b>Disadvantages</b>
Flexible	OGC Guidance states that this procedure may only be used in exceptional circumstances
Solutions can be developed with bidders during the procedure	The EC has indicated that it will closely examine procurements that follow the negotiated procedure, therefore you may be challenged.
Negotiation is permitted right up to contract award	

Exhibit 4

Negotiated Procedure Flow Chart



## Competitive Dialogue Procedures

- 35 The Competitive Dialogue Procedure (Exhibit 5) was introduced in January 2006 as part of the new Consolidated procurement Directives. Competitive Dialogue is a flexible procedure for use in complex projects where there is a need for the contracting authority to discuss all aspects of the proposed contract with candidates.
- 36 Under Competitive Dialogue the contracting authority must choose the most economically advantageous tender (MEAT) “on the basis of the award criteria laid down in the contract notice or the descriptive document”.
- 37 For Competitive Dialogue the award criteria to be used need to be given relative weightings and made available in the descriptive document. As a very limited alternative, where it is not possible to establish weighting in advance, the importance of the award criteria should be listed in descending order.
- 38 The early stages of Competitive Dialogue (including market soundings, Prior Information Notices, OJEU, expressions of interest and prequalification) are similar to the other Procedures (Open, Restricted and Negotiated). The major changes from prior practice occur once the Invitation to Participate in Dialogue has been issued.
- 39 Consideration must be given at an early stage, and in detail, how the dialogue stage will be undertaken and inform prospective bidders how it will be conducted. You will need to consider how many pre-qualified bidders should be invited to partake in the dialogue and how (if appropriate) the number of “solutions” might be reduced during the dialogue stage.
- 40 Under the Competitive Dialogue procedure you must declare that the dialogue is concluded once it can identify the solution or solutions, which are capable of meeting the requirements.
- 41 Participants are then invited to “submit their final tenders”. As only minor changes can be made to bids following the submission of final tenders, all commercial and pricing issues of any substance need to have been resolved prior to the request for final tenders.
- 42 The regulations allow for the final tenders to be “clarified, specified and fine-tuned at the request of the Council” and the Council may request the “tenderer identified as having submitted the most economically advantageous tender” to “clarify aspects of the tender or confirm commitments contained in the tender”. However, in order to avoid the possibility of challenge the scope of these clarifications, specifications, fine-tuning and confirmations will necessarily have to be limited. Following the receipt of final tenders there is no scope to

negotiate with any bidder either pre- or post- the appointment of a preferred bidder beyond the clarification mentioned above.

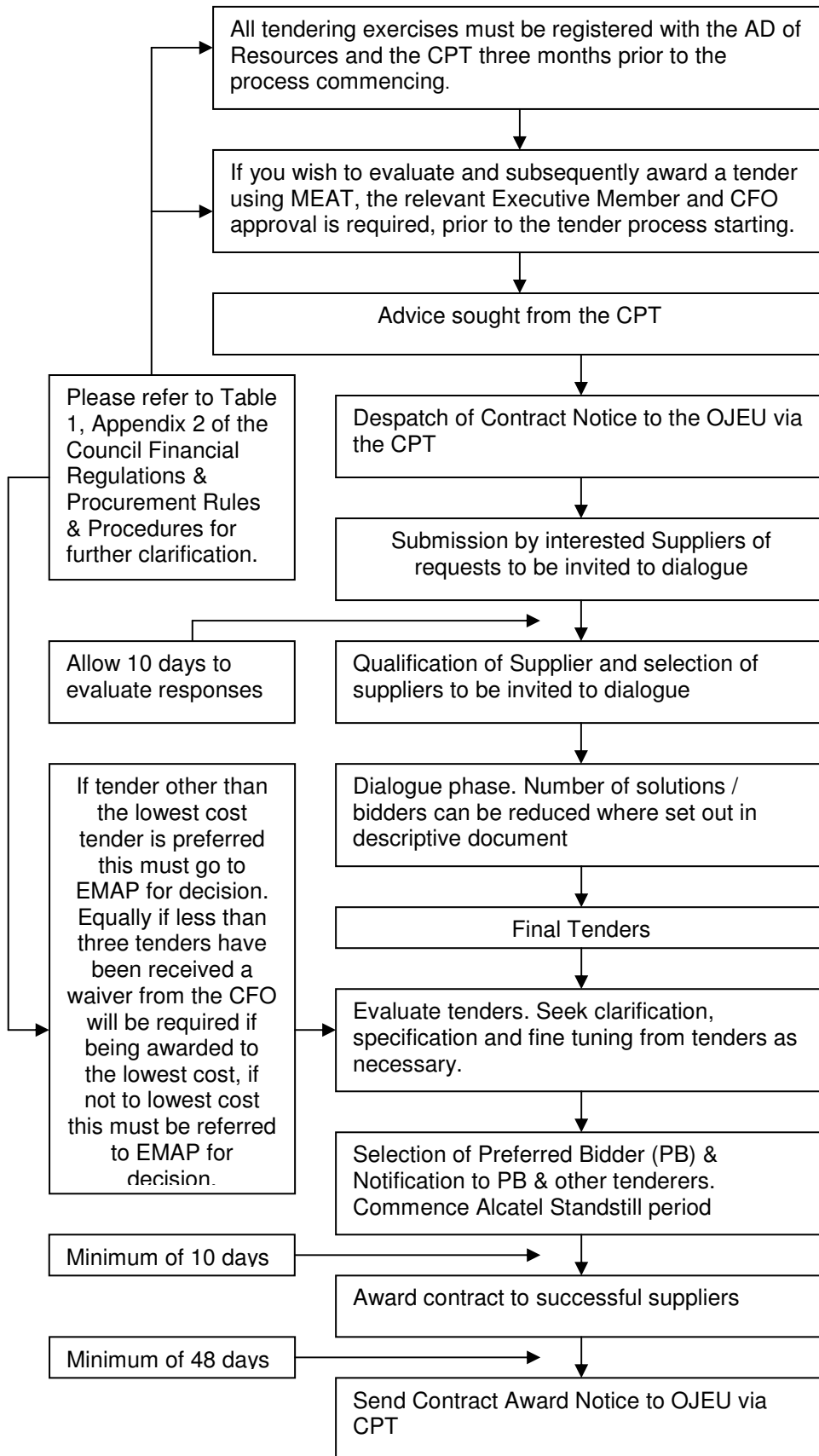
## Circumstances for Use of the Competitive Dialogue Procedure

- 43 The Competitive Dialogue procure must only be used for large complex procurements, such as PFI, where your requirement or solution to your requirement can not be identified without first going out to the market place. Should you believe that your requirement justifies the use of the Competitive Dialogue Procedure please speak to the CPT for further advice and guidance.
- 44 Advantages and Disadvantages of the Competitive Dialogue Procedure

<b>Advantages</b>	<b>Disadvantages</b>
Promotes early discussion with bidders	Is a new procedure not yet tried and tested much within the UK
Solution can be developed in discussion with suppliers	No Negotiation post closure of dialogue
Flexible	
Phased de-selection permitted	

**Exhibit 5**

**Competitive Dialogue Flowchart**



## Advertising Notices in the in the Official Journal of the European Journal and Elsewhere

- 45 The regulations relating to supplies, services and works all require the advertisement of various notices in the Official Journal of the European Union (OJEU). This must be done through the CPT. The format of the notices is set out in the EU regulations. There are three types of notice.

### Prior Information Notices (PIN)

- 46 PIN's are optional notices to be used where a contracting authority wishes to give the market advance notice of an impending procurement exercise. In certain circumstances the time-scales specified under the various tendering procedures can be reduced provided that certain criteria is met. PIN's do not eliminate the requirement for Contract Notices to be published (see below).

### Contract Notices

- 47 The specific details relating to requirements of the procurement and the procurement process must be provided in a Contract Notice.

### Contract Award Notices

- 48 Once a contract has been awarded, details relating to the award, such as the names of the successful tender(s) must be sent for publication in OJEU within 48 days calendar days of the award of contract. All OJEU notices must be issued via the Corporate Procurement Team.
- 49 Contract award notices may be advertised in other media such as specialist journals or local papers provided they are issued after the notice has been sent to OJEU and provided they do not contain any additional information.

### Alcatel Requirements

- 50 As an outcome of a legal judgement (Alcatel Case), it has been ruled that the courts must now be able to review and set aside award decisions on public procurement contracts before contracts are concluded. A period ("the standstill period") is therefore required to allow aggrieved unsuccessful bidders the opportunity to apply to the courts for interim measures during which the award decision can be challenged. In practice we would aim to resolve any such matters during the standstill period before a legal process is pursued.



- 51 A mandatory 10 calendar day standstill period is now required for all contracts subject to the EU Procurement Directives. The standstill period will start from the day following the day on which the tender decline letters have been issued.
- 52 If a challenge to an award is made please contact the CPT immediately for further advice. Please see appendix 6 for the Alcatel Letter template(s) to send to the successful and unsuccessful tenderers.

### Amendments and Unsuccessful Procurements

- 53 If you wish to make an amendment to an OJEU notice that has already been submitted to the OJEU, you need to contact the CPT who will place an addendum notice in the OJEU.
- 54 If a procurement process has been unsuccessful, i.e. no contract was awarded at the end of the process, you need to contact the CPT who will place an addendum notice in the OJEU to reflect this.

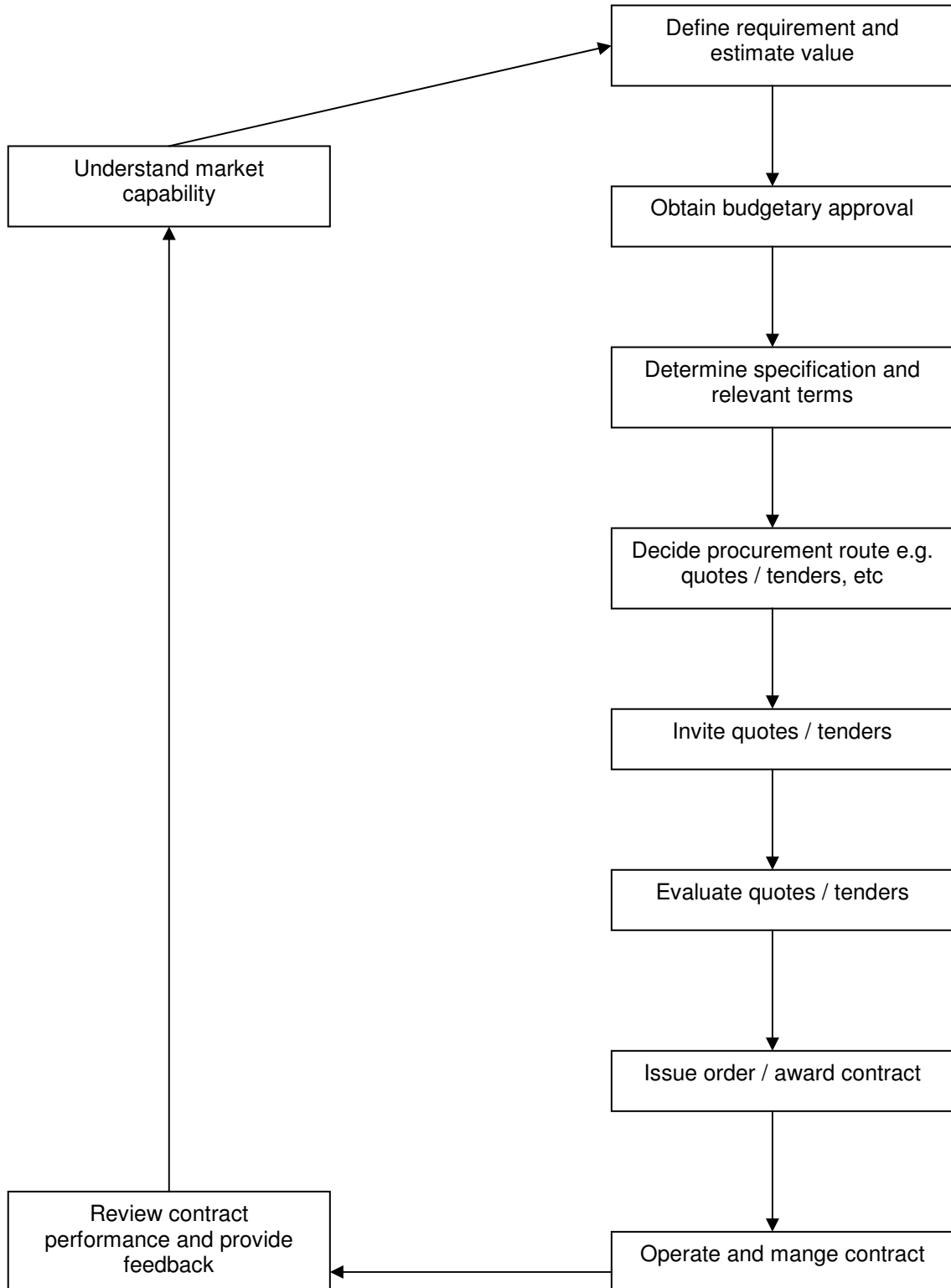
## Appendix 1

### List of City of York Council Corporate Contracts

<b>Contract Name</b>	<b>Contract Category</b>	<b>Contract Management</b>
Staff Advertising	Advertising	Client (HR)
Agency Staff	Agency Staff	Client (HR)
Rail Travel	Business Travel	CPT
Hotel Accommodation	Business Travel	CPT
YPO – General Supplies	Equipment	CPT
Confidential Waste	Facilities – Waste	CPT
Furniture	Furniture, Fittings & Fixtures	CPT/Client (FM)
Photocopiers	Photocopying	CPT/Client (FM)
Reprographics	Printing & Reprographics	Client (Print Unit)
Stationery	Stationery & General Supplies	CPT
Bulk Paper	Stationery & General Supplies	CPT
Water Coolers	Stationery & General Supplies	CPT
IT Consumables	Stationery & General Supplies	Client (IT)
Corporate Cleaning	Cleaning	Client (FM)
Post	Courier & Mailing	Client
Electricity	Electricity	Client (Property/CS)
Gas	Gas	Client (Property)
Insurance	Insurance	Client
IT Hardware	IT	Client
IT Licenses	IT	Client
IT Maintenance	IT	Client
Telecommunications	IT	Client

## Appendix 2

### Overview of the Procurement Process



## Appendix 3

### Writing a Specification

#### Section 1 - Best Practice For Preparing Specifications

##### Introduction

- 1 These guidelines aim to:
  - simplify the process of preparing specifications;
  - help officers to focus on outputs or functionality and performance when preparing specifications; (this should avoid the need for excessive technical requirements, and encourage innovation on the part of the organisations that respond to the tenders); and
  - encourage departmental collaboration; (this reduces the time and costs incurred by departments and the tenderers, ultimately reducing the cost of goods and services).
- 2 These guidelines also support the move towards more outcome/output based specifications.

##### What is a Specification?

- 3 A specification can be defined as :

“a document, primarily for use in procurement, which clearly and accurately describes the essential requirements for goods, products or services”.
- 4 It may also include the procedures for determining that the Council’s requirements have been met.

##### What is not Included in a Specification?

- 5 A specification does not include:
  - form of tender/instructions to tenderers;
  - conditions of contract;
  - proformas;
  - questionnaires used by tenderers to submit offers.
- 6 These are included in other sections of the tender documentation, further advice on the structure and format of the documentation can be obtained by the CPT.

## Importance of a Clear Specification

- 7 Preparing a specification is a core process in tendering and contracting, and is often considered a difficult task. Great care and consideration is required when writing the specification because a poor description of requirements may mean that the product or service is not delivered as required.

## Preparing for a Specification

- 8 Before you prepare a specification, you must:
  - identify your needs, and give full consideration to their requirements;
  - assess the risk of a supplier failing to fulfil specifications, against the risks of continuing with the existing situation;
  - identify what is to be procured and confirm that the proposed procurement will fulfil the customer or user needs;
  - determine the scope including the likely demands on a supplier and the range of goods or services which will be required; and
  - determine the evaluation criteria, so that the specification clearly indicates the relative importance of each requirement;

## Writing the Specification

- 9 Developing a specification should involve close and continuous liaison between users of the service or goods, the specification writer and other specialist or expert staff.
- 10 For a complex procurement, a staged approach to developing and refining the specification should be considered. This may involve developing a consultation process specifying the requirements only broadly or generally. As the process moves toward the short listing and tendering phase, the specification must become more detailed and specific.

## Evaluation Criteria

- 11 The evaluation criteria that will be used to assess compliance of offers to the specification need to be developed at the same time as writing the specification. The user requirements will affect the criteria and their relative importance to each other, and the criteria will in turn affect the solution offered by tenderers. The only evaluation criteria to be used to evaluate tenders are those specified in tender documents.
- 12 Evaluation criteria are not part of the requirement but a means of assessing the suitability of a potential supplier. They should be

included in the contract documentation, possibly in the specification if you so wish.

## Collaborating with Other Purchasers

- 13 Departments can save considerable time and money by collaborating with other purchasers of identical or similar requirements. Collaboration can be between departments or possibly other organisations.
- 14 Benefits of such collaboration include:
- avoiding of duplication of effort in drafting specifications;
  - continuous improvement in refining and developing specifications to produce clearer and more robust documents;
  - rationalisation and standardisation of requirements where appropriate;
  - opportunities for strategic procurement (e.g. co-operative or concurrent tendering); and
  - a reduction in the time and costs for tenderers, resulting in a reduction of the cost of the goods or services.

## Mandatory and Desirable Requirements

- 15 The specification must clearly identify whether each requirement is mandatory or desirable, on a clause by clause basis. Tenderers should not be considered if they have :
- failed to meet a requirement identified in the specification as mandatory, and
  - failed to demonstrate an alternative means of providing the outputs and outcomes required.

## Vetting Specifications

- 16 It is useful to have the specification vetted by someone other than the author:
- 17 The person vetting the specification should check that the specification:
- is easy to read;
  - is easy to understand;
  - is clear;
  - has a logical structure; and
  - contains only essential information.

## Approval of the Specification

- 18 Having been vetted, the specification should be approved by the appropriate Officer/Project Board. It should at the very least be checked with the client department to ensure that it:
- certifies that the requirement is valid;
  - indicates that the requirement is effectively defined in the specification;
  - states that the specification is free from bias; and
  - confirms that the client accepts responsibility for the cost of the specified goods or services.

## Reviewing the Specifications

- 19 When a contract is about to be renewed, or after delivery of the goods or services, the specification should be reviewed by the project manager/Client Officer. This review will ascertain whether the specification:
- accurately defined the required outputs or design; and
  - accurately defined the customer requirements.
- 20 This review should be completed because:
- the information will be valuable when preparing specifications for similar purchases in the future;
  - it should form the basis of reviewing the contract before renewing it; and
  - it will help to identify any changes in subsequent requirements.
- 21 If changes are made the issue number or revision status of the specification must be updated.

## Section 2 - Structure Of A Specification

- 22 Specifications will vary in length and complexity, depending on the nature of what is to be purchased.
- 23 To ensure an appropriate level of standardisation and that the specification addresses all relevant areas, you should prepare specifications using the guidelines described in the following pages.
- 24 A specification should have the following Structure:
1. Introduction
  2. Scope
  3. Background

4. Other documents
5. Service conditions and environmental factors
6. Statement of requirements:
  - a. Services
    - Outputs
    - Performance measures
    - Targets
    - Management of the contract
    - Sale of assets and transfer of personnel
    - The hand-over process
    - Transition process to a replacement service provider
  - b. Goods
    - Design and performance criteria
    - Acceptance testing
7. Technology, systems and management techniques
8. Quality requirements
9. Whole of life support
10. Security
11. Training
12. Documentation
13. Implementation Timetable
14. Attachments

## Guidelines For Preparing A Specification

- 25 This section contains guidelines on how to prepare each of the topics listed above. By following these guidelines, specifications will be more consistent in both content and format, and will save considerable time when preparing the specification.

### Introduction

- 26 The introduction should briefly explain the requirement and the context of the requirement. For example, the application, purpose or function of the product required.

### Scope

- 27 The scope is a summary of the extent and limitations of the requirement specified.



28 The scope may cover:

- a statement as to whether the contractor is to supply the requirement, or is also to install and commission, and provide training or documentation;
- anticipated demand for the period of the contract;
- anything the contractor is not required to do or provide which might otherwise normally be considered to be part of the requirement. For example, equipment or software which will be available to or must be used by the contractor; and
- the period of the contract (also think about possible extensions)

A full description of each element summarised in the scope should be included in the “statement of requirements” section.

## Background

29 Background information may include:

- the implications for the users of implementing the solutions;
- an outline of the research which has been undertaken into the requirement;
- what options, if any, have been considered;
- what options have been dismissed and why;
- how this requirement is related to other requirements and acquisitions, whether already purchased and implemented, or planned for the future.

## Other Documentation

30 A specification may refer to other documents in order to avoid duplicating some or all of those documents. The specification must contain an attachment listing the names of each document and how to obtain copies of them.

31 Documents most commonly referred to are:

- Other specifications;
- Standards documents;
- Reference publications;
- Code of Practice;
- Acts of Parliament; and
- Government directives.

- 32 By referring to a document, you are legally incorporating it into the specification. If only part of a document is relevant then refer to that part only.
- 33 Providing copies of documents:
- You must be prepared to provide a copy of any applicable document if a tenderer asks for one.

### Service Conditions and environmental factors

- 34 If the physical environment in which the required products will operate or be located will affect the output, design or performance, the specification must explain those environmental conditions.
- 35 If there are limitations imposed by users, the specification must explain what those limitations are. For example, limited access to and within a building or the capacity of a training venue.
- 36 Environmental and ergonomic factors may include:
- Operating and storage conditions;
  - The need for interchangeability or compatibility with existing equipment, systems, etc.;
  - Availability of energy and other services;
  - Intended users of the product and their ergonomic requirements;
  - Personal safety aspects; and
  - Servicing or maintenance requirements or limitations.
- 37 The specification must also detail any particular sustainability/green requirements (for example, the recovery and recycling capability of goods after they have fulfilled their useful life) and encourage tenderers to put forward ideas that are energy efficient and environmentally friendly.

### Statement of Requirements

- 38 The statement of requirements contains:
- a description of the outputs (for services), or functionality and performance requirements (for goods), and
  - details of the performance measures and benchmarks that will be monitored during the period of the contract.

- 39 These measures may need to be further negotiated and finalised with the successful tenderer, because they become contractual commitments.
- 40 Although there are similarities in the format and description of these requirements, this guide contains separate sections outlining what you should include in the statement of requirements for goods, and the statement of requirement for services.
- 41 Statement of requirements can vary significantly in scale and complexity, from a small once only consultancy, to a complex set of requirements intended to cover major outputs of a department. These guidelines, with a sensible approach, can be applied to any acquisition, regardless of the scale of the requirement.

## Statement Of Requirements – Services

- 42 The Following information should be considered for inclusion in the statement of requirements for services:
- Outputs to be delivered;
  - Performance measures and targets;
  - Contract management requirements;
  - Sale of assets and transfer of personnel;
  - The handover process;
  - The transition process to a replacement service provider.
- 43 Each of these are explained below.

## Outputs

- 44 Outputs are products or services delivered to users or customers.
- 45 Departmental plans may well specify outputs, how the department intends to deliver them, and at what cost.
- 46 An output must be:
- one or more products or services (not activities);
  - provided to customers;
  - within the control of the provider;
  - measurable;
  - achievable within a specified timeframe;
  - significant to the achievement of Council policy objectives;
  - important to a departmental accountability;
  - a basis for allocations of funds to the core businesses of the Council.

47 An output is not:

- A performance measure;
- A target; or
- An outcome.

## Describing the Outputs

48 The specification must state the output clearly so that:

- The Council can understand what it is funding and what it will get for its money in terms of cost, quantity, quality and timing; and
- An effective comparison can be made between the performance of actual and potential providers.

## Performance Measures

49 Performance measures are quantifiable units of measurement (for example, the cost), used to assess the extent to which the provision of outputs has been achieved. Identifying a performance measure is like choosing whether to use a ruler or a measuring cup.

50 Outputs should be evaluated using the following performance measures:

- **Quantity:** How much or how many;
- **Quality:** How well;
- **Timeliness:** The frequency and promptness. This might include turnaround times, waiting times or response times;
- **Cost:** Unit cost or total cost;
- **User Satisfaction:** The level of customer satisfaction regarding any of the above, as well as their specific requirements;
- **Continuous Improvement:** Rates of improvement in any of the above measures over time.

51 In most cases, each output should be measured by at least three of the above performance measures. Using fewer than three would be an unreliable way of measuring performance. For example, if you were to measure just quality and cost, it might appear that an output is satisfactory, but if the service was delivered well behind schedule and did not meet the users requirements, it would clearly not be satisfactory.

52 Performance measures are not indicators of performance – they actually measure whether the output has been provided as intended.

53 A performance measure should:

- Help to make comparisons with;
- Similar outputs delivered by other providers; or
- The department's own performance over time;
- Be based on data which can be collected and reported on at the end of each reporting period;
- Be useful to major stakeholders, including Government;
- Enable assessment of how successfully the output has been delivered;
- Make it clear who is accountable for;
- Delivery of the output; and
- Reporting against the measures/targets.

## Measuring the Delivery of Service

<b>What to Measure</b>	<b>How to Measure</b>
<p><b>Quantity:</b> Major deliverables</p>	<p>Monitor and record the flow and delivery of outputs (where a quantity is demand driven, base the estimated number on trends and experience)</p>
<p><b>Quality:</b> Regular feedback from representative sample of customers;</p> <p>Percentage of outputs that meet agreed standards;</p> <p>Minimum number of undesirable events; and</p> <p>Maximum number of desirable events</p>	<p>Quality Assurance systems put into place</p> <p>Customer surveys, critical events log, quality scale</p>
<p><b>Timeliness:</b> Delivery or response times within agreed timeframes or completion dates</p> <p>Set minimum number of percentages of outputs delivered within (x) days; balance of outputs delivered within (y) days</p>	<p>Recording response times, flow, completion dates and/or milestones. These might include diaries, timesheets and/or work plans</p>
<p><b>Cost:</b> Full cost to the department of delivering the outputs, including direct and indirect costs, including time taken in contract management</p>	<p>Unit costs for each major output and deliverable</p>
<p><b>User Satisfaction:</b> Identify customer satisfaction with the services delivered</p>	<p>Regular/random customer survey</p>
<p><b>Continuous Improvement:</b> Identify opportunities for continuous improvements</p> <p>Implementation of programs for continuous improvement</p>	<p>Quarterly meetings to assess improvements</p>

## Targets

- 54 Targets are specific measures (quantity, quality, cost, timeliness or user satisfaction) of an output. Selecting a target is like choosing the point on a ruler or a level in a measuring cup a contractor must reach. They should be achievable, but challenging enough to encourage improved performance and provide benchmarks for continuous improvement.
- 55 Consultants can evaluate progress and performance based on whether the targets are achieved or not.
- 56 When performance is measured against clear targets, achievement of those targets is more probable, and accountability is much greater.
- 57 The consequences of meeting, exceeding or missing targets is tied to payment, bonuses, rebates and continuation of the contract.

## How to set targets

- 58 You should set targets based on one of the following:
- The current performance, when supply is considered to be efficient and effective;
  - The current performance plus a percentage increase;
  - Local, national or industry performance averages;
  - Public and private sector best practice (benchmarking);
  - Frontier practice (the best possible performance with the present technology even though that level of performance is not currently achieved);
  - Technical standards established by professional associations; and
  - Management decisions based on resource and staffing limitations.

## Writing the Targets in the Specification

- 59 Targets contained in the specification must:
- Relate to a single performance measure of a particular output;
  - Be expressed simply;
  - Specify a timeframe or milestone;
  - Be specified for each measure selected;
  - Be measurable (for example, state actual numbers and percentages, not terms such as 'optimise', 'increase' or 'decrease')
  - Be realistic and achievable, yet challenging;

- Be defined in terms which relate to the delivery of outputs; and
- Be reviewed regularly to ensure they are still practical and relevant.

60 Targets detailed in the specification may be subject to negotiation and change during the short listing stage. However, at least some approximate targets need to be included in the specification to provide:

- A clear guide to tenderers on the minimum performance expected, and
- basis for comparing tenderers' offers.

## Management of the Contract

61 The specification must state the level of contract management that will take place, and what the supplier needs to do to facilitate the internal management of the contract. This will include:

- The authority the client officer will have in dealings with the successful contractor;
- The reporting process (the information required on reports, the frequency and format of reports);
- The targets and performance measures used by the client officer; and
- The nature and level of access to the contractors records required for the client officer to conduct a performance audit.

## Sale of Assets and Transfer of Personnel

62 Major outsourcing contracts frequently involve sale of assets and transfer of personnel. When this is the case the specification should contain complete details of the following:

- **Acquired Assets:** all assets which will be sold to the contractor;
- **Third Party Contracts:** all third party contracts which the department will transfer the benefit of to the contractor (such as licensing and maintenance agreements); and
- **Employees who are transferring:** including TUPE information.

## The Hand Over Process

63 This should contain broad details of how the project is to be handed over to the contractor at the commencement of the contract, and how the project is to be handed on at the end of the contract. It should clearly state the responsibilities of the contractor and department and specify the tasks that will be performed by the contractor and those to



be performed by the department. Final details of the hand-over process should be settled during the contract negotiation state of the tender.

## Transition between Service Providers

- 64 This should contain and implementation plan for handling over the contract to a replacement contractor, upon entry into and termination or expiration of the contract. It should clearly state the responsibilities of each of the contractors and the department, specify the tasks that will be performed by each contractor and those to be performed by the department, and detail what equipment and what records will pass from the former contractor to the new contractor. Final details of the hand-over process should be settled during the contract negotiation stage of the tender.

## Statement Of Requirement - Goods

- 65 The provision of goods can often require provision of ancillary or complementary services. For example, a software vendor might supply software, along with training in the use of the software.
- 66 The following information should be contained in the statement of requirements for goods:
- Design and performance criteria;
  - Acceptance testing; and
  - Trade ins.

## Design and performance criteria

- 67 This section is set out for goods:
- Functional characteristics;
  - Performance characteristics;
  - Technical characteristics;
  - Reporting requirements;
  - Standards; and
  - Compatibility and standardisation.
- 68 Each of these elements is described in more detail below.
- 69 The amount of detail you give should reflect the complexity of the requirement, and the nature of the document.
- 70 For example, a specification for a mainframe computer system will be more involved than one for a portable computer, and a specification at consultation at contract notice stage.

- 71 It is important that the information be accurate and the level of detail appropriate because the price of a tender will be significantly influenced by this information.

## Functional Characteristics

- 72 This outlines the proposed function or role of the goods in helping the end user achieve a desired capability or outcome. It defines a task or desired result and may describe the general form of the goods and services required. It focuses on what is to be achieved rather than the method of achieving it (for example, stating “automated system to perform this function.” rather than fully defining the required hardware and software).

## Performance Characteristics

- 73 This details the required performance characteristics of the goods. It may include maximum and minimum performance criteria, and methods of measuring performance.
- 74 It sets out the required performance parameters by specifying details of the inputs and outputs required, but not the methods to be used to achieve them. This gives suppliers the opportunity to offer their own methods which can then be evaluated against the departments criteria, including value for money.

## Technical Characteristics

- 75 This details the physical description of the goods, in order to define the requirement and state any specific limitations. Generally it includes:
- physical aspects (for e.g. dimensions and colour);
  - material properties (for e.g. synthetic materials);
  - processes (for e.g. methods of manufacture or assembly);
  - maintenance requirements (for e.g. when and how the maintenance is to be performed); and
  - detailed plans, designs, blueprints and technical drawings.
- 76 Where a suitable standard exists or a specific solution is mandatory, it is appropriate to provide significant detail of the required technical characteristics. Otherwise, avoid over – specifying, because this may limit the possible alternatives and a supplier could offer, and could increase the cost because suppliers will be satisfying requirements that are not necessary.

## Reporting Requirements

- 77 This sets out what the supplier must report to the Council, how frequently it is to be provided, and for how long records are to be retained by the supplier. IT may also include provisions for auditing records.
- 78 There are strict EU rules relating to the 'naming' of proprietary brands which you must comply with – as a rule of thumb it is not acceptable to name a proprietary brand in a specification.

## Compatibility and Standardisation

- 79 Compatibility refers to the need for equipment to operate harmoniously with other equipment. The specification should state compatibility requirements.
- 80 Standardisation refers to having uniform equipment or processes. The specification should state whether the accepted product will become the departments standard product.

## Acceptance Testing

- 81 This should clearly state the tests that the goods must pass before being accepted by the department. (usually there will be other conditions for acceptance as well)
- 82 Other documents that you have referred to may list tests that assess certain aspects of the item, such as electrical safety. You may have to specify other tests.
- 83 The test should be designed to prove that the product is, or is not, suitable for its purpose.

## Trade Ins

- 84 If the goods being purchased are to replace existing equipment, trading in the old equipment may be a viable option. Details of this potential sale should be documented in detail, in order to attract offers that will minimise the overall cost of purchase.

## Technology, Systems And Management Techniques

- 85 The specification should state where the department expects improvements in the use of technology, systems and other management techniques. This is to ensure that contractors continue to adopt worlds best practice through the term of the contract.

- 86 Contractors should be encouraged to provide innovative solutions when making offers. Final details need to be settled during the contract negotiation state of the tender.

## Quality Requirements

- 87 The specification should detail appropriate quality assurance processes to be undertaken by the contractor. This will significantly reduce the time needed to test or inspect goods or services provided, which will save time and money.
- 88 You are more likely to get goods and services provided at an appropriate standard if the quality requirements:
- are stated clearly;
  - cite recognised product standards; and
  - nominate the appropriate Quality Assurance Level.
- 89 The department must undertake to:
- assess conformance of the product to the specification; and
  - assess the organisations compliance to the appropriate quality management system.
- 90 QA standards alone will not ensure that you receive the quality you require. In some circumstances, you may need, for example, to stipulate additional testing procedures.

## Whole Life Support

### Reliability, availability and maintainability

- 91 This section should state:
- the contractors responsibilities regarding maintenance, modifications or upgrades to the goods/services;
  - any additional or enhanced capability that will, or may be, required;
  - the required level of reliability;
  - the required level of availability; and
  - accessibility of the site to the contractor and the times available to maintain or provide the goods and or services.

## Service History

92 This section asks tenderers to:

- detail the service history of the goods offered, particularly if the service conditions are specified;
- provide details of contact people in other organisations who use those goods and/or services.

## Security

93 This section asks tenderers to provide details of security measures they have in place. These might include:

- ensuring confidentiality of personal information;
- ensuring confidentiality of commercial information; and
- safeguarding expensive equipment.

## Training

94 When training is required, this section should detail:

- what training is required (for e.g. in the installation, operation or maintenance of the product or in the use of a service);
- the level of any training required;
- the number of training sessions; and
- the venue for the sessions

95 Tenderers should be asked to provide details of the experience and accreditation of the proposed training providers.

## Documentation

96 When documentation is required, this section should detail;

- the nature of the documentation (for e.g. manuals, drawings);
- the format and storage of media of the documentation (for e.g. paper based, electronic. CD-Rom etc); and
- accessibility of the documentation, (for e.g. whether security restrictions apply, passwords and whether the documentation is prepared in a widely used word-processing package).

## Implementation Timetable

97 This section should detail the proposed schedule, including commencement date, milestones, completion of deliverables, and a completion date.

- 98 The schedule should refer to specific dates (for e.g. “work must commence in the week beginning XXXX), or an elapsed period of time (for e.g. “stage 1 must be completed within 10 working days of the commencement date”).

## Glossary

- 99 The glossary should contain definitions for terms that appear in the specification and may not be understood by tenderers. Usually this will include symbols, abbreviations, technical terms and acronyms.
- 100 Symbols and abbreviations in common use (such as units of metric measurement) do not need to be included in the glossary.
- 101 The specification should not include jargon.

## Attachments

- 102 The attachments should include any documents that will add to the tenderers understanding of the requirements.
- 103 All attachments must be referred to in specification.
- 104 Each attachment must be clearly identified.

## Specification checklist

- 105 When you prepare a specification, check it against this checklist to ensure that it is complete, accurate and appropriate.
- 106 The specification:

encourages creative bid offers where appropriate	
is clear and consistent and avoids unduly restrictive requirements	
specifies the item to the extent that the requirement can normally be satisfied by commercially available products	
contains only essential information	
states any conditions of use which require special consideration	
completely and thoroughly describes the requirement to the extent necessary to effectively evaluate responses	
encourages conservation of energy, resources and the environment, including the recovery and recycling of goods after they have fulfilled their useful life	
specifies attributes that meet the satisfactory minimum requirements for functionality	
specifies reasonably broad parameters to avoid unnecessary expense and to attract as many tenders as possible	
includes requirements which can be accurately interpreted at the tender evaluation stage and by the IT Procurement manager	

107 The specification **Does Not:**

reproduce preliminary and exploratory discussions with the suppliers which could be misinterpreted as preference of one supplier	
rely of unproven claims by suppliers	
use trade names other than where necessary to clarify the quality or type of item required	
include preference for specifications or standards unlikely to be used in the production of 'off the shelf items	
put new products at a disadvantage	

## Appendix 4 – Invite Letter Template for a Tender



INSERT DIRECTORATE

DEPARTMENT AND  
DEPARTMENT ADDRESS

Tel: (01904) 55XXXX

Fax: (01904) 55XXXX

Email:

[www.york.gov.uk](http://www.york.gov.uk)

Address

DATE

Dear

INSERT CONTRACT REFERENCE – Invitation to tender for the  
Provision of XXX

You are invited to tender for the provision of the above requirement to  
The City Of York Council.

Please find enclosed an Invitation To Tender (ITT) document  
comprising of:

- |   |           |
|---|-----------|
| <input type="checkbox"/> Instructions for Tendering | Section 1 |
| <input type="checkbox"/> Specification              | Section 2 |
| <input type="checkbox"/> Further Information        | Section 3 |
| <input type="checkbox"/> Form of Tender             | Section 4 |

The Council's intention to invite competitive tenders will be advertised and contractors who express an interest will be issued with tender documents and invited to submit tenders. Bidders will be required to meet the required minimum standards before being offered any contract.

Tenders must be submitted by 12 noon on XX XXXX.

The above Tender Reference Number should be quoted in any communications regarding this ITT to The Council

Yours sincerely



## Appendix 5 – Invite Letter Template for a Quotation



INSERT DIRECTORATE

DEPARTMENT AND  
DEPARTMENT ADDRESS

Tel: (01904) 55XXXX  
Fax: (01904) 55XXXX  
Email:  
[www.york.gov.uk](http://www.york.gov.uk)

Date:

Supplier  
Supplier Address  
X  
X  
X  
X

Dear Sir/Madam

Re: Request for Quotation (RFQ) for a **XXXXXX**

The City of York Council are looking for a Supplier to provide the above requirement. The purpose of this letter is to obtain a price from yourselves to supply the Council with the **products and services.**

Instructions for the return of the Quotation

You are required to complete the documents as requested below:

Appendix 1 - RFQ Acknowledgement

Please complete and fax back as soon as possible

Schedule 1 - Specification

Please respond to the exact specification as detailed, any alternative should be clearly indicated.

Schedule 2 - Price

Please respond to the exact specification as detailed, any alternative should be clearly indicated.

All prices are to be given in Pounds Sterling and exclusive of VAT.

The prices stated in the quotation will be deemed to be the full inclusive cost of the requirements described, including all costs and expenses, carriage, risks and obligations.

**Schedule 3 - Contact Information**

Please complete and return.

Please return two hard copies and one electronic copy to the undersigned by no later than **12 noon XXXXXXXXXXXX**.

**Terms and Conditions**

Suppliers are advised that nothing in this RFQ shall be taken as constituting a contract, agreement or representation between the Council and any other party (save for the award of the contract made in writing by the Council), nor shall such be taken as constituting a contract, agreement or representation that any contract or agreement shall be offered in accordance herewith or at all.

Please note that copyright in this RFQ rests with the Council. Please treat all information as strictly private and confidential and do not disclose the same to any person except with the prior written consent of the Council. The Council undertakes to treat all material and information supplied as confidential.

Any queries concerning any aspect of the quotation or clarification of the specification should be directed preferably **in writing** to the undersigned.

Yours faithfully

## Appendix 6 – Successful and Unsuccessful Supplier Letters



INSERT DIRECTORATE

DEPARTMENT AND  
DEPARTMENT ADDRESS

Tel: (01904) 55XXXX  
Fax: (01904) 55XXXX  
Email:  
[www.york.gov.uk](http://www.york.gov.uk)

Ref:

Date:

ADDRESS

Dear XXXXXXXXXXXX

**Re:** Tender for the Provision of  
**Tender reference:**

Further to our Invitation to Tender and subsequent meetings we are pleased to formally notify you that XXXXXXXXXXXXXXX are the City of York Councils preferred supplier for the procurement of aXXXXXXXXXXXX.

The procurement route that follows this preferred supplier status will be further negotiation on the legal and commercial terms and conditions of the Agreement, and contract award will follow subsequent to successful terms being agreed.

The City of York Council would like to take this opportunity to thank you for your efforts so far and we look forward to continuing to work with XXXXX.

Yours sincerely



Ref: XXXXXXXXX

Date: XXXXXXXXX

ADDRESS

Dear XXXXXXXXXX

**Re:** Tender for the Provision of  
**Tender reference:**

Thank you for your recent tender for the above.

Unfortunately after careful and extensive consideration you have not been successful on this occasion.

We would like to take this opportunity to thank you for your efforts in submitting a tender to the City of York Council.

Yours sincerely

INSERT DIRECTORATE

DEPARTMENT AND  
DEPARTMENT ADDRESS

Tel: (01904) 55XXXX

Fax: (01904) 55XXXX

Email:

[www.york.gov.uk](http://www.york.gov.uk)

## Appendix 7 – Freedom of Information Clauses to Insert into a Tender

### Freedom of Information Act

- 1 The Council proposes that the following information relating to this tender competition will be made available to third parties on request:
  - The Council's Invitation to Tender
  - Tenderers invited
  - Successful Tenderer details
  - Successful response (subject to confidentiality and commercial interest tests)
  - Overall Contract Value (not the breakdown of costs)
  - Contract term
  - Any information regarding the evaluation process to justify best practice has been achieved.
  
- 2 The Council undertakes to hold confidential any information provided by you in this tender subject to:
  - disclosure of the information specified above as liable for release to the public
  - the Council's obligations under law, including the Freedom of Information Act.
  
- 3 You are asked to consider if any of the information supplied by you in this tender should not be disclosed because of its sensitivity (other than that referred to above). If this is the case, you should, when providing the information, identify same and specify the reasons for its sensitivity. The Council will endeavour to consult with you about sensitive information before making a decision on any Freedom of Information requests received.
  
- 4 If you consider that none of the information supplied by you is sensitive, please make a statement to that effect.

## Appendix 8 – PQQ Evaluation Guidance

### Introduction

- 1 The main purpose of the Pre-Qualification Questionnaire (PQQ) is to reduce the number of suppliers who formally express an interest in an advertised procurement requirement, to a pre-defined number of competent suppliers to whom an Invitation to Tender is sent.
- 2 As with all selection processes a PQQ should be evaluated consistently and objectively according to a defined evaluation model which should be finalised prior to opening and commencing the evaluation of submitted questionnaires.
- 3 The evaluation of completed questionnaires will exclude those suppliers who do not meet the minimum requirements of suitability to do business with based upon a general assessment of their technical capability and economic standing relevant to the particular requirement.
- 4 The recommended approach is based on a “weighted scoring approach”, in which the responses to the PQQ questions are scored according to a pre-agreed scoring system – typically being scored 0-10. The scores for questions within each section are then multiplied by a weighting factor assigned to each section on the basis of its importance relative to other sections. The weighted scores for the sections are then added together to give a total weighted score for the PQQ response.
- 5 It may not be considered appropriate to score each part of the PQQ response. For example, an assessment of company financial information does not lend itself to scoring. In these cases it may be considered more appropriate to evaluate the responses on the basis of risk (e.g. low financial risk to contract performance, medium risk, high risk) and to consider these ratings along with the total weighted score awarded to that PQQ response before deciding whether to invite that supplier to tender.
- 6 If the responses provided in the completed PQQ raise doubts about some aspect of a supplier’s suitability, but that supplier appears to be otherwise appropriate, you may wish to seek further information or clarification from the supplier concerned before proceeding.

### Section 1 – Organisation Details

- 7 This section of the PQQ allows you to gather some basic contact details about each supplier and to establish the legal entity with which any resultant contract would be agreed. All sections should be completed.

- 8 For registered companies, you should confirm company identity and basic details with Companies House - basic company details can be accessed on-line and without charge at <http://www.companieshouse.gov.uk/info/>.
- 9 The same applies to charities registered with the Charity Commission at <http://www.charity-commission.gov.uk/registeredcharities/first.asp>, and social landlords registered with the Housing Corporation at <http://www.housingcorp.gov.uk/resources/register/select.htm>.
- 10 As the information requested in this section is purely fact-finding and should be easily completed it is inappropriate to apportion weighted scores to the responses provided. However, any concerns which arise over the supplier's company details may give rise to questions as to whether they should be invited to tender

## Section 2 - Financial Information

- 11 These questions are intended to gain a basic indication that the supplier is not in financial trouble. For many low value or short-term contracts the financial health of the supplier may not be critical to the Council, but nevertheless a financially troubled supplier could still represent a risk to satisfactory contract completion, and a non-scored risk-based approach to assessing this part of the PQQ response is suggested.

### 2.2 Turnover

- 12 The turnover should be checked to ensure that there hasn't been a drastic fall in the past three years. Allocating an arbitrary contract limit based on turnover is not recommended, but turnover should be checked to ensure that it doesn't appear inconsistent with the value and importance of the proposed contract.

### 2.3 to 2.6 Payment of creditors and bank requirements

- 13 If the supplier has answered "No" to either of these questions it could be indicative of poor financial controls, cash flow problems, and / or problems servicing debt. In that case considerable caution should be exercised unless the supplier has provided clear explanations that matters have been put right.

### 2.7 Availability of financial details

- 14 The supplier should have answered "Yes" to at least one of these. If not it suggests that the organisation could lack effective financial controls or information. As such the supplier might be at financial risk and therefore represent a risk to contract delivery as a potential contractor.

<b>Criteria</b>	<b>Points</b>
Full, satisfactory responses provided with no areas of concern'	8-10
Partial, satisfactory responses provided with some cause for concern'	4-7
Unsatisfactory responses provided with significant cause for concern'	1-3
No responses provided	0

- 15 Either of the latter two ratings should raise questions as to whether the supplier should be invited to tender.

### Section 3 – Exclusion Criteria

#### 3.1 Exclusion Criteria

- 16 If the supplier has answered “Yes” to this question, there must be doubts about the propriety of the organisation and unless the supplier has provided an answer that clearly indicates the problem has been resolved and that steps have been taken to prevent its recurrence, they may be excluded on these grounds, and deselected from the PQQ evaluation without the need for considering their responses to the other sections of the PQQ.

<b>Criteria</b>	<b>Points</b>
No applicable circumstances	10
Applicable circumstances but satisfactory corrective action taken	1-9
Applicable circumstances with cause for concern'	0

- 17 If a response falls into the last of these categories it would be appropriate to consider whether the supplier concerned should be deselected on this basis.

### Section 4 – Overview of Organisation

- 18 On most occasions you will want to establish that a supplier has experience and expertise in the field that is the subject of the proposed contract and that the work required would not be a new departure for them, or if the supplier would intend to sub-contract. You should check the information provided in this section against the necessary levels of experience/expertise.
- 19 The section also provides for the supplier to furnish information concerning the number of staff they employ so that this can be assessed against the levels of resource you consider would be



necessary to ensure satisfactory performance of the required contract.

<b>Criteria</b>	<b>Points</b>
Relevant business activities and adequate resource level	6-10
Concern over-relevance of business activities and/or resource level	1-5
No responses provided'	0

## Section 5 - Quality Assurance

- 20 If the supplier has neither accreditation nor a quality system, this may give rise to doubts about its ability to provide goods or services of a consistent quality. As a minimum, one would expect to see a supplier provide information that it has considered the implementation of appropriate controls to achieve and ensure consistent performance and intends to adopt such processes where appropriate.

<b>Criteria</b>	<b>Points</b>
Certificated quality management system	8-10
Proprietary quality management system'	4-7
No quality management system	0-3

## Section 6 - Health and Safety

- 21 Suppliers that employ five or more staff are legally required to have a written Health and Safety policy.
- 22 If the supplier does not have a Health and Safety system, there may be doubts about its commitment and ability to meet H&S requirements. However, the importance of this section, and therefore the weighting factor applied to scores, will of course vary widely according to the type of procurement being undertaken

<b>Criteria</b>	<b>Points</b>
Documented Health and Safety policy, systems and procedures	8-10
Health and Safety policy, but no detailed evidence of systems and procedures	4-7
Health and Safety not specifically addressed or sketchy	0-3

## Section 7 & Schedule A – Equal Opportunities

- 23 In order to demonstrate that equal opportunities are provided to all staff and discrimination is combated within their organisation, suppliers are asked to state whether they maintain a written equal opportunities policy.
- 24 If the supplier does not have a written equal opportunities policy, there may be doubts about its commitment and ability to fairly and equally manage its workforce.

<b>Criteria</b>	<b>Points</b>
Written equal opportunities policy and evidence of systems and procedures	7-10
Equal opportunities not specifically addressed or policy stated but no details of systems and procedures	0-6

- 25 An equal opportunities monitoring form is included in the PQQ at Schedule A. This is for monitoring purposes only and does not form part of the PQQ evaluation. Applicants are advised of this in Section 7 of the PQQ.

## Section 8 – Sustainable Development

- 26 Government policy is that sustainable development issues should be carefully considered in procurement – OGC / DEFRA guidance on the issue is available at [http://www.ogc.gov.uk/embedded\\_object.asp?docid=1001225](http://www.ogc.gov.uk/embedded_object.asp?docid=1001225). Once again, the importance of this section will vary widely according to the type of procurement being undertaken.
- 27 If a supplier lacks a sustainable development policy it may be difficult to establish whether it can provide the solution whilst minimising effects on the environment, or whether it can meet the requirements of environmental protection legislation.

<b>Criteria</b>	<b>Points</b>
Sustainable Development policy and management system present	6-10
Environmental management not specifically addressed or policy stated with no details of systems	0-5

## Section 9 – Organisational Experience

- 28 Any questions posed in this section will relate solely to the requirement itself. As such the scoring model should be developed by the buyer based on the high-level specification, bearing in mind

- that any information requested in future evaluation stages must not duplicate any questions already asked.
- 29 It is likely that a high weighting factor will be applied to scores achieved for this section, reflecting the importance of requirement-specific supplier capabilities.

### Section 10 - Insurance

- 30 Employers liability is a legal requirement (except for sole traders), this should be at least £10 million. Public liability insurance of at least £5m is also essential for any well-run business.
- 31 The requirement may also require other forms of specialist insurance (e.g professional indemnity insurance for consultancy and other professional services, product liability insurance for certain commodity requirements). If any of these may apply to your proposed procurement, please contact CPT for further advice.
- 32 This section should not be scored, but it should be noted whether the supplier has the required insurances, and if they do not they should give an undertaking that they would be willing to acquire them should they be awarded the contract.

### Section 11 & Schedule B – Previous Experience and Comparable Contracts

- 33 The basic rationale behind this section is to enable you to assess the level of relevant expertise and experience possessed by a supplier. You should check that the organisation has provided references that are relevant to the Council’s requirement and that the values of these are consistent with the likely size and value of the requirement. A newly set-up supplier might be unable to provide four references, but at least one or two should be available.
- 34 Of course, the suppliers’ ability to make reference to comparable previous work will depend upon providing a good informative overview of its basic requirements in the information issued to suppliers with the PQQ.

<b>Criteria</b>	<b>Points</b>
Relevant references	7-10
Partially relevant references	4-6
Concern over terminated contract(s) / ‘Irrelevant references	1-3
References not provided	0

## Section 12 – Declaration

- 35 This is simply the confirmation to the buyer by the supplier that the information provided is valid and correct and is the final section of the PQQ with the exception of explanatory notes.
- 36 It is inappropriate to apportion weighted scores to the declaration, although if left incomplete there may be concern that the supplier is not prepared to warrant that the information provided is correct.

## Weightings

- 37 As noted above, the weightings for the scores appointed to the evaluation of each section will differ according to the subject matter of each procurement.
- 38 A suggested weighting model is included below for illustrative purposes.

	<b>Section</b>	<b>Suggested Weighting</b>
1.	Organisation Details	N/A
2.	Financial Information	N/A – risk based assessment
3.	Exclusion Criteria	N/A – risk based assessment
4.	Overview of Organisation	15
5.	Quality Assurance	12
6.	Health and Safety	12
7.	Equal Opportunities	8
8.	Sustainable Development	8
9.	Organisational Expertise	25
10.	Insurance	N/A
11.	Previous Experience and Comparable Contracts	20
12.	Declaration	N/A

## Appendix 9 – Equalities, inclusion, sustainability and ethical procurement principles

- 1 The following paragraphs set out the headline principles of the procurement strategy:

### **Equality & inclusion**

- 2 The Council is committed to ensuring equal opportunities access and treatment for all. All procurement activity will be conducted in a way that is non-discriminatory and promotes equality of opportunity for staff, the public and business. The Council will ensure it fulfils its statutory responsibilities by requiring all its contractors and suppliers to comply with all current equalities legislation including the Race Relations (Amendment) Act 2002, Race Relations Act 1976, the Sex Discrimination Act 1975, the Disability Discrimination Act 1995, the Employment Equality Regulations 2003 and Codes of Practice issued by the Equality Commission. The Council will promote the healthy development of a mixed economy of supply in which the optimum procurement solution for the organisation and the wider community will be preferred.

### **Sustainable procurement**

- 3 All procurement activities will be undertaken with regard to the need to ensure integrated, sustainable development and the use of assets. Procurement decisions must be made with regard to 'whole life' value for money considerations and environmental impacts. The Council will implement the actions recommended by the Sustainable Procurement Taskforce (May 2007) to support the shared national goal for the UK to become a leader in the EU on sustainable procurement by 2009.

### **Ethical Procurement**

- 4 The Council is committed to ensuring that all procurement activities will be undertaken with regard to the need to ensure consideration is given to ethical concerns relating to any given supply. Ethical purchasing put simply is buying things that are made ethically by suppliers that act ethically. Ethical can be a subjective term both for suppliers and customers, but in means without harm to or exploitation of humans, animals or the environment.

## Appendix 10 - Equalities, inclusion, sustainability and ethical procurement policy

- 1 The following paragraphs set out the headline policies of the procurement strategy:

### **Equality & inclusion**

- 2 Goods, services and works will be procured in line with the Council's equal opportunities policy and the principles set out in Appendix 9 above

### **Sustainable procurement**

- 3 Goods, services and works will be procured wherever possible and within financial constraints in such a way as to maximise the whole life values to the organisation, its partners and the wider community whilst seeking to minimise any adverse environmental impacts of any given supply. Thought must be given to any relevant environmental sustainability issues. Equally, consideration should be given to sustainability of the supply within the market place and how contracted goods, services or works will contribute to the sustainability of the Council and its services to the community.

### **Ethical purchasing**

- 4 All procurement decisions must give due regard to known ethical concerns relating to any given supply. Council procurements must not go towards supporting known exploitation of child or slave labour, promoting racism or encouraging social segregation or division. Ethical considerations may be brought into the evaluation process as quality or other non-cost considerations. For example, an ethical preference for Fair Trade products for example may be rewarded through additional 'non-price' criteria within the evaluation process. A balanced judgement as to the desirability of any given supply should then be assessed on the basis of the overall cost and value that will be incurred and derived by the Council throughout the life of an asset (including its disposal) or contract period.