



PROCUREMENT RULES, REGULATIONS & CONTRACT STANDING ORDERS

1. INTRODUCTION

- 1.1 Over the last 18 months a review has been underway of the Council's contract procedures, Contract Standing Orders and published guidance for officers involved in procurement and contracting processes.
- 1.2 This review has been undertaken by a Contracts Project Team, which was set up in June 2011. The Project Team consisted of officers from Legal & Democratic Services, Property Services, Environment Services and Customer and Financial Support Services. The Project Team was overseen by the Project Board consisting of the Executive Director, Head of Legal and Democratic Services, Head of Property Services and the Internal Audit Manager. Other officers have been consulted when relevant issues arose.
- 1.3 The terms of reference for the Contracts Project Team were to:
 - Review contract processes and documentation
 - Produce standard procurement and contract documentation
 - Standardise procurement procedures
 - Improve contract information held
 - Improve guidance and information available to employees
 - Introduce consistency within procurement across the Council.
- 1.4 Separately from the Contract Project Team the Council's Procurement Strategy was approved by Cabinet on 1 August 2012.
- 1.5 This report sets out the proposed changes to the Council's procurement rules, policies, regulations and Contract Standing Orders and seeks Cabinet support and the approval of Council for these proposed changes.

2. PROCUREMENT AND CONTRACT DOCUMENTATION

- 2.1 The Contracts Project Team reviewed the current procurement policies, regulations and guides available for employees on Forestnet. The documents reviewed include Contract Standing Orders, Contract Standing Orders User Guide, Financial Regulations, Procurement Strategy, Desk Guide to Purchasing and the Project Management Guide.

- 2.2 The review of the documentation highlighted the following issues:
- Many documents repeated the same information
 - The number of documents available made it confusing for employees to know which document contained the information they were looking for
 - There was conflicting information between the documents
 - Information within the documents was out of date.

2.3 To address these issues the Contracts Project Team proposed that all procurement policies, regulations and guides should be condensed into one document making it easier for employees to know where to look for procurement information and also making it easier to control the procurement information available for employees and ensuring it is up to date.

2.4 The Contracts Project Team has now produced this procurement document which is named the Procurement Rules, Regulations and Contract Standing Orders (Please see appendix A). The document starts with the approved Procurement Strategy as the Council's overarching procurement guidelines and then follows the procurement process from start to finish, highlighting the mandatory rules for employees to follow.

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3. CHANGES TO PROCUREMENT RULES AND REGULATIONS (CONTRACT STANDING ORDERS)

3.1 When producing the new Procurement Rules, Regulations and Contract Standing Orders document. The Contracts Project Team reviewed all of the Contract Standing Orders that employees must follow when undergoing a procurement exercise. The following changes are proposed to the Contract Standing Orders which now form part of the new Procurement Rules, Regulations and Contract Standing Orders document.

Financial Thresholds

3.2 The Contracts Project Team reviewed the current financial thresholds in place. This review included the current financial limits with regard to budget supplementary estimates, budget virements, authorised signatory thresholds, tendering thresholds, gateway reviews, contracts register requirements and contract delegations.

3.3 The review found that there were many financial limits that had to be remembered. Where possible the new proposed financial thresholds have been aligned.

3.4 Financial thresholds for budget supplementary estimates, budget virements and authorised signatories will be recommended in a separate report when the Council's Financial Regulations are updated.

3.5 **Tendering thresholds** – The current tendering thresholds within Contract Standing Orders were reviewed. These thresholds determine which procurement method must be used and how many suppliers or contractors must be invited to quote or tender. In general the Project Team commented that the current

thresholds are adequate. The current thresholds however, only stipulate how many suppliers or contractors must be invited and not how many must be returned to demonstrate value for money. The following tender thresholds are proposed:

Requirement	Current Value	Proposed Value
One quote	£0 - £5,000	£0 - £5,000
Three quotations	£5,000 - £25,000	£5,000 - £25,000
Three Tenders (Minimum two Returned)	£25,000 - £100,000	£25,000 - £150,000
Six Quotations (Minimum three Returned)	£100,000 – EU Procurement Thresholds	£150,000 – EU Procurement Thresholds

3.6 **Contract Delegations** – Council approved the current contract delegations on 24 April 2006. The delegations limit the number of Officers within the authority who can enter into contracts, carry out the roles defined in contracts, make contract payments and grant waivers. The Contract Project Team found that these delegations are now out of date and require updating.

3.7 It has been identified that the current delegations in respect of signing a contract agreement and making contract payments are inconsistent across the Council. These delegations are currently maintained on a paper-based system whereby the employee completes a form to indicate what value of authorisation they require for contracts, which is then signed by the relevant Head of Service and sent to Internal Audit. This has resulted in a variety of contract authorisation limits for a range of employees at different levels. Therefore the following contract delegations are proposed:

Requirement	Current Value	Proposed Value
Entering into contracts (Contract Signing)		
EMT	£1,000,000 - £5,000,000	£0 - £5,000,000
Heads of Service	£0 - £1,000,000	£0 - £1,000,000
Budget Responsible Officer	Various	£0 - £10,000
Procurement Manager	£0	£0 - £50,000 (Goods / Services Only)
Contract payments – Works (Payment Certificates)		
EMT	£250,000 - £1,000,000	£Unlimited
Heads of Service	£0 - £250,000	£0 - £500,000
Principle Engineer	£0 - £150,000	£0 - £100,000
Housing Performance Manager	£0 - £100,000	£0 - £100,000
Building Works Manager	£0 - £500,000	£0 - £100,000
Property Manager	£0 - £100,000	£0 - £100,000
Environmental Design Manager	Nil	£0 - £100,000
Grounds &	£0 - £10,000	£0 - £100,000

Engineering Works Manager		
Contracts Manager	Nil	£0 - £10,000
Senior Building Surveyor (Building Works)	£0 - £50,000	£0 - £10,000
Senior Building Surveyor (Property Services)	Nil	£0 - £10,000
Operations Manager (Housing Maintenance)	£0 - £5,000	£0 - £10,000
Building Works Supervisor	Nil	£0 - £10,000
Building Surveyor / Estimator	£0 - £1,000	£0 - £10,000
Coastal Engineering Team Leader Assistant Engineer (Coastal)	£0 - £10,000	£0 - £10,000
Contract payments – Goods / Services		
Contract payment of goods and services.	Nil	To be paid in line with the Council's Authorised Signatory Process.

- 3.8 The Contracts Project Team noted that there were minimal controls other than a gateway review to identify that a correct contract or the correct contract conditions have been used. It is therefore proposed that the following officers have delegated authority to choose a type of contract for their relevant service or business unit:

POSITION	SERVICE / BUSINESS UNIT
Property Manager	Property Services
Procurement Manager	All Services (Goods & Services Only)
Building Works Manager	Building Works
Grounds & Engineering Works Manager	Environment Services
Environmental Design Manager	Environmental Design
Coastal Engineering Team Leader	Coastal Group
Principal Engineer	Engineering Design

- 3.9 The thresholds for waivers were reviewed by the Contracts Project Team. It is proposed that Heads of Service can approve lower value waivers against Contract Standing Orders.

Requirement	Current Value	Proposed Value
Waivers	£0 - £100,000 – Head of Service and Executive Director.	£0 - £10,000 – Head of Service
Waivers	£100,000 – EU Procurement Thresholds – Head of Service and Chief Executive	£10,000 – EU Procurement Thresholds – Head of Service and EMT.
Waivers	EU Procurement Thresholds and above - Council	EU Procurement Thresholds and above – Chief Executive

Quotation procedures

- 3.10 The current Contract Standing Orders state that for contracts under £25,000 then quotations must be received from suppliers or contractors. However, the Contract Standing Orders do not explain the process for requesting, receiving, evaluating and recording quotations. The new Procurement Rules, Regulations and Contract Standing Orders document now includes quotation guidance for employees.
- 3.11 It is proposed that each service must nominate an officer who is independent of the procurement process to receive, retain and record quotations. This will ensure that quotations are received in an open and transparent way.

Clarification of EU Procurement Rules, Framework Agreements

- 3.12 The current procurement documentation available to employees does not include any guidance on the EU Procurement Rules or Framework Agreements. EU Procurement Rules are a part of EU legislation and must be adhered to. Therefore the new Procurement Rules, Regulations and Contract Standing Orders document includes outline guidance for employees to follow on EU Procurement Rules and Framework Agreements.

4. OTHER CONTRACT DOCUMENTATION

- 4.1 The Contract Project Team have also produced other contract documentation for employees to use. This contract documentation includes (but not limited to) the following:
- Invitation to tender
 - Standardised response letters
 - Pre-qualification questionnaires
 - Evaluation grids for tenders
 - Final account documentation
 - Waivers to Contract Standing Orders.
- 4.2 Currently gateway reviews are required for all works contract over £10,000. A gateway review is a process whereby each stage of a procurement project must be signed off by the relevant Head of Service before continuing to the next stage

of the procurement. The Contracts Project Team reviewed the £10,000 limit, it was felt that this level was too low and therefore proposes the threshold be raised to £25,000 (this is consistent with the tendering thresholds). Furthermore it is proposed that the gateway review process is extended to goods and services contracts as well as works contracts.

5. MAINTAINING CONTRACT DOCUMENTATION

- 5.1 As highlighted in paragraph 2.2 it was found that contract documentation or information available was out of date. To resolve this issue it is proposed that a sub group from the Contracts Project Team be responsible for ensuring that all procurement documents and policies remain up to date and available for staff. It is intended that this sub group will meet on a quarterly basis.
- 5.2 It is proposed that all procurement and contract documentation will be held under the procurement pages on Forestnet. This should ensure that the latest versions of documentation are available for employees.

6. TRAINING

- 6.1 If the proposals from this report are approved then training will be rolled out to the relevant employees who will be affected by the proposed changes.
- 6.2 The Head of Property Services and an Auditor have provided the training to these employees during March 2013

7. ENVIRONMENTAL, CRIME AND DISORDER AND EQUALITY IMPLICATIONS

- 7.1 The way the Council undertakes its' procurement can have a significant impact on the environment. The Procurement Strategy and the new Procurement Rules, Regulations and Contract Standing Orders require procuring officers to consider the impact of their procurement activity on the environment and to actively pursue environmentally and socially responsible products, services and buildings.

8. COMMENTS OF THE CORPORATE OVERVIEW AND SCRUTINY PANEL

- 8.1 The Panel recommend that the document is approved, and also that the officers and members involved in be thanked for their work in consolidating the documents into a single guide.

9. COMMENTS OF FINANCE AND EFFICIENCY PORTFOLIO HOLDER

- 9.1 The Portfolio Holder supports the adoption of the new Procurement Rules, Regulations and Contract Standing Orders. The consolidation of the previous rules and guidance into a single document will bring greater clarity for officers involved in the procurement process and ensure robust and transparent processes are in place to ensure best value is achieved in the use of public funds.

10. RECOMMENDATION

That it be a recommendation to Council that:

- (i) the Procurement Rules, Regulations and Contract Standing Orders Document, as attached as Appendix A to this report, be approved and adopted, to become effective from 1st April 2013.
- (ii) the changes to Contract Standing Orders (as part of the Procurement Rules, Regulations and Contract Standing Orders Document) be approved; and.
- (iii) the Constitution and Scheme of Delegation of Powers to Officers be updated in line with this report.

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Background Papers:

Attached.



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PROCUREMENT RULES, REGULATIONS & CONTRACT STANDING ORDERS INTRODUCTION

This Procurement Rules, Regulations & Contract Standing Orders encompasses the Council's Procurement Strategy 2012 – 2016, the Council's Contract Standing Orders and the Council's rules and guidelines to good procurement.

This document is intended to provide rules and procedures to be followed in order to obtain best value, comply with the Law which governs spending and to safeguard public funds as well as to protect the interests of individuals involved in procurement. It provides the framework for the procurement of all works, goods and services and must be complied with by all Members, Officers, Consultants and other external Agents appointed to act on behalf of the Council in procurement matters.

PART A

PROCUREMENT STRATEGY 2012 - 2016

A1. INTRODUCTION

A1.1 The Council's vision is to be an outward looking council working closely with the community and in partnership with others to enhance the quality of lives of present and future generations. This is to be achieved by:

- Conserving the environment
- Helping to create and maintain a local economy bringing opportunity and benefit to the area
- Understanding and fulfilling local needs.

A1.2 The Councils Corporate Plan 'Delivering for our Communities' identifies four key corporate priorities:

- Improving services to the customer
- Managing our resources effectively
- Maintaining excellent performance in the delivery of our services
- Developing effective partnerships with other local organisations.

A1.3 Procurement plays a fundamental role in the delivery of these key priorities. It is the foundation to providing cost effective, efficient, high quality and responsive services. It is therefore crucial that the Council has a clear strategic framework for the procurement of goods, services and works to enable the benefits of good procurement practice to be achieved and as a consequence help to deliver on the key corporate priorities.

A1.4 The Council continues to face significant financial pressures meaning that efficiencies need to be identified across all service areas. To support this process of service reviews has been established by the Council's executive which is based upon considering all aspects of service delivery which range from restructure / reposition of an in-house service to transfer of a service to another provider. The Council's medium term financial plan sets out efficiency targets to be achieved by all services. In conjunction with this efficiency programme the procurement process will continue to play an important part in supporting services achieve their savings targets.

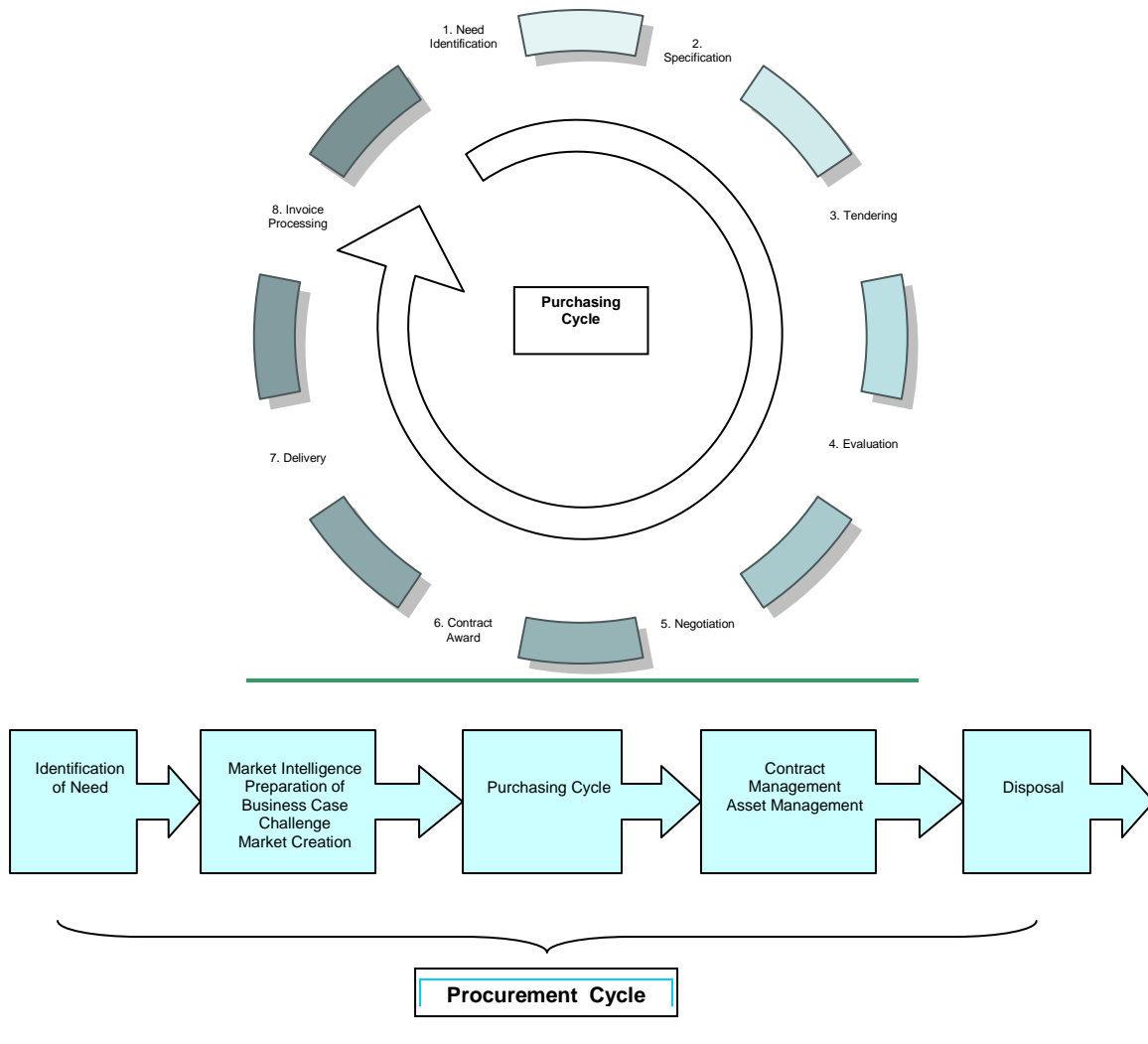
A1.5 The aim of this procurement strategy is to set out the overarching procurement principles of the Council. It identifies processes and policies that support procurement activity and includes a plan for future developments and improvements. The principles contained in this strategy should be applied to all procurement activity. This Strategy should be read alongside the Council's Standing Orders as to Contracts and Financial Regulations.

A2. WHAT IS PROCUREMENT

A2.1 Procurement is defined as *"the process of acquiring goods, works and services, covering both acquisition from third parties and from in-house providers. The process spans the whole cycle from identification of needs, through to the end of a services contract or the end of the*

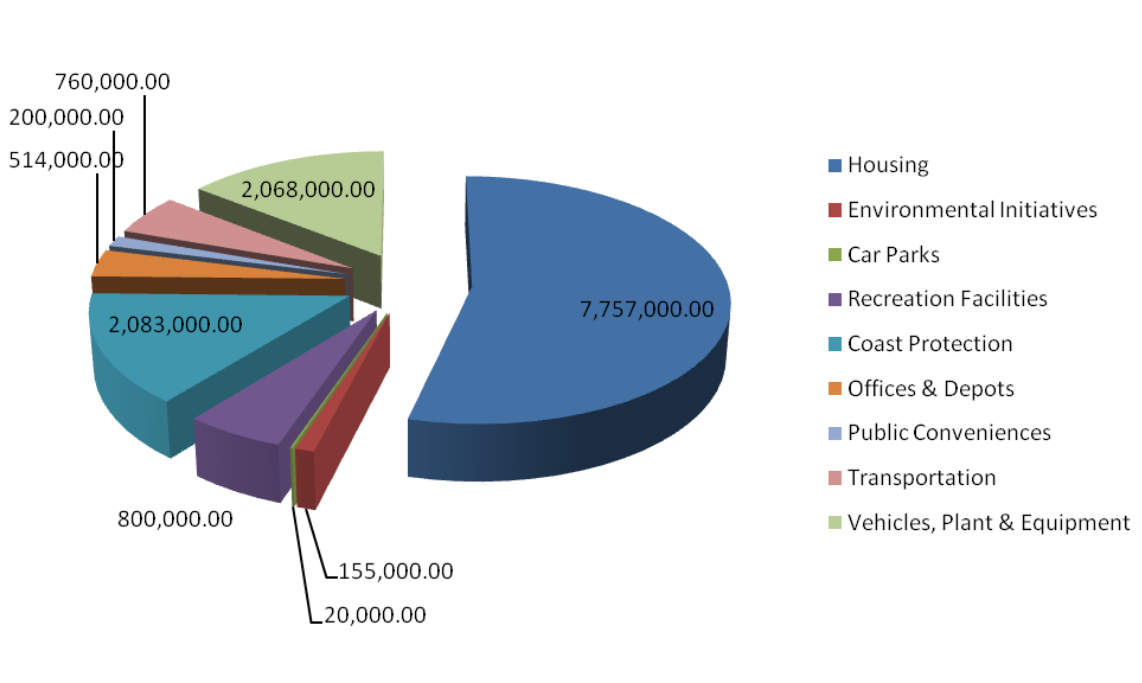
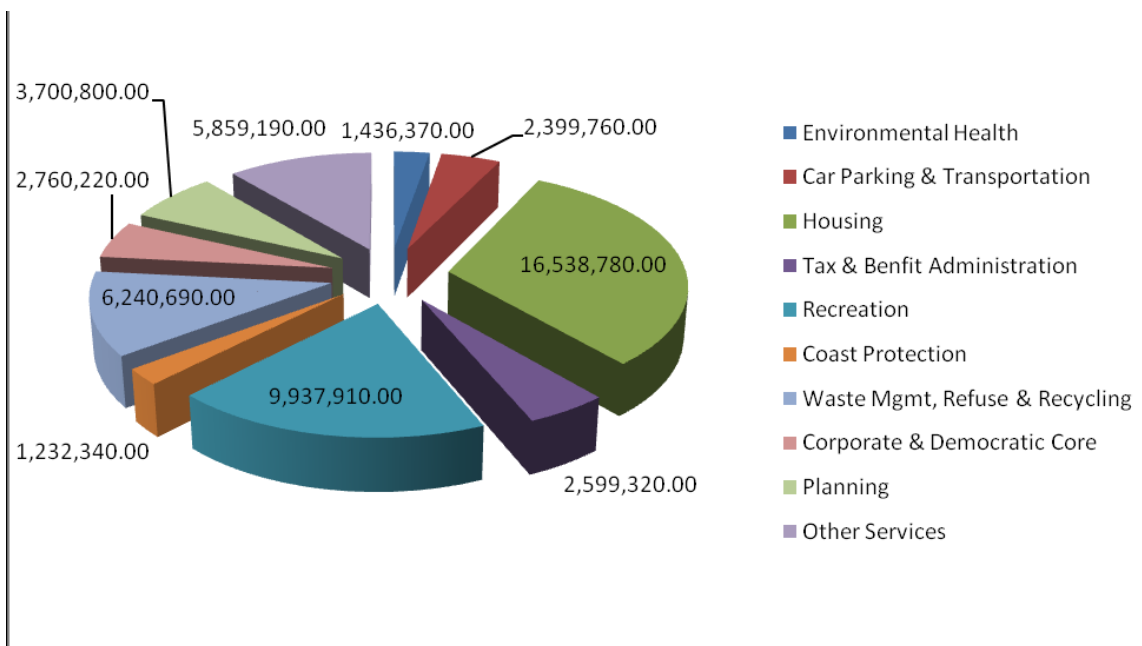
useful life of an asset. It involves options appraisal and the critical “make or buy” decision which may result in the provision of services in-house in appropriate circumstances”.

A2.2 Procurement is not the same as purchasing. Purchasing is only one element of the process i.e. the basis of the acquisition stage in the Procurement Cycle. The procurement cycle starts with the identification of a need and moves through purchasing decisions to the end of a service or the end of the useful life of an asset. Procurement decisions would cover why, how and where in respect of service delivery options.



A3. SCOPE OF THE PROCUREMENT STRATEGY

A3.1 The Council's combined gross revenue and capital budget for 2012/13 is £67m (excluding housing and council tax benefits). The allocation of this spending is shown below against the key service areas.



A3.2 Of this budget £46m (69%) is spent externally on the supply of goods, works and services. In 2011/12 the Council used over 1,900 different suppliers and contractors and processed over 35,000 invoices.

A3.3 Control of the supplier base is crucial to ensuring efficiency savings through rationalisation and aggregation of spend. The Central Purchasing Unit maintains close control of

supplier registration to ensure fragmentation of spend and suppliers is minimised. Where opportunities for consolidation are identified these will be pursued with services and suppliers to achieve efficiencies.

A4. ROLES AND RESPONSIBILITIES

A4.1 The Executive Director (S151 Officer) and Portfolio Holder for Finance & Efficiency will assume the roles of Chief Officer and Member Procurement Champions respectively and the subsequent implementation and delivery of this strategy.

A4.2 The Procurement Champions will ensure that procurement is seen as a strategic issue and will be responsible for the adoption of this strategy. The Central Purchasing Unit provides specialist purchasing expertise to the organisation and will work closely with services to ensure compliance with both internal and external rules and procedures and that best practice is adopted.

A4.3 Specialist areas of procurement are the responsibility of individual services, as follows:

- ICT (hardware and software) – ICT Services
- Vehicles and Plant – Environment Services (Transport Manager)
- Property Maintenance – Property Services

A4.4 The Council's Asset Management Group maintains a close monitoring role over all property related issues (Acquisitions, disposals, planned maintenance programme). The group is chaired by an Executive Director with membership of the Finance & Efficiency and Housing Portfolio Holders.

A4.5 The Council's Internal Audit and Finance teams provide support and advice on the application of internal Standing Orders and Financial Regulation.

A4.6 The Council will ensure that all employees with identified procurement responsibilities receive ongoing training to ensure they have the skill sets required to deliver this strategy. All other employees shall be familiar with this strategy and highlight any procurement issues or potential opportunities with their line manager.

A4.7 Effective procurement across the Council will be achieved through the active participation of Portfolio Holders and Heads of Service as well as those officers with delegated responsibility for the control of budgets.

A4.8 Apart from a few limited exceptions, all orders for goods and services shall be placed using the Central Purchasing Unit, in order to benefit from:

- Purchasing expertise
- An overview of purchasing activity, ensuring opportunities can be maximised
- Reductions in costs through consolidation and use of centralised contracts.

A5. PROCUREMENT PRINCIPLES

A5.1 All procurement across the Council shall follow these guiding principles:

- Ensure that all procurement options are considered in the delivery of services (in-house, partnering, collaboration, outsourcing etc) so that value for money is achieved from a varied and competitive supply market.
- Adoption of fair, transparent and proportionate arrangements within the procurement process to encourage interest from a wide range of service providers, suppliers and contractors.
- All procurement exercises will seek to achieve best value for money. This will not always result in the lowest price but shall take into account cost, quality, sustainability and localism. The evaluation of cost shall include the whole life cost of the product or service whilst at the same time considering the impact on the environment, economy and social development.
- The centralised procurement team will seek to continually review and improve procurement practices in order to deliver efficiencies for both the Council and supplier base. This will include the adoption of the latest technology in the procurement process (e-procurement).
- Procurement officers will seek to develop appropriate solutions for contracts which present the most attractive and cost efficient way of offering service and supply requirements.
 - The Council will ensure compliance with EU legislation, national regulations and the Council's Contract Standing Orders and Financial regulations. All employees involved in any procurement activity must be fully conversant with these prior to undertaking any procurement.
- The Council will continue to maintain close working relationships with other local authorities to maximise collaborative procurement opportunities, deliver economies of scale and widen the scope of its experience. This will be achieved primarily through the Hants & Isle of Wight Strategic Procurement Partnership. The use of wider national and regional framework agreements will also be considered in appropriate cases.
- Suppliers and service providers will be paid in a timely manner, in accordance with contract terms and conditions. The Council will pay all undisputed invoices for goods and services within 30 days of receipt of invoice.
- The Council had adopted the Small Business Friendly Concordat and is committed to supporting and working with small, local businesses. Procurement exercises and relationships with small and medium sized enterprises will be undertaken in a manner consistent with the principles set out in the Concordat.

A6. APPROVED CONTRACTORS AND SUPPLIERS

A6.1 The selection of contractors for much of the Council's procurement is achieved through a managed 'Approved List'. Contractors wishing to do business with the Council need to be accredited to this approved list. Registration instructions are included on The Council's website. Selection of contractors for tendering opportunities is managed through the approved list.

A6.2 Supplies and services not covered by the approved list are sourced separately either through Construction Line or by advert through the Council's website. All contracts with a value above the EC Public Procurement Directive thresholds are published in the Official Journal of the European Union.

A6.3 Where appropriate the Council will also take advantage of regional or national framework agreements for the procurement of goods and services.

A6.4 In 2012 the Council will adopt a County wide standard Pre Qualification Questionnaire (PQQ) for use in the ad-hoc selection of tenderers where use of the approved list is not appropriate. This PQQ has been developed by Hampshire County Council and approved by the Federation of Small Businesses following a thorough consultation process.

A6.5 In developing the Council's relationship with local businesses, the Council will continue to support and promote the New Forest Business Partnership which has now been in existence since 2001. The aims of the partnership are to improve the relationship between commercial organisations and local government, promote better business to business relationships and to build a stronger economy and bringing greater prosperity to the local community.

A6.6 The Partnerships aims will be delivered through a range of activities:

- NFDC funding for a Business Development Officer resource
- Co-ordination of activities of the partnership
- Regular networking meetings
- Continued development and promotion of 'Brand New Forest' card scheme
- Working with other Hampshire LA's to deliver joint projects including the South Hants meet the buyer events and the NF Sustainable Business Network
- Training events for partnership members.

A7. E-PROCUREMENT

A7.1 The Council recognises the benefits to be gained through the use of technology in the procurement process and is committed to continually reviewing and modernising its own arrangements.

A7.2 The Council will build on the improvements already made and in 2012/13 will introduce systems to receive supplier invoices electronically. Initially this new system will be implemented with key suppliers with high volume transactions enabling efficiencies to be achieved both for the council and suppliers. Once successfully implemented this process will be extended to the wider supplier base.

A7.3 Options for modernising the tendering process are also being explored with the aim of adopting an E-tendering package, also in 2012/13, which will bring efficiencies to both prospective suppliers and contractors and the Councils own arrangements as well as improved control and speed of process.

A8. PARTNERSHIPS & COLLABORATION

A8.1 The Council understands the benefits of working together with other organisations to deliver improved services and to realise financial efficiencies. There are many recent examples of partnerships and collaborations that are delivering efficiencies to the organisation ranging from shared use of premises, delivery of support and professional services to partners and collaborative procurement arrangements across Hampshire.

A8.2 The Council will seek to explore further opportunities to work with partner organisations, local communities and Town and Parish Councils to facilitate improved services to the public,

deliver community benefits and reduce the cost burden on the taxpayer. This could be through the shared use of assets, skills or resources.

A8.3 The Right to Challenge is a national process being introduced through the Government's Localism Act. It is one of the new 'community rights' which makes it easier for voluntary and community groups or council employees to bid to run council services. The Right to Challenge is a way for groups with good ideas about how services can be run differently or better to have the opportunity to get their ideas heard fairly, and where appropriate allow them the time to prepare bids to participate in an open competition to win the right to provide the service. The Council is developing processes to determine whether any expression of interest received is accepted. If accepted a procurement exercise for a service must be conducted. Authorities must consider whether and how an expression of interest and any subsequent exercise can promote or improve the social, economic or environmental wellbeing of its area. They must also comply with existing public procurement law. Failure to do this could provide grounds for legal challenge.

A8.4 The Council will continue to play an active role in the Hants and Isle of Wight Strategic Procurement Partnership to deliver procurement efficiencies through collaboration. These efficiencies will be achieved through aggregation and joint procurement exercises, standardisation of specifications and the sharing of procurement skills and information across organisations.

A9. SUSTAINABLE PROCUREMENT

A9.1 The Council recognises the role its procurement of works, goods and services has in furthering sustainable development. Procurement decisions have major socio-economic and environmental implications, both locally and globally. The Council will therefore strive to adopt sustainable procurement practices consistent with BS8903 (Sustainable Procurement Guidance Standard).

A9.2 The aim of this approach is to ensure that employees, contractors and suppliers are aware of the Council's commitment to long term social, ethical and environmental sustainability. We will seek to protect and enhance the environment and create better lives, wellbeing and opportunities for the people of the New Forest through our procurement processes.

A9.3 The Council is committed to the responsible management of its procurement processes in order to deliver value for money, whilst actively pursuing environmentally and socially responsible products, services and buildings.

A9.4 This will be achieved by:

- Taking into account the need to minimise emissions and reducing the negative impacts of transportation when purchasing goods and services
- Taking steps to minimise carbon dioxide and other greenhouse gas emissions through the detailed consideration of products and services procured
- Considering the environmental performance of all suppliers and contractors, and encouraging them to conduct their operations in an environmentally sensitive manner
- Maximising the use of recycled products and products derived from reclaimed materials
- Considering a basic life cycle analysis of products to minimise the adverse effects on the environment resulting directly or indirectly from products

- Selecting products / services that have minimal effect on the depletion of natural resources and biodiversity
- Other things being equal, giving a preference to Fairtrade, or equivalent, and ethically sourced and produced goods and services
- Working in partnership with other organisations to improve sustainable procurement
- Encourage more effective working with diverse suppliers (micro, small and medium sized enterprises) and ensure that local enterprises are encouraged to bid for the Council's business
- Ensuring all relevant procurement contracts and tenders contain sustainability specifications as appropriate to the product or service being procured
- Maximising the opportunities for employment and economic gain within New Forest District Council communities
- Comply with all UK and EU statutory regulations and legislation and ensuring our suppliers do the same
- Training all procurement staff on sustainability considerations and encouraging internal purchasers to review their consumption of goods and services and adopting more environmentally friendly products
- Communicate policy to all staff, suppliers and partners.

PART B – CONTRACT STANDING ORDERS

INTRODUCTION TO CONTRACT STANDING ORDERS

The Council has a statutory duty to make Standing Orders for the procurement of goods, services or works in order to achieve competition and to regulate procedures for procurement.

These orders are intended to provide rules and procedures to be followed in order to obtain best value, comply with the Law which governs spending and to safeguard public funds as well as to protect the interests of individuals involved in procurement. These Contract Standing Orders provide the framework for the procurement of all works, goods and services and must be complied with by all Members, Officers, Consultants and other external Agents appointed to act on behalf of the Council in procurement matters.

Contract Standing Orders are mandatory rules and must be followed. These orders are highlighted in bold within a blue box and are numbered with a SO prefix. This document also contains best practice procurement rules which are not highlighted in a blue box.

SO1 This document applies to all of the Council's external procurement regardless of the source of funding. This also includes contracts where there is no cost to the Council but where there is income generation for a supplier / contractor.

SO2 It is a disciplinary offence to fail to comply with these Contract Standing Orders.

SO3 Employees have a duty to report breaches to their Head of Service and the Internal Audit Manager.

SO4 The Council's Section 151 Officer and the Monitoring Officer monitor compliance with these Standing Orders in accordance with their responsibilities under Section 151 of the Local Government Act 1972 and Corporate Governance.

B1. EXCEPTIONS

There are certain exceptions where Contract Standing Orders do not apply. The following outlines the exceptions to Contract Standing Orders.

Contract Standing Orders do not apply where:

SO5 The Council is to procure works, goods or services through a Consortium or similar body, provided the Council is a member of the Consortium and the Consortium's or similar body's rules are followed.

SO6 Works carried out under an Agency arrangement which states that the Standing Orders of the Principal Authority apply.

SO7 The goods, materials or services are proprietary items or their prices are sold at a fixed price only provided that in each of these cases there is no reasonable satisfactory alternative product.

SO8 Contracts are awarded to complete work where a contractor becomes insolvent or the employment of an existing contractor is determined. In such cases, an Executive Director's approval is required.

SO9 The appointment of counsel or specialist solicitors by the Head of Legal and Democratic Services in consultation with the relevant Director or Head of Service.

SO10 The appointment of specialist experts agreed by the Council's Chief Executive to advise the Council in the conduct of legal matters and legal proceedings.

SO11 These Standing Orders do not apply to the purchase, letting or disposal of land in accordance with the Council's Asset Management Policy and the Council's Scheme of Delegations.

B2. WAIVERS

A waiver is the process to follow where Contract Standing Orders can not be adhered to. Any Contract Standing Order may be waived in accordance with the following rules:

SO12 A waiver must not result in a breach of EU Procurement Regulations for contracts within the EU tendering thresholds or of procurement law below EU procurement thresholds. See section B3.3 (Method D) for information.

SO13 An officer may request a waiver by completing the waiver template which can be found on the procurement pages on Forestnet. The following must be recorded:

- Which Contract Standing Order is being waived
- The value of the contract
- A short description of the reason for the waiver
- A demonstration of value for money
- An evaluation of risks to the Council
- Authorised as per the table below:

Value of Contract	Approval Required
£0 - £10,000	Head of Service
£10,000 – EU Procurement Levels (See Para B3.3)	Head of Service & any member of the Executive Management Team
EU Procurement Levels and above*	Chief Executive

*Please note that the EU Procurement Rules cannot be waived, this threshold applies to the waiving of the Council's Contract Standing Orders.

SO14 A copy of the authorised waiver form should be sent to Internal Audit for retention with the Council Register of Contracts. All waivers granted will be reported annually to EMT and the Audit Committee.

B3. PROCUREMENT PROCESS

The procurement process is the procedure to follow to ensure that the Council obtains the best value for money which demonstrates a fair, open and transparent process and complies with Procurement Law.

In-house Services

SO15 Where the Council has established expertise in a function, whether it be direct works (engineering, building, grounds maintenance etc) or professional services (accountancy, audit, legal, surveying etc) all relevant works and services shall be delivered by the service with the expertise.

Where the in-house service provides the works, goods or service and makes a direct charge for a specific activity, there are a number of principles that must be followed by the commissioning officer and the delivering service, these are as follows:

- In the first instance the commissioning officer has the responsibility to establish whether the works or services can be delivered by a business unit within the organisation.
- The commissioning officer is responsible for identifying the scale of works or service to be procured and the basis for securing value for money for their service.
- The commissioning officer must discuss the proposed works or service with the delivering business unit in the first instance and decide if it is within the business unit's capabilities and capacity to deliver, before any attempt to obtain external prices is made.
- Provided the business unit has the skills and the capacity and is able to meet the project timetable (which must be reasonable & sufficiently planned in advance) then the work shall be allocated to the business unit to undertake.
- Any new works or services to be commissioned that would likely result in a material increase in resources or additional investment shall need the formal approval of EMT before any such works or services are commissioned.
- The proportion of works to be sub-contracted to third parties shall be discussed and agreed with the commissioning service. This may be necessary where elements of the job or service require specialist skills that the in-house team do not possess or where there are insufficient resources available within the in-house service. In these circumstances the relevant service shall be responsible for procuring any external resources within these Contract Standing Orders.
- The delivering service shall provide an estimate of the cost of the works, based on a sufficiently detailed specification. This estimate shall be built up to show labour, material and any other associated costs so that there is a baseline against which outturn costs can be compared. Any queries relating to this initial estimate shall be raised and discussed at the time. It should be noted that hourly charge out rates will not always appear comparable with external rates due to internal overheads; however quantities and material prices should be directly comparable to that which is expected.
- Costs will be charged on actuals. Internal invoices for completed works shall be submitted to the commissioning service within four weeks of completion of the project, with any variations clearly identified, having previously been discussed and agreed with the commissioning service.
- The delivering service will be responsible for ensuring that any likely variations against original estimated are communicated to the commissioning service at the time they arise so that approval / budget provision can be allocated. This may be as a result of additional works or unforeseen problems.

- Works shall be undertaken in accordance with the design and specification.
- Any disputes in relation to the delivery of the work or service shall in the first instance be discussed between the officers managing the works. If matters remain unresolved the matter shall be referred to the business unit managers for resolution.

B3.1 STAGE 1 – NEED IDENTIFICATION

The first step in the procurement process is to identify exactly what is needed. You will need to determine which of the following categories the need fits into:

Goods - Goods contracts have as their objective the purchase, lease, rental or hire purchase of products. A contract having as its objective the supply of products and which also covers, as an incidental matter, siting and installation operations shall be considered as a goods contract.

Services – Service contracts can be described as contracts other than works or goods contracts having as their objective the provision of a service. A contract having as its objective both products and services shall be considered to be a “service contract” if the value of the services in question exceeds that of the products covered by the contract. Examples are as follows; telecommunications services, consultancy, insurance, banking and investment services, computer and related services, advertising services, building-cleaning services, publishing and printing services.

Works – Works contracts have as their objective either the execution, or both the design and execution of works related to one of the activities listed below or works, or the realisation, by whatever means, of works corresponding to the requirements specified by the contracting authority. “Works” means the outcome of building or civil engineering works taken as a whole which is sufficient of itself to fulfill an economic or technical function. Examples are general construction of buildings, civil engineering works and site preparation.

SO16 If the need relates to the following specialist areas you will need to liaise with the relevant officer. The responsibility of the procurement process will sit with these business units; however the preparation of the specification is the responsibility of the Contract Administrator. Please see B3.2 for more information.

- **ICT – Head of ICT Services**
- **Vehicles & Plant – Transport Manager**
- **Property Maintenance – Property Manager**
- **Goods & Services (except for above) – Procurement Manager**

The following will need to be considered at this stage of the procurement process:

- What are the requirements and goals of the need?
- What is the timetable and timescales of the procurement?
- Is there a budget in place for the need?
- Are there any risks to the procurement?
- What are the relevant roles and responsibilities?
- Are there any sustainability issues?
- Can the need be sourced / provided from in-house teams?

SO17 All contracts over £10,000 must be recorded on the Council’s forthcoming contracts register by the contract administrator before the procurement process commences. This can be accessed through the Procurement pages on Forestnet.

A Gateway review is a process whereby each stage of a procurement project must be signed off by the relevant Head of Service before continuing to the next stage of the procurement. The Gateway review ensures that the procurement project is properly defined, effective

communication is established, roles and responsibilities have been identified and assigned, risks identified and managed and the overall procurement is well controlled.

SO18 Gateway reviews must be undertaken on all contracts with an estimated value in excess of £25,000. The gateway review form and instructions can be found on the Procurement pages on Forestnet.

Gateway review stages can be identified using the logo below. A gateway stage one review must be undertaken at this stage of the process.



B3.2 STAGE 2 – SPECIFICATION

A specification must be prepared whenever the Council procures goods, works or services.

A specification is a full and accurate statement of what is required. It forms part of the contract documentation that is sent to suppliers / contractors when inviting them to quote or tender.

Where a supplier / contractor is likely to have some contact with children, young persons or vulnerable adults during the contract, the specification must require the supplier / contractor to have implemented robust Safeguarding procedures.

A specification has three main functions:-

- To communicate to a supplier / contractor exactly what is required as a means of measurement of the delivery of works or supply.
- To provide a record against by which suppliers / contractors performance can be measured.
- To ensure that open and effective competition is achieved.

A good specification should:

- Include a clear and concise description of what is required.
- Provide sufficient information for suppliers / contractors to cost the products they can offer.
- Allow a supplier / contractor to price in a consistent manner.
- If applicable, allow suppliers / contractors to offer a product that may incorporate different technical solutions.

The specification should be written by the Contract Administrator.

B3.3 STAGE 3 – PROCUREMENT METHOD & PROCESS

The contract quotation or tendering stage is split into the following areas:

- 1) Procurement thresholds
- 2) Selecting the suppliers / contractors
- 3) Insurances
- 4) Procurement method
 - Method A – Quotations (See page 23)
 - Method B - Tenders (See page 27)
 - Method C - Framework Agreement (See page 31)
 - Method D - EU Tenders (See page 32)

Choosing the correct procurement method is very important and must only be done by employees who have had the appropriate training and experience. If you require any help or guidance please contact the Central Purchasing Unit.

1 Procurement thresholds

SO19 There are various procurement methods that are to be used depending on the value and type of contract. The threshold values are detailed in the table below:

Works / Goods & Services	Contract Value	Mandatory Minimum Requirement	Alternative Procurement Method
Works, Goods & Services	£0 - £5,000	A minimum of 1 written Quotation must be obtained. (Method A)	Quotations (Method A) or Tender (Method B) or Framework Agreement (Method C)
Works, Goods & Services	£5,000 -£25,000	A minimum of three written quotations must be obtained. (Method A)	Tender (Method B) or Framework Agreement (Method C)
Works, Goods & Services	£25,000 - £150,000	A minimum of three tenders to be invited with at least two tenders returned. (Method B). Gateway review required.	Framework Agreement (Method C)
Works	£150,000- £4,348,350	A minimum of six tenders to be invited with at least three tenders returned. (Method B). Gateway review required.	Framework Agreement (Method C)
Goods & Services	£150,000- £173,934	A minimum of six tenders to be invited with at least three tenders returned. (Method B). Gateway review required.	Framework Agreement (Method C)
Works	Over £4,348,350*	Follow EU Procurement Procedures. (Method D). Gateway review required.	Framework Agreement (Method C)
Goods & Services	Over £173,934*	Follow EU Procurement Procedures. (Method D). Gateway review required.	Framework Agreement (Method C)

* EU limits correct as 1 January 2012 please see procurement pages on Forestnet for the most up to date thresholds.

How to calculate contract values

SO20 Contract values must be estimated exclusive of VAT. Contract values must not be disaggregated to reduce individual contract sums in applying the procurement rules. The contract value must be estimated for the whole life of the contract.

2 Selection of suppliers / contractors

2.1 Selection of suppliers / contractors Introduction

The process of selecting suppliers / contractors will differ depending on whether the contract is for works, goods or services. The selection process applies to both quotations and tendering processes.

SO21 The Council operate an approved list of suppliers / contractors that is currently maintained by an external company. All works contracts must firstly use this approved list of suppliers / contractors to select the relevant suppliers / contractors for a contract.

If you are using a framework agreement then the suppliers / contractors from the framework can be used. For information on how to select a supplier / contractors using a framework agreement please see para B3.3.6.

If EU Procurement Procedures apply please see para B3.3.7 for guidance.

Where a supplier / contractor is likely to have some contact with children, young persons or vulnerable adults during a contract, the contract administrator must ensure that the supplier / contractor has robust Safeguarding procedures. Please see the Safeguarding Children, Young People and Vulnerable Adults Policy (Section 9.2) for further information.

2.2 Selection of suppliers / contractors – Works

SO22 Approved list of Contractors – Suppliers / contractors must be selected from the Council's approved list of contractors. Access to the approved list of contractors is administrated by Internal Audit. It is the Contract Administrator's responsibility to ensure that all contractors selected from the approved list of contractors have the required qualifications, certificates and insurances to undertake the work required. The Contract Administrator can do this by logging into the approved list of contractors. If you require access to the approved list of contractors please contact Internal Audit.

SO23 Constructionline - If the approved list of contractors cannot provide a suitable number of suppliers / contractors or provide suppliers / contractors within a certain category of works (as outlined in paragraph B3.3.1) then the use of the Constructionline database of approved contractors can be used for contracts up to the value of £25,000. The Contract Administrator must ensure that adequate checks on health and safety, insurances, relevant qualifications and finances have been carried out in relation to the risk of the contract.

SO24 Pre qualification questionnaire - If the approved list of contractors cannot provide a suitable number of suppliers / contractors or provide suppliers / contractors within a certain category of works (as specified in Stage 3 - 1) then the contract must be

appropriately advertised for example the South East Business Portal. However, these suppliers / contractors must undergo the Council's works pre-qualification questionnaire (PQQ) before being invited to quotation / tender. The PQQ template and instructions can be found under the procurement pages on Forestnet. The PQQ is split into nine sub-sections. The following outlines who will be responsible for assessing each sub-section:

- **Contract Administrator** - Organisation Details, Insurance, Business Activities, Business Practices, Professional Business Standing, Experience & References, Additional Questions.
- **Internal Audit** – Provision of financial information
- **Health & Safety Unit** – Health & Safety.

SO25 Successful and unsuccessful PQQs must be retained for the duration of the contract.

SO26 The Contract Administrator must ensure there is sufficient time allocated in the procurement timetable to allow the PQQs to be returned, recorded and assessed.

2.3 Selection of suppliers / contractors – Goods & Services

SO27 Approved list of contractors – Suppliers / contractors can be selected from the Council's standing approved list of contractors.

SO28 Constructionline – If the approved list of contractors cannot provide a suitable number of suppliers / contractors or provide suppliers / contractors within a certain category (as outlined in paragraph B3.3.1) then the use of the Constructionline database of approved contractors can be used for contracts up to the value of £25,000. The Contract Administrator must ensure that adequate checks on health and safety, insurances, relevant qualifications and finances have been carried out in relation to the risk of the contract.

SO29 Pre qualification questionnaire - If the approved list of contractors and Constructionline cannot provide a suitable number of suppliers / contractors or suppliers / contractors within a certain category (as outlined in paragraph B3.3.1) then suppliers / contractors can be selected at the Contract Administrators discretion, however these suppliers / contractors must undergo a credit rating report with continuous monitoring report. These reports can be provided by the Procurement Manager. The supplier / contractor must also complete the goods & services pre-qualification questionnaire (PQQ). Please see the documents area of the procurement pages on Forestnet for the PQQ template. The PQQ is split into nine sub sections. The following outlines who is responsible for assessing each sub-section:

- **Contract Administrator** - Organisation Details, Insurance, Business Activities, Business Practices, Professional Business Standing, Experience & References, Additional Questions.
- **Internal Audit** – Provision of financial information
- **Health & Safety Unit** – Health & Safety.

3 Insurance

Suppliers / contractors are required to hold and maintain appropriate levels of insurance during the period of the contract. The insurance must be seen prior to the award of the contract.

SO30 The Council requires that all suppliers / contractors must have a standard level of insurance. The current standards are:

Contract Type	Public Liability Insurance	Employer's Liability Insurance	Professional Indemnity Insurance
Goods	£5,000,000	£5,000,000	Not applicable
Services	£5,000,000	£5,000,000	£500,000 - £5,000,000*
Works	£10,000,000	£10,000,000	Not applicable

***A risk assessment must be carried out to determine the required value of the professional indemnity insurance. The risk assessment template can be found under the Procurement pages on Forestnet.**

4 – Procurement Method

Method A - Quotation process

4.A1 £0-£5,000 – One Quotation

The procurement of any works, goods or services up to the value of £5,000 shall require a minimum of one written quotation. Further quotations or a formal tender process can be sought if it is considered appropriate.

It is the Contract Administrator's responsibility to ensure that value for money is being achieved when obtaining one written quotation.

The procurement of goods or services is generally managed through the Central Purchasing Unit (CPU). CPU can manage the invitation of suppliers, receipt of quotations and the recording of quotations. It is the Contract Administrator's responsibility to contact CPU if the goods or services procurement is to be managed through CPU

4.A2 Required Documents

SO31 At a minimum two documents are required for obtaining a quotation. These are:

A) Specification – This is a written description of the exact works, goods or service required. This can include any required designs, standards, materials and quality. See paragraph B3.2 for details.

B) The Conditions of Contract – The conditions of a contract are the terms and conditions that set the rights and obligations of the contracting parties when a contract is awarded or entered into. These include 'general conditions' which are common to all types of contracts, as well as 'special conditions' which are peculiar to a specific contract.

A TUPE statement must be included where applicable. TUPE could apply when the Council engages a contractor to do work on its behalf, reassigning such a contract or bringing the work "in-house". This can, therefore, encompass an initial (or first generation) outsourcing, a subsequent (or second generation) outsourcing or an in-sourcing. TUPE can be a complex area and advice should be sought from Human Resources.

Choosing the correct contract is very important and must only be done by employees with the relevant professional expertise. The post holders below have been given the appropriate training and authority to choose a type of contract for their relevant Service / Business Unit. Please contact the post holder or Legal Services for guidance on which contract to use.

POSITION	SERVICE / BUSINESS UNIT
Property Manager (P01392)	Property Services
Procurement Manager (P00218)	All Services (Goods & Services Only)
Building Works Manager (P00191)	Building Works
Grounds & Engineering Works Manager (P01346)	Environment Services
Environmental Design Manager (P01146)	Environmental Design
Coastal Projects Manager (P00013)	Coastal Group

Coastal Engineering Team Leader (P00058)	Coastal Group
Principal Engineer (P00226)	Engineering Design

4.A3 Obtaining one written quotation

SO32 Once the supplier / contractor has been selected (see paragraph B3.3.2) then the supplier / contractor must be contacted to invite them to provide a quotation. This can be done by email or written letter. The letter or email must include a specification, the terms of the contract, a pricing schedule (if applicable) and a date by which the quotation should be returned. The supplier / contractor must have adequate time to price and supply the quotation.

A supplier / contractor can be contacted by telephone, however, care should be taken to ensure that the supplier / contractor receives the specification and the terms of the contract by either email or letter.

4.A4 Receipt of one written quotation

SO33 The quotation must be received in written form either by email or by post. The quotation should be returned to and opened by the Contract Administrator.

Telephone quotations are permitted, however, these must be confirmed by an email or letter from the supplier / contractor.

4.A5 £5,000 - £25,000 Three Quotations

The procurement of any works, goods or services from the value of £5,000 to £25,000 shall require a minimum of three written quotations. Further quotations or a formal tender process can be sought if it is considered appropriate.

The procurement of goods or services is generally managed through the Central Purchasing Unit (CPU). CPU can manage the invitation of suppliers, receipt of quotations and the recording of quotations. It is the Contract Administrator's responsibility to contact CPU if the goods or services procurement can be managed through CPU.

To ensure that the quotation process is as transparent and open as possible the following procedures should be followed when obtaining written quotations from suppliers / contractors.

SO34 At a minimum three documents are required for obtaining quotations. These are:

A) Specification – This is a written description of the exact works, goods or service required. This can include any required designs, standards, materials and quality. See paragraph B3.2 for details.

B) Award Criteria – The award criteria sets out how you are going to evaluate the returned quotations. The award criteria must be pre-agreed with your line manager and sent out with the specification to inform the supplier / contractor how their quotation will be evaluated.

Either of the following evaluation methods should be used:

Price only – This should only be used on a fixed specification where no variants can occur. The lowest priced quotation that can meet the specification will be awarded the contract.

Most economically advantageous – The award takes place based on various criteria related to the scope of the specific contract, such as the quality, price, technical value, health & safety, risk, environmental characteristics, operating cost, efficiency, after-sales support and technical assistance, delivery date and delivery or execution deadline. Each criterion should be individually stated with the maximum score available and the weighting of the criterion.

C) The Conditions of Contract – The conditions of a contract are the terms and conditions that set the rights and obligations of the contracting parties when a contract is awarded or entered into. These include 'general conditions' which are common to all types of contracts, as well as 'special conditions' which are peculiar to a specific contract.

A TUPE statement must be included where applicable. TUPE could apply when the Council engages a contractor to do work on its behalf, reassigning such a contract or bringing the work "in-house". This can, therefore, encompass an initial (or first generation) outsourcing, a subsequent (or second generation) outsourcing or an in-sourcing. TUPE can be a complex area and advice should be sought from Human Resources.

Choosing the correct contract is very important and must only be done by employees with the relevant professional expertise. The post holders below have been given the appropriate training and authority to choose a type of contract for their relevant Service / Business Unit. Please contact the post holder or Legal Services for guidance on which contract to use.

POSITION	SERVICE / BUSINESS UNIT
Property Manager (P01392)	Property Services
Procurement Manager (P00218)	All Services (Goods & Services Only)
Building Works Manager (P00191)	Building Works
Grounds & Engineering Works Manager (P01346)	Environment Services
Environmental Design Manager (P01146)	Environmental Design
Coastal Projects Manager (P00013)	Coastal Group
Coastal Engineering Team Leader (P00058)	Coastal Group
Principal Engineer (P00226)	Engineering Design

4.A6 Inviting Suppliers / Contractors to provide a quote

SO35 Once the suppliers / contractors have been selected (see paragraph B3.3.2) then the suppliers / contractors must be contacted to invite them to provide a quote. This can be done by email or written letter. The letter or email must include a specification, award criteria, the terms of the contract, a pricing schedule (if applicable) and a date by which the quote should be returned. The supplier / contractor must have adequate time to price

and supply the quotation. As a guide it is suggested that two weeks is an adequate time period but this may vary depending on the nature of the procurement.

4.A7 Receipt of quotations

SO36 Each service or business unit shall nominate an officer responsible (who is independent of procuring) for the receiving and retaining of returned quotations.

SO37 Quotation instructions shall clearly state that the quotations must be returned to the nominated officer only. This can be by email or by post. Returned quotations must be held securely and unopened by the nominated officer until the specified return date.

SO38 Quotations must not be returned to the Contract Administrator.

SO39 Suppliers / Contractors must be instructed to clearly identify their email or written response as a quote.

SO40 The Contract Administrator must supply the details of the suppliers / contractors that have been invited to quotation to the nominated officer prior to the quotations being received. This can be recorded using the quotation opening form available on the procurement pages of Forestnet.

SO41 Any quotations received after the specified opening date whether by post or email should not be opened or included in the evaluation.

4.A8 Opening / Recording of quotations

SO42 The received quotations should all be opened at the same time on the specified opening date. It is best practice for two officers to open the quotations together. The quotations must be recorded on the quotation opening form. The quotation opening form is available on the Procurement pages of Forestnet. The form should be signed by both members of staff who have opened the quotations and must be retained as per the Council's retention policy.



Method B - Tender process

The tender process is a more formal process designed for higher value and higher risk contracts.

Any works, goods or service contract between the value of £25,000 and £150,000 require a minimum of three tenders to be sent out with a minimum return of two tenders.

Any works, goods or service contract between the value of £150,000 and EU Procurement Thresholds (See para B3.3) require a minimum of six tenders to be sent out with a minimum of three returned.

A gateway stage two review (pre-tender) must be undertaken at this stage of the process.

To reduce the risk of bid rigging and to be as transparent as possible the following tender procedures should be followed.

4.B1 Required Documents

SO43 The tendering procedures require a full Invitation to Tender (ITT) document to be completed. The ITT encompasses many documents but at this stage you should have at least the following:

A) Specification – This is a written description of the exact works, goods or service required. This can include any required designs, standards, materials and quality. Please see paragraph B3.2 for details.

B) Award Criteria – The award criteria sets out how you are going to evaluate the returned tenders. The award criteria, weightings and any sub criteria must be pre-agreed and sent out with the invitation to tender to inform the supplier / contractor how their tender will be evaluated. The award criteria must be signed off by the relevant Business Unit Manager or Head of Service.

Either of the following evaluation methods should be used:

Price only – This should only be used on a fixed specification where no variants can occur. The lowest priced quotation that can meet the specification will be awarded the contract.

Most economically advantageous – The award takes place based on various criteria related to the scope of the specific contract, such as the quality, price, technical value, health & safety, risk, environmental characteristics, operating cost, efficiency, after-sales support and technical assistance, delivery date and delivery or execution deadline. Each criterion should be individually stated with the maximum score available and the weighting of the criterion.

C) The Conditions of Contract – The conditions of a contract are the terms and conditions that set the rights and obligations of the contracting parties, when a contract is awarded or entered into. These include 'general conditions' which are common to all types of contracts, as well as 'special conditions' which are peculiar to specific contracts.

A TUPE statement must be included where applicable. TUPE could apply when the Council engages a contractor to do work on its behalf, reassigning such a contract or bringing the work "in-house". This can, therefore, encompass an initial (or first generation) outsourcing, a subsequent (or second generation) outsourcing or an in-sourcing. TUPE can be a complex area and advice should be sought from Human Resources.

Choosing the correct contract is very important and **must** only be done by employees with the relevant professional expertise. The post holders below have been given the appropriate training and authority to choose a type of contract for their relevant Service / Business Unit. It is the responsibility of these post holders to ensure that the contract conditions meet the Council's requirements. Please contact the named individual or Legal Services for guidance on what contract to use.

POSITION	SERVICE / BUSINESS UNIT
Property Manager (P01392)	Property Services
Procurement Manager (P00218)	All Services (Goods & Services Only)
Building Works Manager (P00191)	Building Works
Grounds & Engineering Works Manager (P01346)	Environment Services
Environmental Design Manager (P01146)	Environmental Design
Coastal Projects Manager (P00013)	Coastal Group
Coastal Engineering Team Leader (P00058)	Coastal Group
Principal Engineer (P00226)	Engineering Design

D) Invitation to Tender (ITT) Document – The ITT consists of a pack of documents that are sent to the supplier / contractor to enable them to tender for a contract. This pack consists of:

- The tender timescales
- The tender instructions
- The contract conditions
- The specification
- The award criteria
- The schedule of rates (if applicable)
- Any other required schedules.
- The form of tender
- The Tender envelope.

The ITT template is available on the procurement pages on Forestnet.

4.B2 Inviting suppliers / contractors to tender

SO44 The ITT document should be sent out with a letter to all selected suppliers / contractors along with an ITT letter. The letter must be formal, it must refer to any attachments and it must set out (or refer to) the tendering instructions quite explicitly.

You should offer a single named point of contact for the tenderer so that queries are handled consistently.

SO45 The ITT document and letter can be sent by e-mail. However, at present the Council does not have an e-tendering facility for works contracts, therefore no tenders must be received by e-mail. However, Goods & Service contracts which are the responsibility of the Central Purchasing Unit are to be managed through the Council's e-tendering facilities.

SO46 It is acceptable to allow written queries so long as any information which clarifies or amends the tender documentation is confirmed in writing to all of the tenderers.

4.B3 Receipt of tenders

SO47 Contract Administrators must make arrangements for the receipt, custody, opening and witnessing of all tenders. The Contract Administrator must notify Legal and Democratic Services as soon as possible, and at least two weeks before the closing date for the return of tenders using the attached form. Please refer to the documents area of the procurement pages on Forestnet. The form gives details of the works, the time and date of return, who the Tender is submitted by, date and time of opening, tender estimate and a list of the relevant Tender suppliers / contractors. The time and date for opening the Tender should be agreed between the Contract Administrator and the person responsible for opening the Tender.

SO48 The form should then be passed to Appletree Court Reception in order that they can note the relevant details in the Tender book held by them. They will then record the time and date the Tender came in. The tender envelope is kept under lock and key until it is due to be opened.

SO49 You must inform potential tenderers to send their tenders in a plain envelope or parcel with a label provided by the Council for the purpose, on which is printed the word "Tender" followed by the subject of the contract and the date and time by which it must be returned. Tenderers must be told to seal the envelope and not to show their identity in any way. Tenders must be returned to Legal and Democratic Services at Appletree Court. The address for this is:

For the attention of
Head of Legal and Democratic Services
New Forest District Council
Legal and Democratic Services
Appletree Court
Lyndhurst
Hampshire SO3 7PA

SO50 The onus to obtain proof of receipt rests with the tenderer.

SO51 All tenders must be marked with the date and time of receipt and the signature of the receiving officer. Late tenders must be treated similarly but marked "received late". All tenders must be left unopened and stored in a locked cabinet until the due time for opening.

SO52 Any unacceptable tender must be opened purely to determine the sender's details so that the tender can be returned with a letter of explanation.

SO53 Tenders received after the closing date and time will not be accepted and must be returned to the tenderer.

4.B4 Opening / recording of Tenders

SO54 All tenders received by the due date and time (“valid tenders”) must be opened at the same time in the presence of two officers. A record of all valid tenders must be made on the tender return form including the name and, where applicable, amount of each tender received.

SO55 All tenders will then be opened in the order they were received and the relevant details will be noted down on the standard form. It is important that the form of tender is duly signed with the tender figure clearly shown. If any of the above forms are not signed or provided then the Tender must be rejected.

SO56 Before proceeding to the evaluation stage you must check that the tender submissions are compliant with any instructions to tenderers, pricing, schedule and any other explicit requirements (e.g. submission of method statements). In particular, you should check whether tenderers have submitted their own terms and conditions as these might have the effect of qualifying the bid. If in doubt, seek advice from Legal and Democratic Services.

SO57 The Head of Service is responsible for retaining tenders for examination. Unsuccessful tenders must be retained for one year after the closing date for receipt of tenders. Successful tenders, where the contract was not under seal or executed as a deed, must be retained for six years after the date the contract expires. Successful tenders, where the contract was under seal, must be retained for twelve years after the date the contract expires. Arrangements must be made with Legal and Democratic Services for the storage of deeds.

Method C - Framework Agreement

A Framework Agreement is an agreement with Contractors that sets out the terms and conditions under which specific purchases can be made (or “called-off”) throughout the term of the agreement. Framework Agreements may be established by the Council, or by other public bodies or public sector buying consortia as arrangements through which the Council, along with other public bodies, may make specific purchases.

Purchases through an existing Framework Agreement do not require to undergo the quotation or tendering process. However, if you are setting up a new Framework Agreement you will need to follow Contract Standing Order.

SO58 If you are intending to join a Framework Agreement or set up a Framework Agreement you must liaise with the Central Purchasing Unit.

If you are intending to use a Framework Agreement the following should be considered:

- To join a Framework Agreement the Council must be individually named or as a named recognisable class as part of the Framework Agreement and the OJEU (Official Journal of the European Union) notice
- The period of the Framework Agreement. The maximum period for a Framework Agreement is four years
- The Framework Agreement must cover all items of the contract specification.

Method D - EU Procurement Regulations

The EU Procurement Regulations set out the legal framework for public procurement. They apply when any public authority seeks to acquire goods, services, or works. They set out procedures which must be followed before awarding a contract when its value exceeds the set thresholds (See paragraph B3.3.1), unless it qualifies for a specific exclusion - e.g. on grounds of national security.

SO59 The Central Purchasing Unit must be informed of any intended contract where the EU procurement regulations apply.

Under the provisions of the Public Services (Social Value) Act 2012, in relation to any service contract above the EU thresholds the contract administrator must demonstrate firstly, that consideration has been given to how the procured service might improve the economic, social and environmental well-being of the New Forest area. Secondly you must consider how in conducting the procurement the Council can act to secure the improvement, considering other matters that are relevant to what is proposed and proportionality. Thirdly you will have to consider if any consultation is appropriate in relation to the first two matters to be considered.

There are four procedures which can be followed under the EU Procurement Regulations. These are as follows:

- **Open** – Involves inviting all interested parties to tender and requires full contract documents to be issued to tenderers at the invitation to tender stage. It does not allow for a short listing process or any contract negotiations.
- **Restricted** – Allows the Council to short list the interested parties by undertaking a pre-qualification stage prior to the issue of the invitation to tender documents. Subsequent to the pre qualification stage all short listed tenderers are issued the invitation to tender documents. It does not allow for any contract negotiations.
- **Competitive Dialogue** – Allows the Council to short list the interested parties by undertaking a pre-qualification stage. The short listed parties are then invited to participate in a dialogue during which any aspects of the project may be discussed and solutions developed. When the Council is satisfied it has the appropriate solution it declares the dialogue closed and invites the remaining tenderers to submit a final tender.
- **Negotiated** - Allows the Council to short list the interested parties by undertaking a pre-qualification stage prior to the issue of the negotiate documents, which starts the negotiation phase. The negotiation phase must be open, transparent, treat all tenderers equally and must not distort any competition.

Please seek advice from the Central Purchasing Unit for further details.

Procedure	Contract Notice	Receipt of request to participate	Invitation to tender	Receipt of tenders	Contract Award	Mandatory Standstill Period	Contract Award Notice
Open	Minimum of 52 Days				15 Days		Within 48 Days
Restricted	Minimum of 37 Days	Minimum of 40 Days			15 Days		Within 48 Days
Competitive Dialogue	Minimum of 37 Days				15 Days		Within 48 Days
Negotiated	Minimum of 37 Days				15 Days		Within 48 Days

Note: Timescales between contract notice and receipt of tenders maybe reduced by seven days when notices are advertised by using an Electronic Contract Notice. Please seek advice from Central Purchasing Unit for further details.

If EU Procurement Regulations are not adhered to then this could result in the Council being fined, the contract not being awarded, the contract being ineffective or the contract period being shortened.

B3.4 STAGE 4 – EVALUATION

The contract evaluation stage is split into the following two areas:

- 1) Evaluation of tenders or quotations
- 2) Accepting a tender or quotations.

1 Evaluation of tenders or quotations

SO60 Tenders and quotations should then be evaluated as per the agreed award criteria sent with the specification. The council have an evaluation matrix spreadsheet that can be utilised for your agreed award criteria. Please refer to the documents area of the procurement pages on Forestnet.

SO61 The Contract Administrator must ensure that an evaluation of tenders takes place. Suitably experienced officers must carry out the evaluation of tenders. The results of the evaluation must be checked by another independent officer.

SO62 However, it is permissible to use consultants to assist with tender evaluation, but the final decision must be made by a NFDC officer with delegated authority.

SO63 The results of the evaluation must be retained for the period of the contract.

SO64 Tenders and quotations must be evaluated as prescribed in the award criteria either as a price only evaluation or a most economically advantageous evaluation.

2 Accepting a tender or quotation

SO65 A tender/quotation may only be accepted if it meets all of the following conditions:

- It is within the approved budget
- It meets all of the tender requirements
- It complies with the detailed specification
- It is either the most financially beneficial to the Council (price only evaluation), or is the most economically advantageous tender (highest score).
- It is not a referential or qualified tender.

SO66 If a tender/quotation is to be accepted outside of the above rules then the table below details the required action and authorisation.

Issue	Evaluation	Actions Required
Most favourable tender above budget, and additional funding available	Price only evaluation or Most economically advantageous tender	Seek supplementary estimate or virement in accordance with Financial Regulations
Most favourable tender up to 10% above budget and no additional funding available	Price only evaluation or Most economically advantageous tender	Negotiate amended design or specification with all of the tenderers. A reduction of 10% only is permitted on the original tender. Retain a formal written record of all communications with the tenderer.

Most favourable tender in excess of 10% above budget and no funding available

Price only evaluation or Most economically advantageous tender

**Invite all of the tenderers to re-tender on a new specification.
Or
Undertake a completely new tender process.
Or
Consult with an Executive Director and Portfolio Holder to agree another course of action.**

B3.5 STAGE 5 – CLARIFICATION

It is usually acceptable to clarify arrangements with tenderers following opening of Tenders. This might include areas of genuine ambiguity (not caused by the tenderer), liaison arrangements, and arrangements for interview or site visits.

SO67 Any communication with tenderers should be documented on the tender file.

SO68 In certain restricted circumstances it may be acceptable to clarify amendments to tender prices. This must be done in a manner that does not disadvantage other tenderers and must be fully documented. You should take legal advice before carrying out post-tender clarifications especially where the contract is subject to the EU rules. No negotiations of tender prices or terms shall be allowed.

B3.6 STAGE 6 - CONTRACT AWARD



The contract award stage is split into the following three areas:

- 1) Notification of contract award
- 2) Signing and sealing of contracts
- 3) Awarded contracts register

A gateway stage three review (tender evaluation) must be undertaken at this stage of the process for contracts over £25,000.

1 Notification of contract award

SO69 The successful tenderer must first be notified in writing of the intention to award the contract. Unsuccessful tenderers must then be notified in writing that their tender has not been successful for this contract. Standard letter templates are available on the procurement pages on Forestnet.

SO70 All documentation of successful and unsuccessful applicants must be kept for the period of the contract.

SO71 All EU Tenders must follow the EU procedures. Please see Method D.

If any supplier / contractor did not submit a tender you should write to the supplier / contractor to establish why a tender was not received.

2 Contract signing and sealing

SO72 Entering into contracts must strictly be approved in line with Councils Scheme of Delegations. The authorities for signing a contract are as follows:

POSITION	AUTHORITY LIMIT
Any member of the Executive Management Team	£Unlimited
Heads of Service	£0 - £1,000,000
Budget Responsible Officer	£0 - £10,000
Procurement Manager (P00218)	£0 - £50,000

SO73 Unsealed contracts must be signed by one officer in accordance with the authorities above. Two original copies should be signed by the Contractor before they are signed on behalf of the Council. Signed contracts that are not under seal will have a six year limitation period.

SO74 Once the contract is signed by both parties the contract must be held by the Contract Administrator for a period of at least six years.

SO75 All requests for sealing must be made to Legal and Democratic Services and a sealing form must be completed. The sealing form is available on the Procurement pages on Forestnet. All contracts over the value of £150,000 must be referred to Legal Services to confirm whether they require sealing. Separate forms are needed for additional documents such as performance bonds. The original tender or quotation documents are required (including drawings) along with the Contractor's response, Letter of Acceptance and any other correspondence. Sealed contracts provide a 12 year limitation period for

actions to be taken arising from breaches of obligations under the contract (Limitations Act 1980).

SO76 Sealed contracts must be held and recorded by Legal and Democratic Services.

3 **Awarded contracts register**

SO77 Once a contract has been awarded and signed by both parties the Council's awarded contracts register must be updated to adhere to Central Government's Transparency Agenda. To add an awarded contract you will have firstly added a forthcoming contract see paragraph B3.1.

B3.7 STAGE 7 - DELIVERY / CONTRACT MONITORING

Contract monitoring is the ongoing or periodic measurement of a supplier's / contractor's compliance with the terms, conditions and performance of a contract.

SO78 The Contract Administrator is responsible for the administration of the contract and where appropriate, will arrange regular update meetings to an agreed agenda. These meetings should be subject to formal minutes.

SO79 All instructions issued by the Contract Administrator must be in writing and it is vitally important that a record is kept by the Contract Administrator throughout the period of the contract.

SO80 As well as progress during the period of the contract it is essential that budgetary control is also maintained throughout. Be aware that instructions that amend or change the requirements or extension of time may subsequently lead to a claim for additional costs, loss of profits and/or expenses and these changes need to be identified as early as possible and their impact upon the overall costs of the contract.

SO81 Instructions which lead to additional costs that directly relate to the contract must be within budget (or revised budget). Contract Administrators can approve a total value of instructions up to £1,000. Instructions that total over £1,000 must be approved in line with the Council's authorised signatory policy. The total value of instructions must not exceed 10% of the contract value.

SO82 It is recommended that for works contracts monthly reviews are held to estimate the final cost of the contract based upon known variances to date and that these are reported to the responsible manager on a regular basis.

B3.8 STAGE 8 - INVOICE PROCESSING / PAYMENT

There are different payment processes depending on whether the contract is for

- 1) Works
- 2) Goods or Services.

1 Works

SO83 Most works contracts are paid in stage payments on a payment certificate. Due to the nature of the works contracts the following authorities exist for the authorisation of works contract payments.

POSITION	AUTHORITY LIMIT
Any member of the Executive Management Team	£Unlimited
Head of Service	£0 - £500,000
Principle Engineer (P00226) Housing Asset & Performance Manager (P00381) Building Works Manager (P00191) Property Manager (P01392) Environmental Design Manager (P01146) Grounds & Engineering Works Manager (P01346) Coastal Projects Manager (P00013)	£0 - £100,000
Contract Manager (P01449) Senior Building Surveyor (P01233 / P01438) Operations Manager – Housing Maintenance (P01173) Building Works Supervisor (P00194) Maintenance Officer (P01194) Building Surveyor / Estimator (P00193) Coastal Engineering Team Leader (P00058)	£0 - £10,000

SO84 All works contract payments must be recorded in Internal Audit prior to sending to Accounts Payable.

1.1 Final Account Review

A final account review is the process of releasing the final amounts due to a contractor on a works contract. The process ensures that the final amount to be released is accurate and has been agreed by the relevant parties. Once the final account is agreed a final payment certificate is produced which concludes the contract.

SO85 All works contracts where retention is held must undergo a final account review before the final retention amount is released for payment.

SO86 The final account should be a carefully compiled statement of account covering all adjustments to the Contract Sum supported by all relevant details and calculations demonstrating compliance with the Contract Conditions and compatible with the prices in the contract.

SO87The final account templates can be accessed through the Procurement pages on Forestnet.

SO88 The following will need to be shown in the final account:

- Contract or order showing contract sum, contract period and the contract commencement and completion dates.
- Copies of all payment certificates made.
- Copy of all Contract Administrator instructions.
- Copy of practical completion certificate.
- Copy of the statement of final account.
- All relevant supporting documentation.

SO89 The final account must be signed off by the relevant Business Unit Manager or Internal Audit.

Please note that Audit will not release the final retention payment until the final account documentation has been signed off.

2 Goods & Services

SO90 All goods and services invoices for contracts can be paid in line with the Council's authorised signatories policy. The authorisations are as follows:

POSITION	AUTHORITY LIMIT
Any member of the Executive Management Team	£150,000 - £Unlimited
Head of Service	£50,000 - £150,000
Budget Responsible Officer	£10,000 - £50,000
Budget Responsible Administrator	£0 - £10,000

B3.9 STAGE 9 – CONTRACT REVIEW



Once a contract is complete a review should be carried out of how the contract went. The following areas should be considered:

- Is there any feedback available from any users?
- Are the actual costs in line against tender price?
- How well did the supplier / contractor perform?
- Can any improvements be made on the process for future contracts?
- How well does the supplier / contractor feel the contract went?

SO91 Any poor supplier / contractor performance should be highlighted on the Approved list of contractors system for works contracts or to the Procurement Manager for goods and services contracts.

A gateway stage four review (project review) must be undertaken at this stage of the process for contracts over £25,000.

GLOSSARY

Agency – An individual or organisation called an ‘agent’ acts on behalf of the Council.

Approved list of contractors - A list of potential suppliers / contractors who have satisfied the Council’s minimum standards

Consortium – A group of independent Authorities that group together to achieve a common objective.

Contract - A binding written agreement made between two or more parties which is intended to be enforceable at law.

Contract Administrator – An employee of the Council who is responsible for the day to day administration of a contract and monitors the supplier’s / contractor’s compliance with the contract terms and conditions. The contract administrator must have the appropriate training, experience and skills in order to undertake this task.

Corporate Governance – Is the system by which the Authority is directed and controlled.

Disaggregation – Splitting the total value of a contract into smaller parts in order to reduce contract values.

In-house Service – A service or business unit which is a part of the Council’s structure and has been through an internal service review to demonstrate value for money.

Nominated Officer – An officer of a Business Unit that is independent of the procurement process that has the responsibility of receiving, retaining and recording quotations.

OJEU – Official Journal of the European Union. All contracts within the EU Procurement Thresholds are advertised in the OJEU.

Procurement process – Process of selecting suppliers / contractors, selecting the procurement method and contract terms and conditions.

Public Services (Social Value) Act 2012 – An Act to require public authorities to have regard to economic, social and environmental well-being in connection with public services contracts; and for connected purposes.

Quotation – An official written offer for a low value contract from a supplier / contractor.

Supplier / Contractor – A party that supplies goods or services or is a contractor for works contracts.

Tender - An official written offer to an invitation that contains a specification or a brief of the works, services or supplies required and is provided in response to a tendering exercise. This normally involves submission of the offer in a sealed envelope to a specified address by a specified time and date.

TUPE – TUPE is the Transfer of Undertakings (protection of employment) Regulations.

APPENDIX 1

FAQ

Q: I am unable to invite the required number of suppliers / contractors to tender for a contract as the contract is for specialist works and there are a limited number of suppliers / contractors available. What do I do?

A: You will need to complete a waiver to Contract Standing Orders. You will need to document the reason for the waiver and how value for money will be achieved. See paragraph 11 for further details.

Q: The approved list of contractors (Exor) does not provide me with suitable suppliers / contractors for my contract. Can I use suppliers / contractors that are not on the approved list?

A: Yes, if Exor can not provide you with suitable suppliers / contractors for your contract you can use suppliers / contractors that are not on the approved list but these must undergo a pre-qualification questionnaire. See paragraph B3.3.2 for further details.

Q: I have received a tender after the tender submission date. Can I accept the tender and use it in my evaluation.

A: No, any tender received after the deadline date must be sent back to the tenderer. See paragraph B3.3.4 and B3.3.

Q: Can I extend my current contract?

A: A contract may be extended if there is a provision for this within the contract. If there is no provision for this in the contract then the contract must be procured.