



PROCUREMENT MANUAL

2012

Version 6.0

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Appendices *

The following appendices are template documents which are to be used during the procurement process.

Appendix	1	Sourcing Strategy (including Sourcing Plan)
Appendix	2	Quick Quote Invite to Quote (ITQ)
Appendix	3	Reference Collection Form
Appendix	4A	Letter to Successful Bidders at PQQ Stage Template
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Appendix	5	Post Tender Negotiation Template
Appendix	6	Contract Award Recommendation Report (CARR)
Appendix	7A	Letter to Preferred Bidder Template
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Appendix	8	Letter of Acceptance Template
Appendix	9	Contract Management
Appendix	10	Financial Management
Appendix	11	Procurement Review Form

*** For Purchasing Officer Use**

Procurement Process

The following flowchart clarifies the procurement process:

- Grey coloured box = a requirement
- White coloured box = optional (dependant on value, see your Purchasing Officer)

You should ensure that corporate procurement personnel are involved in all purchases.

STEP 1: IDENTIFY A NEED (Section 1.0)

Have you identified a need, for example a good, service or works requirement?
Have you contacted your department's purchasing officer to discuss your requirement?
This person will be involved throughout the process. If unsure who's responsible for your department, see page 7.

STEP 2: SOURCING STRATEGY (Section 6.0)

Has a sourcing strategy been put in place for this commodity?
Your purchasing officer can check this.

STEP 3: SOURCING PLAN (Section 7.0)

Complete the sourcing plan; pay particular attention to the work plan.

STEP 4: SUPPLIER SELECTION / SELECTION ROUTES (Section 8.0)

Liaise with the procurement team to choose the most appropriate procurement route.
See Section 5 for details of different routes available (page 24).

STEP 5: ADVERTISING (Section 9.0)

Regardless of the route selected (restricted, open, closed or quick-quote) Public Contracts Scotland must be used to advertise

STEP 6: QUICK QUOTE – FOR CONTRACTS UNDER £20,000 (Section 10.0)

STEP 7: PRE-QUALIFICATION QUESTIONNAIRE – IF RESTRICTED PROCEDURE SELECTED (Section 11.0)

STEP 8: TENDER DOCUMENTATION (Section 12.0)

Follow the format; this is to ensure that the Council use a consistent approach to the compilation of documents.

STEP 9: DURING THE TENDER PROCESS (Section 13.0)

Dealing with questions, additional documents and submissions.

STEP 10: TENDER EVALUATION (Section 14.0)

STEP 11: OPTIONAL - POST TENDER NEGOTIATION (Section 12.0)

Negotiation after the receipt of formal tenders, and before the letting of a contract, with the preferred bidder only, with a view to obtaining an improvement in price, delivery or content.

STEP 12: CONTRACT AWARD RECOMMENDATION REPORT (CARR) (Section 16.0)

Prepare a report detailing the procurement process carried out to provide the authorised signatory all the required information for them to sign-off the award recommendation.

STEP 13: NOTIFICATION OF PREFERRED/UNSUCCESSFUL TENDERERS (Section 13.0)

Issued letters to include: Scoring, Debrief, Standstill Period.

STEP 14: CONTRACT AWARD (Section 14.0)

Appointing the Successful Contractor & placing the contract award notice.

STEP 15: CONTRACT MANAGEMENT (Section 19.0)

How to successfully manage a contract.

STEP 16: PROCUREMENT & FINANCIAL MANAGEMENT (Section 20.0)

How to report contractual savings?

STEP 17: PROCUREMENT REVIEW (Appendix 11)

1.0 About the Manual

Why involve the Procurement Team

Purchasing is one of the most basic human activities. It has gone on for thousands of years and everyone purchases as part of their lives. Purchasing for an organisation is very different from purchasing for oneself and requires different skills. Personal purchasing can be based on intuition, on individual likes and dislikes, on what makes a person feel good, on what is stylish and what is fashionable. None of those very human preferences has any place in organisational purchasing, which is about utility, fitness for purpose and value for money.

In Public Sector procurement there is the added complication of the public procurement rules, which are governed to a large extent by the implementation of European Union directives and case law from courts, both in the UK and in Europe. The rules governing public procurement are complex and continually developing. Breaching the rules can have far reaching consequences, ranging from large fines to cancelled contracts and compensation claims.

Yet many employees within the Council have a requirement to make large value purchases as part of their job. That is why the Council has a dedicated team of Purchasing Officers in place to handle the purchasing process, from placing the initial notices and contract adverts, through the competition, negotiation and award process to managing the delivery of the contract itself.

The Procurement Manual has been designed as a “how to” guide to effective procurement across the Council. While use of the manual is mandatory under the Council’s standing orders, much of the content is simply good purchasing practice and will already be familiar to those who are required to either procure or manage contracts.

The Council, by necessity, relies on the contribution of outside agencies to deliver core services to customers and clients. Effective procurement and contract management ensures that best value is obtained from those outside agencies and that they contribute to the greatest extent to the goals and objectives of the Council.

Following the processes and procedures contained in the manual will give a high level of assurance that contracts are let and managed in a manner that is both effective and legal. No manual of this kind can be completely exhaustive and neither can it replace knowledge and experience applied to particular or peculiar circumstances.

You should ensure that corporate procurement personnel are involved in all purchases.

The first table provides contact details of the Procurement Team and the second details each Purchasing Officer’s area of responsibility.

1.1 Contact Details

<p>Anne MacColl-Smith Procurement & Commissioning Manager Telephone: 01546 60 4194 Email: Anne.MacColl-Smith@argyll-bute.gov.uk</p>	<p>Jennifer King Purchasing Officer Telephone: 01546 60 4881 Email: jennifer.king@argyll-bute.gov.uk</p>
<p>Emma Graham Purchasing Officer Telephone: 01586 55 5205 Email: emma.graham@argyll-bute.gov.uk</p>	<p>Elaine Appleby (on Mat Leave) Purchasing Officer Telephone: 01369 60 8594 Email: elaine.appleby@argyll-bute.gov.uk</p>
<p>Christine McKenzie Purchasing Officer Telephone: 01546 60 4239 Email: Christine.mckenzie@argyll-bute.gov.uk</p>	<p>Bogusława Symonowicz Purchasing Officer Telephone: 01546 60 4159 Email: Bogusława.Symonowicz@argyll-bute.gov.uk</p>
<p>Samantha Torrie Procurement Analyst Telephone: 01546 60 4145 Email: Samantha.Torrie@argyll-bute.gov.uk</p>	<p>Julie Galbraith Procurement Training Administrator Telephone: 01586 55 5206 Email: julie.galbraith@argyll-bute.gov.uk</p>

1.2 Purchasing Officers Responsibilities:

CHIEF EXECUTIVE'S	
Strategic Finance	Emma Graham
Improvement and Strategic HR	Emma Graham
Temporary Agency Staff	Emma Graham
COMMUNITY SERVICES	
Learning Disability	Christine McKenzie
Mental Health	Christine McKenzie
Addiction	Christine McKenzie
Aids and Adaptations - Equipment	Boguslawa Symonowicz
Arts & Culture	Boguslawa Symonowicz
Leisure and sport	Elaine Appleby
Older People	Christine McKenzie
Homelessness	Christine McKenzie
Children & Families	Boguslawa Symonowicz
Adult Education	Emma Graham
Education	Emma Graham
DEVELOPMENT & INFRASTRUCTURE SERVICES	
Roads & Amenity Services	Jennifer King
Economic Development	Jennifer King
Planning & Regulatory Services	Boguslawa Symonowicz
CHORD	Jennifer King
CUSTOMER SERVICES	
Governance & Law	Emma Graham
Support & Customer Services	Emma Graham
Facility Services	Elaine Appleby
Transport	Christine McKenzie
Corporate Contracts (Mail, Stationery, Office Equipment, Printing, Advertising, etc.)	Emma Graham
Transport – Vehicle Purchase	Jennifer King

Procurement Staff by Specific Projects:

PROJECTS	
Spikes Cavell – Scottish Procurement Hub	Samantha Torrie
Sustainability	Jennifer King
Procurement Manual	Anne MacColl-Smith/ Emma Graham
Procurement Training	Julie Galbraith
Procurement Capability Assessment	Emma Graham / Samantha Torrie / Elaine Appleby
PECOS	Mary McKerral / Lynsey MacLennan
Purchasing Cards	Boguslawa Symonowicz / Christine McKenzie
Public Contracts Scotland	Emma Graham

Car Leasing	Bogusława Symonowicz
Bravo / PCS Tender	Emma Graham / Bogusława Symonowicz
Alternative Delivery Mechanisms	Christine McKenzie
Supplier Development	Bogusława Symonowicz

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2.0 Introduction

The procurement process begins with the identification of a need. This may not become a need to purchase; the specific need may be able to be met without a new purchase at all. Not purchasing can be the correct answer and is the ultimate savings option. This may come about through a “make or buy” decision where the most effective option is to deliver the solution internally. It may also come about from a “repair or replace” decision where the most effective option is to repair or otherwise extend the life of an existing asset.

If a requirement is essential, it must be described in output terms, i.e. by defining what is to be achieved and **not** by requesting a particular or potential solution or product to address a need. The procurement process will identify the most appropriate method of fulfilling a defined need.

Effective procurement will help to ensure the optimum outcome of a competitive process by helping to ensure that each project:

- adopts the most appropriate procurement route to deliver best value for money in terms of whole life costs, optimising efficiency and effectiveness;
- integrates all relevant environmental, social and ethical factors throughout the procurement process;
- has clear governance arrangements;
- complies with legal obligations.

Good procurement means getting value for money, that is buying a product that is fit for purpose, taking account of the whole-life cost. A good procurement process is delivered efficiently to limit the time and expense for the parties involved. Successful procurement is good for the public, good for the taxpayer, and good for businesses supplying Argyll and Bute Council.

While there is no single method that will guarantee the delivery of those objectives for all procurements, the following general principles set out key steps to successful procurement in most cases. Procurers should:

- be clear on the objectives of the procurement from the outset;
- be aware of external factors that will impact on the procurement such as the policy environment or planning issues;
- communicate those objectives to potential suppliers at an early stage, to gauge the market’s ability to deliver and explore a range of possible solutions;
- consider using an output based specification, to give suppliers who naturally know more about their business than potential buyers more scope to provide innovative solutions to solve the underlying problem the procurement is designed to deal with, rather than deciding what the precise solution should be at the outset;
- follow a competitive, efficient, fair and transparent procurement process and communicate to potential suppliers at the outset what the process will be. This will give suppliers greater certainty about the costs and benefits to them of submitting a bid, which should encourage effective competition. As all suppliers have the same knowledge going into the process and will be assessed in the same way, the successful bidder can be chosen purely on their ability to provide the best solution;
- be clear about affordability and the resources available to spend on the particular good or service. The procurer has to select on the basis of whole-life value for money, but in setting budgets for individual projects’ departments also need to make the decisions about relative policy priorities and needs. If more is spent on one project than originally allocated, that will

mean less is available for other priorities. Conversely, if savings are achieved, then these can be redeployed into frontline services;

- establish effective contract management processes and resources in good time to drive excellent supplier performance throughout the contract.

A fundamental aspect of purchasing is ensuring that every purchase is made so as to achieve:

- the right quality;
- the right quantity;
- at the right price;
- to be delivered at the right time;
- delivered to the right place;

The method of sourcing is a procurement process that continuously improves and re-evaluates the purchasing activities of a company or organisation.

The steps in a strategic sourcing process are:

1. assessment of Council's current spend (what is bought where);
2. assessment of the supply market (who offers what);
3. total cost analyses (how much does it cost to provide these goods or services?);
4. identification of suitable suppliers;
5. development of a sourcing strategy (where to buy what considering demand and supply situation, while maximizing risk and costs);
6. negotiation with supplier (products, service levels, prices, geographical coverage, etc.);
7. implementation of new supply structure;
8. track results and restart assessment (continuous cycle).

The procurement of any goods, services or works should always be carried out with suppliers who are reputable, financially stable, technically or professionally competent.

The procurement of care and support services shall in addition be carried out in accordance with the Scottish Government's Guidance on Procurement of Care and Support Services (SPPN8 – 2010)
<http://www.scotland.gov.uk/Resource/Doc/116601/0104725.pdf>.

3.0 People and Skills

3.1 Introduction

Argyll and Bute Council spends around £120 million in bought-in goods, services and works each year. When you consider the effect the quality of those goods, services and works have on the Council's internal working and on the ultimate quality of the service delivered to the public then the extent of the influence that procurement, good or bad, can have on the Council's overall performance is hugely significant.

It follows then that procurement has to be carried out by Council staff with a combination of knowledge of the requirements of the service and skills in procurement itself. In some instances that knowledge will be shared among a group of people working as a user intelligence group to deliver a particular contract. In other cases the combination of procurement skills and specialist service knowledge will be provided by an individual.

3.2 The structure of procurement within the Council

The Council operates with a small corporate procurement team, with a combination of Purchasing Officers working on corporate contracts (those that are for the purchase of goods, services and works that are common across the Council) and Purchasing Officers embedded within service departments, working on contracts that are largely specific to the activities of those services. A major part of the role of corporate Purchasing Officers will be to provide advice and assistance to anyone in the Council who needs to make purchases in order to deliver the services for which they are responsible.

Much of the procurement within the Council remains devolved and will be carried out by members of staff whose main function is not procurement but for whom the placing and managing of procurement contracts forms a large part of their routine.

3.3 Skills of the Corporate Procurement Team

All of the Purchasing Officers within the corporate procurement team require a large degree of expertise in procurement. Purchasing Officers will either be professionally qualified through Membership of the Chartered Institute of Purchasing and Supply or will be working towards that level of qualification. This will be supported through Continuing Professional Development.

3.4 Skills of Service Based staff carrying out procurement

Staff members taking responsibility for procurement exercises require to have a level of skill and knowledge so as to ensure that the purchasing they carry out on behalf of the Council is conducted in accordance with the public procurement rules and represents the all round best value that can reasonably be secured by the Council.

Many of those staff within service departments who conduct procurement have an irreplaceable fund of knowledge and experience regarding the practices within their own profession and in the industry with whom they transact. It is important that this knowledge and experience is recognised by the Council. It is equally important that this knowledge is not taken for granted but is measured and documented.

This will be carried out in procurement terms through a process of assisted self-assessment against a competence framework shared by a number of Councils in Scotland. The framework takes into account skill levels in the process, legal, finance, systems, supplier management and market aspects of procurement, providing ratings ranging from Awareness (Level 1) to Expert (Level 4)

Authorised Procurers will have demonstrated through the assessment or subsequently through training that they have achieved “Understanding” (Level 3) in each of the competencies.

By the end of the process only authorised procurers will be able to let contracts or otherwise procure goods, services or works on behalf of the Council.

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4.0 Benchmarking

4.1 Introduction and Definition

The term benchmarking can be used to describe any form of measurement against performance in another organisation or another function within the same organisation, or even against a measurement from another time. Benchmarking is not an end in itself, it is merely a tool and the purpose of undertaking a benchmarking exercise should be clearly understood before the exercise is designed.

The various ways in which benchmarking is used are reflected in the definitions that are attached to the term. It is described as “a means to achieve superior performance by comparison with best practice”, which suggests a process that has a definite beginning and an end. An alternative definition of “a continuous process of measuring performance against those identified as industry leaders” suggests a process that is embedded in the organisation.

The very competitive nature of private industry is of course a barrier in itself to benchmarking as industry leaders will jealously guard their core competencies against imitation. Although benchmarking is not strictly speaking about copying another organisation’s practices, the restriction does not apply in the public sector in any case, where organisations are invariably willing to share best practice as well as lessons learned.

Benchmarking should be used in the development of the sourcing strategy, where appropriate (*see your Purchasing Officer*), to develop knowledge of what can be achieved elsewhere and to establish the essential elements of best practice.

4.2 The Purpose of Benchmarking

The primary concern of benchmarking is measuring and assessing performance against identified best practice, with the aim of developing ways of matching or bettering that performance.

4.3 Benchmarking of supplier performance

Almost any aspect of supplier performance that can be measured by purchasing can be benchmarked. The more specific and innovative a measure is to a particular contract then the more difficult it will be to find a direct comparative measure. While the most obvious benchmark would fall on unit price, other key aspects of contract performance such as delivery time, rejections, completion to programme, price stability over time might equally be subjected to comparison.

Benchmarking is often neglected as a supplier performance measure in the public sector simply because there is a legal imperative to subject the supplier to open competition on a regular basis and market forces are seen as the ultimate performance measure for a supplier. It has to be recognised that competition is not always a perfect measure and the lack of a ready market for some services combined with barriers to entry in some industries, means that competition does not always ensure value for money. It is not possible to use benchmarking as a prelude to the development of every sourcing strategy but where there is any doubt over the effectiveness of market forces then benchmarking should be considered as part of the development of an effective strategy. Key indicators that competition is not perfect may include;

- Few available bidders
- One or two dominant suppliers

- Lack of new entrants to bidding lists
- Demarcation between suppliers

4.4 Benchmarking Partners

Having decided to undertake a benchmarking exercise and settled on the key performance aspects to be measured (link to objectives within the Sourcing Strategy), the next task is to select the benchmarking partners. There are thirty two readymade Council partners in Scotland, as well as Health Boards, Universities and Government agencies who already share information. Some initial investigation will be required to find out which organisations have similar responsibilities. Not all local authorities carry out the same functions; there is no point, for example, in trying to benchmark bus contracts with any of the local authorities lying wholly within the Strathclyde Passenger Transport Area for instance as they won't be involved in this.

The procurement team should be contacted to provide advice on suitable supplier benchmarking partners. Through the Public Contracts Scotland portal, recent contract awards can be identified which might suggest a similar way of working. The Scottish Procurement Information Hub holds the procurement spend by supplier for every Scottish public sector body and those spends, either collectively or individually for named organisations, by commodity category can be compared to our own. The Hub is an extremely powerful database of procurement expenditure allied to supplier information that should be the first port of call in any supplier benchmarking exercise.

Benchmarking information has to be analysed and hard information, such as prices, statistics and ratios are much easier to analyse than subjective information, such as anecdotes, opinions etc. Ensure that the background to statistics and ratios is known and can be checked for consistency.

The collection of benchmarking information is not an end to itself; there has to be a further purpose, which should be to identify what individual factors make the best in class the best and then to build those factors into our own processes.

4.5 Purchasing Performance

There is a school of thought that the best measure of the procurement function is the performance of an organisation's suppliers and there is merit in this approach. There is no point in a procurement function that does not deliver good supplier performance.

There are specific areas of purchasing performance that should be measured however and those again are common across the Scottish Public Sector and information on those is routinely collected, making benchmarking relatively straightforward.

Those generic performance measures such as contract coverage or cashable savings made each year are important but only capture a very small part of the service a procurement team should deliver to an organisation and it is important to carry out more focused benchmarking exercises to ensure that the function is affecting ultimate service delivery as effectively as possible.

5.0 Demand Management

5.1 Introduction

While procurement activity and strategic sourcing in particular focus on the price and quality of purchases that are made, demand management concentrates largely on the quantity that is purchased. The focus of demand management is on consumption.

For the purposes of this manual, three distinct threads of demand management are covered in this section. The first is the purest form and relates to the basic buying decision; whether or not to make a particular purchase. This first form also covers the timing of purchases by the Council. The second form covered is the “make or buy” decision. In some particular cases, where the initial decision to obtain a particular good, service or work, there may be a further decision to be taken on whether this does in fact need to be purchased from an outside agency or whether the Council has the resources available to produce this item internally in a manner that will prove to be more efficient overall.

The third form considers the adoption of “Alternative Delivery Mechanisms” and will cover some of the most fundamental make or buy decisions that the Council will be faced with. This is the process that the Council will follow when taking the decision on whether to outsource (or potentially in-source) current services.

5.2 Managing Consumption

The greatest single cost saving that can be made from any procurement exercise is the single, simple decision made at the beginning of the process, not to make the purchase. This obviously is not a decision that is available on many purchases, otherwise saving money through procurement would be an extremely simple business.

While the Council will be initiating individual demand management programmes for areas of indirect expenditure the following principals should be applied generally to purchasing decisions. Some examples are provided below:

TRAVEL

1. Check that travel to a meeting, conference or seminar not involving clients, is essential.
2. Ensure that travel is by the most cost-effective (not necessarily the cheapest) method.
3. Ensure that travel and accommodation is booked by the most cost effective method. Most PAs have access to corporate purchasing cards and can obtain discounted prices on-line.

PAPER AND STATIONERY

1. The Council purchases paper and stationery from national contracts. Ensure that you are using the contracted supplier for all purchases.
2. Ensure that the purchase is necessary and that no better alternatives are available from the large catalogue of stock that the contracted supplier has made available through the national contract.

OFFICE EQUIPMENT

1. Printing, scanning and photocopying devices (Multi-functional devices) are the largest items of office equipment used by the Council. The Council leases this equipment through a national contract. Please ensure that all purchases are made from the contracted supplier.
2. The national contract is designed so that the supplier benefits from the number of prints, scans or copies produced rather than the number of multi-functional devices deployed across the Council. Reducing the number of devices benefits the Council through reduced leasing charges and benefits the supplier through reduced capital and maintenance costs. Ask for assistance from the contracted supplier in deploying the machines as effectively as possible within individual offices.
3. Direct as much print as possible away from desktop printers to the contracted multi-functional devices and save money on print costs.

IT HARDWARE AND SOFTWARE

1. Ensure that purchases of IT hardware and software are only made to meet a defined business demand and that specifications are tailored to the most cost effective means of meeting that demand.
2. Always use the IT Service desk when purchasing IT hardware, software or peripherals to ensure that the specified equipment will be compatible with present and planned applications.

CONSULTANTS

1. Always have a clear specification of the work to be carried out and be aware of the clear advantages that the specialist skills of a consultant will bring to the task.
2. Ensure that the contract has clear and specified deliverables and that it is clear that those have to be met in order for payment to be released.
3. Never employ a consultant in order to deliver more bodies on the ground, whatever the task. The Council has a large workforce with diverse skills and has access to temporary recruitment agencies who can supply staff to work under Council management at competitive rates.

5.2.1 Timing of Purchases

Where possible, consideration should be given to the timing of purchases that are made, particularly where there are likely to be constraints in the capacity of suppliers to deliver, on a seasonal or overall basis. The concept of “peak pricing” is well understood on transport systems but applies equally on all types of purchase where there are constraints on the supply base to deliver goods, services or works. The concept of “peak supply” in fact does not relate to price alone but can impact on other aspects of the purchase, including quality and time.

It is important to look at this from the suppliers’ point of view. If a company is already working to capacity and is faced with further demand, this is likely to impact on their business depending on where the constraint occurs. If it is on direct labour to supply the service, then this has to be met either through overtime or contract labour, either of which are likely to be more expensive than standard hours working and in some cases may also result in less qualified or experienced staff being deployed. Constraints in plant and equipment may mean that additional units have to be hired in, again increasing cost and perhaps with decreased suitability. A restricted supply of materials can again lead to a supplier having to pay a premium.

While it will not always be possible to avoid purchases at peak times, particularly when those are being made as a result of unexpected operational conditions, it is possible to restrict those instances to the absolutely necessary by the following means;

Communication

Where you are forecasting a significant purchase, make sure you alert the procurement team as soon as possible who can liaise with the incumbent supplier, if any. The more notice a supplier has of demand the more preparations they can make to respond to the Council's needs. Where there is no contracted supplier for the goods, services or works, let the Corporate Procurement Team know as far in advance as possible. The Procurement team will alert the market to the prospective purchase and put the arrangement for any necessary competition in place.

There is benefit to be gained from frequent communication with key suppliers to ensure that they are kept up to date with future requirements and also to give the suppliers an opportunity to provide information on any market trends which might impact on the delivery against those requirements.

Co-ordinating Demand

Where there are known constraints in supply, there is merit in co-ordinating demand across the Council and with partner organisations as appropriate, with a view to avoiding bottlenecks.

Stockholding and Earmarking

The holding of supplies of stock to meet short term demand is well established in some areas of the Council and can be effective as a last resort to smooth demand and avoid peak pricing. The holding of stock does bring its own costs however; in storage, management and loss/ obsolescence and should not be used as a solution before alternatives have been fully explored.

It is often possible to have a contracted supplier earmark resources for Council use or consign stock in advance of a purchase being made. It is important that there is a degree of certainty surrounding the eventual purpose before such agreements are entered into.

Specification

Consider the guidance on 12.1 on specifications to make sure that you are not adding to the suppliers cost for elements that will not add equivalent value to the Council.

5.3 "Make or Buy" Decisions

For many purchases there is essentially no real "make or buy" decision to be made. The purchase will be for a good, service or work that is completely outside the scope of what the Council as an organisation, produces.

There will in other cases however, be a decision to be made over whether a purchase has to be made or whether there is internal capacity to deliver the goods, services or works required. In such cases it is extremely important that the "make or buy" decision is reached before a formal tendering process is undertaken.

Where a “make or buy” choice results in the decision to “make” then no purchase has been made and none of the procurement rules apply. Therefore in order to keep work “in house” the Council are not required under any procurement rules to make any value justification.

In terms of achieving overall best value for the organisation however, officers considering a “make or buy” decision will want to consider the following questions;

- Does the Council have available capacity to meet the requirements of the proposed purchase in house, to the required quality and within the required timescale?
- If so, can the Council’s in-house resources deliver this at a marginal cost that is below the cost of purchase? (NOTE: Marginal Cost does not include any overheads that may be applied and does not include any costs of plant or machinery that would have otherwise been idle)
- Can the Council deploy additional resources to meet the requirements at a cost that is less than the cost of purchase?

For the above comparisons the cost of purchase should be estimated from previous purchases or should be arrived at through other research. No formal tendering exercise will have been carried out at this point.

If a fully costed “make” option is prepared and there is a wish to compare this to a later tender price then this should form a control bid, which should be communicated within the tender documents. In these situations it should be noted that the Council’s “in-house” price is not prepared in competition with external prices and it is in the Council’s overall interest if suppliers can submit successful bids in this situation.

The Council may enter into competition with suppliers or contractors through one of the properly constituted trading accounts and in this situation, the trading account should be treated in the same manner as any other bidder.

5.4 Alternative Delivery Mechanisms

From time to time, as part of an overall service review, the Council may wish to explore an option to have services delivered by another method. This may involve services that have previously been delivered by the Council itself, being opened up to competition from other sectors. There are many factors to consider in the option appraisal exercise and a methodology for appraisal will be included in the Service Review Guidance manual.

6.0 Sustainability

6.1 Introduction

This manual is designed to implement Argyll and Bute Council's Sustainable Procurement Policy and is in alignment with the Scottish Government's Procurement Journey.

6.2 Sourcing Strategy

Argyll and Bute Council undertook the Sustainable Procurement Task Force Prioritisation Methodology (see Appendix 1 for results). This is intended to enable the Council to prioritise its sustainability risks in order to make most effective use of its sustainability resources and deliver environmental and socio-economic improvements. It should be referred to at the Sourcing Strategy stage (see Section 6.4.5 of the Procurement Manual) to allow the adoption of a strategic approach alongside the exploitation of quick and expedient sustainable opportunities.

When developing the Sourcing Strategy, the UIG should make reference to sustainable procurement. Sustainable procurement means taking into account social, economic and environmental considerations as part of the procurement process. This needs to be considered in the total cost of ownership, to ensure future proofing and the promotion of innovation. When evaluating tenders, considerations on sustainability must be relevant and proportional to the requirement.

This may affect the direction of the procurement exercise and influence the options available to the Council. As a matter of good practice, sustainability needs to be built into the earliest stages of the procurement exercise, when requirements are being identified and specified (see Section 12.1 of the Procurement Manual). A long-term view to the requirement should be taken, for example you should consider:

- Flexibility for future purchases
- Maintenance
- Spares
- Training now and in the future
- Licensing
- Upgrades
- Take-back at disposal stage

You should use the Government Buying Standards best practice specifications (see Appendix 2) where appropriate.

Sustainable procurement can be achieved in the following areas by observing the practical steps detailed herein.

Social

In order to incorporate social issues in the procurement exercise, you should consider:

- The **usability** of the product or service for all who will be affected by the contract.
- Whether the requirement can be procured as a **reserved contract** i.e. the Council may restrict participation in the tendering process to supported businesses or factories only i.e. businesses or factories where more than 50% of the workers are disabled persons and are unable to take up work in the open labour market.

- Using **Community Benefits** clauses in specifications (where relevant and appropriate). The purpose of Community Benefits clauses is to ensure that, as far as is possible within current legal constraints, the maximum social and economic benefits are captured for residents and businesses within Argyll and Bute from investments being made in areas of significant expenditure. Argyll and Bute Council have signed up to the CITB Construction Skills Client Based Approach for the purposes of Community Benefits. The Client Based Approach provides working documentation for local authorities procuring construction projects to consider and develop, as necessary, to embed employment and skills from policy and strategies to procurement and operational implementation through to progress monitoring.

Economic

Argyll and Bute Council recognises the need to support the development of the SME sector by developing a procurement approach which offers fair and equal access to procurement opportunities. To this end, Argyll and Bute Council has signed up to the Scottish Government's Supplier Charter which commits public bodies to improving the way they work with business to ensure consistency in order to provide a fair and open approach to tendering. The Charter also aims to keep tender costs to a minimum and to remove barriers to participation by small firms, the self-employed and the third sector.

In order to encompass economic aspects in the procurement exercise, you should consider:

- **Advertising** the requirement so as to maximise participation and increase supplier diversity.
- Making the tender documentation and procedures as **simple and** as **accessible** as possible.
- Where appropriate and in consideration of the market place available skills and legal constraints, Argyll and Bute Council may choose to incorporate the following **re-tender clause** in the general conditions of contract. The clause is intended to provide access to opportunities for SMEs.
- **"SUB CONTRACTING"**
 - The Council, while contracting for the provision of the goods/services, wishes to ensure that a degree of diversity in the scale and nature of companies involved with providing those services is maintained, in order to deliver overall best value for the Council and for the local community. It is a requirement of the contract therefore that a minimum of x% of the requirement is sub-contracted to other suitably qualified and experienced sub-contractors.
 - In order to ensure transparency in the sub-contracting process, the sub-contracts will be advertised for tender on the Public Contracts Scotland website in the first instance.
 - Sub-contractors will be required to make use of the Post-box facility when advertising on the Public Contracts Scotland website and the Council will have the right to access all aspects of the bidding, evaluation and award process; ensuring that it is carried out in a fair, open and transparent nature.
 - The main contractor will be responsible to the Council for all aspects of the sub-contractors performance, including all costs legitimately arising under the sub-contract. Any additional cost over the main bid price for the element sub-contracted must be met by the main contractor and any reduction in costs may similarly be retained by the main contractor
 - The main contractor will commit to paying the sub-contractors any sums legitimately owing to them under the contract, in full and in good time."

Environmental

In order to incorporate environmental issues in the procurement exercise, you should consider:

- Using the Government Buying Standards best practice specifications.
- Specifying sustainable options wherever appropriate. Buying functionality rather than stipulating the product or service may allow suppliers to meet performance and quality standards in the most sustainable way. A simple way to achieve a sustainable outcome may be to address sustainability in the title of the Contract e.g. 'Sustainable Office Furniture', making unsustainable options non-compliant.
- Adopting a Total Cost of Ownership approach to price evaluations (i.e. costs throughout the lifecycle of the product/service).

Sustainable outcomes must be managed post contract award by monitoring and recording delivery against targets.

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7.0 A Establishing the Sourcing Strategy

ADVICE IS TO BE TAKEN FROM YOUR PURCHASING OFFICER AS TO WHEN IT'S APPROPRIATE TO USE/COMPILE A SOURCING STRATEGY. IF A SOURCING STRATEGY IS TO BE COMPILED THIS WILL BE COMPLETED BY THE PURCHASING OFFICER RESPONSIBLE IN CONJUNCTION WITH THE RELEVANT DEPARTMENT.

7.1 Introduction

It is not necessary to devise a sourcing strategy for each individual procurement exercise. A single sourcing strategy can apply to a commodity category and need only be updated as circumstances change - either in the marketplace or in the delivery of the service. For significant procurements, however, the contract owner will wish to look critically at any existing sourcing strategy and amend as necessary.

A Sourcing plan should be created for each individual procurement exercise. A comprehensive plan will ensure that the objectives of the exercise are clearly defined in the specification and award criteria. Any significant risks shall be identified and actions put in place to manage them at an early stage. Listing the milestones and timescales in a formal plan will ensure that sufficient time is left for each of the stages in the tender process and that corners are not cut to meet unrealistic deadlines.

7.2 Purpose of Sourcing Strategy

The sourcing strategy is the summary of all the work that is carried out prior to the commencement of the selection process. This will include the development of the specification through User Intelligence Groups, market research carried out and the conclusions drawn from those exercises, and how they will inform the selection process.

The development of the sourcing strategy ensures that the Council's approach to a particular procurement has been fully thought out prior to embarking on the selection process. It is during the development of the sourcing strategy that radical new approaches can be considered and where the greatest scope lies for making significant savings from the exercise, which can include not procuring at all. It is important therefore that the sourcing strategy is given full consideration and is not rushed as a necessary pre-requisite to get to the tendering process. As the process continues the scope for change narrows and the cost of change becomes more significant, both in terms of time and money.

Having a fully considered sourcing strategy means that the Council will be very clear on what it is looking for when it approaches the market. This has benefits not just for the Council but also for the companies who will be bidding for work as they will know exactly what they are being asked to provide and can proceed or not in that knowledge. A sourcing strategy helps to keep procurement legal, by reducing the prospect of significant change during the tendering process and also helps to ensure ultimate value for money from the full process.

7.3 Forming a User Intelligence Group

Preparing a sourcing strategy should not be carried out in isolation. A User Intelligence Group should be formed for this purpose (could be as small as the purchasing officer and one department staff member).

The UIG should make an assessment of the organisation's future demand profile for the commodity, based upon the knowledge and expertise within the team and upon information gleaned from communications with non-team members. The Spikes Cavell can also be used to identify possible transactional and collaborative opportunities.

The right people need to be present. From the User Intelligence Group, the relevant department staff, who will be managing the contract and a member of the Procurement Team, should be present. The UIG representatives must be ready for the procurement exercise to be shaped by what the market can do and be prepared for, and actively encourage, constructive challenge by suppliers.

The UIG should also consider the options for shaping the market: encouraging the market to develop in such a way that it can meet the organisation's needs in the future. Engaging the market provides an opportunity to ensure that services provided are at the forefront of those available.

7.4 The Sourcing Strategy

The sourcing strategy defines the procurement and contract management regime appropriate to each category of commodity purchased by the Council. The steps to be followed in developing a sourcing strategy are outlined below:

STEP 1	Describe Service Objectives
STEP 2	Examine Criticality of Procurement
STEP 3	Obtain spend information
STEP 4	Carry out Market Research
STEP 5	Define Procurement Objectives
STEP 6	Identify and Analyse Risks
STEP 7	Draft Outline Specification
STEP 8	Recommend Procurement Route

7.4.1 Describe Service Objectives

It is critical to achieving best value from a procurement exercise that it is approached as far as possible without preconceptions. An initial specification should be drawn up and it is important that this state's objectives rather than proposing solutions. This initial specification together with scoping information will be used in the initial market research as the widest and most innovative responses may be excluded if a specific solution is sought. Ideally, this is what the market research should guide towards; one of the aims of effective procurement is to make best use of the suppliers' knowledge.

It is difficult to over – emphasise the care that should be taken to get this part right – it is possible to make more gains here than in other and more complex areas of the procurement process.

7.4.2 Examine Criticality of Procurement

How important to the overall service delivery will the performance of this contract be? The answer to this question will determine to some extent the level of risk you will attach to the contract and certainly will play a large part in the contract and supplier management regime to be put in place.

Determining criticality in relation to a contract can be done in a fairly straightforward manner by asking some fairly simple questions;

What is the value of the contract in relation to the overall service budget?
How important are the objectives of the contract in relation to the objectives in the service plan?
What will happen if the supplier fails to perform and what are my alternatives if the supplier fails to perform?

The answers to some of those questions may become clearer as the sourcing strategy is developed.

7.4.3 Obtain spend information

Detailed understandings of the current spend and likely future requirements of participating organisations are key to commodity strategy development.

In order to develop clear spend conclusions; it is important to gather current expenditure and demand data at the correct level of detail and to consolidate the information into a standard format.

The five key areas of analysis are:

- Total Expenditure and Volume
- Expenditure by Commodity and Sub-Commodity
- Expenditure by Division or Department
- Expenditure by Supplier
- Future Demand projections where possible

To assist with spend analysis many Scottish public sector organisations can access information on historical commodity spend via the Observatory (Spikes Cavell), which contains many pre-defined reports and data that can be exported into MS Excel format. However, the data in the Observatory is not at line-item level. This means that the UIG (User Intelligence Group) will still need to obtain detailed spend information from suppliers, or where available, from purchase order systems (PECOS, Oracle and Discoverer). The Observatory can provide Departmental analysis if this was included with the original data supplied and can be used to identify possible transactional savings and collaborative opportunities.

7.4.4 Carry out Market Research

Supply market analysis enables the UIG to develop a detailed understanding of key trends, major players, and overall market dynamics that could influence the commodity and supply.

Early market engagement can be critical to success and it is vital to understand the key issues before starting, but it must be undertaken with care and in such a way as to ensure equal treatment and fairness to suppliers or potential suppliers.

After the estimated value of the contract has been calculated (excl VAT), some initial market research would be valuable to ascertain the suppliers offering the required needs. This is specifically beneficial for requirements that have never had any spend. This can be done in a variety of ways:

- The Council's general experience of the particular market.
- Experience of previous procurement
- Other Government Purchasing Agencies (Scotland Excel, Procurement Scotland etc).
- Information obtained from other public sector organisations.
- Replies to an OJEU Contract Notice and FCO's

- Trade Directories, magazines etc.
- Exhibitions
- Use of internet-based search engines e.g. Google
- Supplier's catalogues

Market Sounding

Market sounding means assessing the capability and capacity of the market to meet the customer's project requirements. It enables you to assess at an early stage whether your proposed project is feasible and can be delivered by suppliers. It also provides an early warning of your requirements to the market and enables suppliers to think about how they will respond to the contract notice and who they need to work with. The key aim of market sounding is to encourage the right suppliers with the right structure to respond to your contract notice.

Market sounding brings supplier perspectives to procurement at an early stage, improving the focus of the project on what is achievable. It provides a much better understanding of the feasibility of the requirement, the best approach, the capacity of the market and the risks involved. It is particularly useful where there is uncertainty over what the market can provide, how to package the requirement, or the best way to work with suppliers. It can save effort later in the process and reduce procurement timescales.

There is no formal process for market sounding, but activities typically include researching and analysing the market as a whole and meeting selected suppliers for discussion. Please note market sounding should be carried out with a minimum of 3 companies, where possible.

Supplier interest can be generated by publishing advance notices of likely requirements, for example through Future Contract Opportunities (FCOs) notices.

Market sounding brings learning into the public sector that is useful in a broader sense. Project teams need to have a better understanding of the relevant markets to assist in their appraisal of suppliers. Market knowledge can be invaluable to other projects and other organisations.

Market sounding involves gathering knowledge in these key areas:

- Feasibility
- Capability
- Maturity
- Capacity

Consider carrying out market sounding if the answer to any of these questions is 'yes':

- Is there doubt over the existence of a market for the identified business need?
- Assuming there is a market of some kind, are there doubts over its capacity, capability, maturity or competitiveness?
- Is first-hand in-house knowledge of the market superficial, incomplete or simply absent?
- Is there uncertainty about the level of suppliers' interest?
- Is the desired outcome likely to involve significant business change? Is it unprecedented?
- Is there a need to manage expectations of the project?
- Is the requirement very unusual?
- Is the solution likely to be complex or innovative?

Skills Required

The key skill areas for market sounding are:

- Business knowledge
- Market knowledge
- Technical knowledge
- Analytical and decision-making skills
- Communication skills

Shaping the Requirement

Market sounding can help shape the requirement so that procurement is focused on what the market can deliver. A poorly framed requirement can present major risks to the project.

The following areas are key:

- Keeping options open: avoiding the tendency to 'zero in' on particular options; allowing suppliers the freedom to suggest ways forward.
- Considering business models: looking at all the options for how the arrangement between customer and supplier might work (organisationally, financially, in relation to risk management etc).
- Considering how the way market sub-sectors work within the target market might affect the project.
- Considering whether the requirement might usefully be split in particular ways. What are they in this market? How will they affect the project?

Questions to Consider

Enquiries at market sounding usually fall into particular areas. These are not questions to ask of suppliers, but rather questions that the UIG should seek to answer for themselves through dialogue with suppliers:

- Maturity: is the market ready to deliver what's required?
- Feasibility: will the market be technically capable of meeting the requirement?
- Competition: how many suppliers provide what is required; will procurement be sufficiently competitive?
- Capacity: are there enough suppliers, with sufficient capacity, to meet the requirement?
- Working together: will the requirement bring suppliers from different sub-sectors together in a new way? How will this work?
- Traditions and prevailing attitudes: what are they in this market? How will they affect the project?

Discussions with Suppliers

Talking to suppliers is at the heart of market sounding. It is crucial to talk to the right suppliers - ideally, those who have achieved outcomes of a similar nature and scale.

Some possible questions to open productive discussions with suppliers include:

- Are you interested in this opportunity?
- If not, why not?
- Is the business model realistic?
- Are the business aims realistic? Is the business attractive?
- What do you see as the risks?
- Can you give an early indication of cost?
- Can you give a broad indication of the likely timescales?
- Are there other, better approaches?

Market sounding should not be an isolated or project-specific activity. There are important contexts to consider.

Market Trends

The Market Trends Analysis provides information on what is happening in the commodity market in terms of, for example, current and future technologies, changing customer requirements or demands, new players, and mergers or acquisitions. This analysis is based on recent analyst reports, news items and information on current available products and future products advertised on the market.

7.4.5 Define Procurement Objectives

It is now possible, following the analysis and market engagement carried out to date to establish a clear set of objectives for procurement of the commodity group in question.

The objectives in carrying out significant procurement exercises for the Council should reflect the overall goals and objectives of the Council. Individual goals and objectives should be set with reference to the balanced scorecard, as illustrated;

Price (whole life cost basis)	Internal Process Improvements
Sustainability (Environmental, economic and social)	Enhanced service delivery

Price should be described where possible in terms of whole life costs and may include factors such as price stability or cost avoidance.

Internal Process Improvements relate to operational efficiencies, such as a new method of delivery that saves work internally. This may be in terms of logistics, through direct delivery to the point of use, or by obtaining a more finished product, that requires less adaptation before customer use, or in the form of software that requires less manual input.

Sustainability can come in a number of guises;

- *Environmental* improvements can be made from purchasing more efficient equipment in terms of energy consumptions (if quantifiable this may also be a price saving), or from switching to recycled goods, or from reducing delivery frequency or haulage distances.
- *Social* benefits can be obtained if the method of service delivery proposed under the new contract delivers consequent benefits to the local

communities (where this is not the primary aim of the contract). Wider social benefits are gained from the use of fairly traded goods.

- *Economic* benefits can be obtained where the nature of the contract will deliver wider economic benefits within the Council area, either through the use of community benefit clauses, or from the nature of the service delivery planned.

Enhanced Service Delivery is obtained where the nature of the contract is such that it provides a better outcome than that achieved to date, on the primary aim of the contract.

The benefits should be identified and quantified as far as possible in the Benefits Realisation Module.

7.4.6 Identify and Analyse Risks

Risk Identification

The initial identification of as many risks as possible is essential in terms of understanding the project. Potential major risks should be documented in the risk register. Risks may be divided into five categories:

- *Commercial Risk*; That either the price objectives aren't achieved up front or there are other costs that arise during the contract that diminish the overall benefits.
- *Technical Risk*; This concerns the difficulty in being able to specify the desired outcome and on the market being able to deliver to the specification.
- *Performance Risk*; This concerns the ability of the suppliers to perform consistently over the life of the contract to deliver the planned benefits.
- *Contractual Risk*; This covers things like being able to remedy the shortcomings in the contractors' performance without severely damaging the contract and about avoiding reliance on the contracted supplier as the contract develops.
- *Compliance Risk*; This involves the risk of the Council not properly engaging with the contract, of maverick buying or of genuine diminished demand or need during the term of the contract.

Risk Assessment

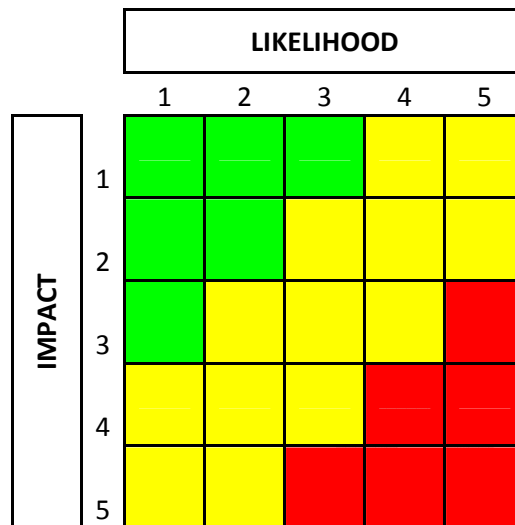
The purpose of risk assessment is to assess the probability of risks occurring and their potential impact.

- Probability (or likelihood) is the evaluated chance of a particular outcome actually happening (including a consideration of the frequency with which the outcome may arise).
- Impact is the evaluated effect or result of a particular outcome actually happening (usually considered in terms of effect in cost, scheduling and quality).

Each of those risks, with a more detailed description should be placed on a simple risk register;

Category of Risk	Description of Risk	Mitigating Actions	Impact	Likelihood

The identified risks would then be plotted as follows;



7.4.7 Draft Outline Specification

The full specification is not created at this point. That will form an action under the sourcing plan. However since the sourcing plan will not always follow directly on from the development of the strategy; perhaps because of existing contract commitments or scarcity of staff resources, it is important to capture the salient points that have come from the strategy development that should form part of the eventual specification.

7.4.8 Recommend Procurement Route

The sourcing strategy should include a recommended procurement route for the subsequent purchase. This will be determined by a range of factors including;

- Complexity of the procurement
- Outcome of market research
- Commodity Category for collaboration

7.0 B DETAILED Sourcing Strategies – Alternative Chapter for “High Risk” Commodities/Contracts

7.1(B) Introduction

This part of the Manual is to help you develop strategies for “high risk” commodities/contracts.

A strategy is always required for all commodities/contracts. The strategy however should be proportionate to risk, value and strategic importance of the commodity/contracts to the organisation. Consideration must also be given to Planning and Risk Management throughout the Procurement Journey.

7.2(B) Stakeholder Identification

To ensure stakeholder’s requirements are met and maximum compliance is achieved, a cross-functional team, or User Intelligence Group (UIG) should be established. The UIG will assist you when developing the commodity strategy, assist with tender evaluation and the ongoing activities of contract/supplier management, monitoring, implementation, compliance and benefits tracking.

This group should have representation from key stakeholders within the participating organisation(s) and should include procurement and business / technical / customer representatives.

Depending on the nature of the procurement this UIG could consist of only two members e.g. the Procurement Officer and the end user.

You should undertake appropriate research prior to the first meeting for example:

- Gain an understanding of the market for a commodity from desktop research, e.g. via the internet
- Speak to supplier or industry representatives
- Meet with individual key stakeholders and end-users
- Review historical spend patterns if appropriate
- Gather information from other public sector contacts, such as Procurement Centres of Expertise e.g
- Read previous tenders or commodity/contract strategies

This research will help you gain an initial understanding of the commodity/contract, the organisation's requirements, market conditions and some of the risks, issues and barriers to success they may face. It will also help highlight any contracts and/or Framework contract which you may be able to access for your requirement without the cost, time and risk of developing your own contract.

Stakeholder Mapping

The potential benefits of establishing a UIG are:

- The ability to draw on the cross-functional expertise within the group
- Ensuring stakeholder views are considered in the decision making process
- Clear communication channels can be established
- Presenting "one face" to suppliers
- Formalising the governance arrangements and identifies the decision makers

- Clarifying roles and responsibilities
- Facilitating the generation of ideas
- Facilitating buy-in and compliance

Where there are a large number of stakeholders, for example a collaborative contract, it may not be possible to have all stakeholders represented on the UIG.

For the procurement exercise to be effective it must meet the reasonable expectations of stakeholders and end users therefore a clear understanding of stakeholder and end users' views is essential. In order to obtain this understanding there must be effective engagement and you must take into account all views of your stakeholders. Many stakeholders will be positive and supportive however it is also important that you consider the reasons why stakeholders may not be fully supportive.

In order to manage this you may wish to consider some of the following:

- Ask your colleagues whether they know of any strong views stakeholders may hold to gain an understanding of any issues that may arise and reasons for these
- Meet with stakeholders on a 1 to 1 basis in advance to understand their views their concerns
- Ensure stakeholders are encouraged to contribute fully
- Ensure an appropriate governance structure is in place which should include identifying and addressing any conflicts of interest

Members of the UIG should not underestimate the amount of time and commitment involved in being a team member. Although the team itself may typically meet only fortnightly or monthly there is likely to be work to be completed in-between meetings and members should come to meetings fully prepared.

7.3(B) Profiling the Commodity

The Profiling the Commodity stage will help you to:

- Understand and scope requirements to help ensure that, where appropriate, they achieve the optimum combination of whole life costs and quality to meet the end user(s) requirement
- Identify any current contracts in existence and estimate the relative spend on the goods/services in question
- Use a sustainability checklist to consider the potential social, economic and environmental impact associated with the requirement and the proposed procurement process
- Assess the current state of the market and identify key players who could meet the requirements
- Understand and integrate the current and future needs of the participating organisation(s) into the approach to market
- Identify any early opportunities to explore and provide options for meeting the requirements

7.4(B) Contract Status & Spend Analysis

Current Contract Status

You should work with the UIG to review and understand the current contractual situation for the commodity to determine if there will be any issues (commercial, practical and/or legal) in relation to the need to phase in new contracts over a period of time, or to investigate whether early termination of existing contracts is both possible and appropriate.

You should collate details of the existing contract(s), such as the product specification, end users and other information which can be incorporated into the analysis of key commodity characteristics as described in the next section.

Use the 'Current Contract Status Template' to record this information.

Spend Analysis

A detailed understanding of the current spend and likely future requirements of participating organisations is key to commodity strategy development.

To assist with spend analysis many Scottish public sector organisations can access information on historical commodity spend via Spikes which contains many pre-defined reports and data that can be exported into MS Excel format. The data in the Hub is not at line-item level. This means that detailed spend information will still need to be obtained from suppliers, or where available, from purchase order systems. Spikes can be used to identify possible transactional savings and collaborative opportunities.

Some suggested areas for analysis are:

- Total Expenditure and Volume
- Expenditure by Commodity and Sub-Commodity
- Expenditure by Division or Department or geography
- Expenditure by Supplier
- Future Demand projections where possible
- Collaborative Opportunities
- Benchmarking
- Profile of suppliers (large, SME etc.)

It is good practice to ensure that suppliers are contractually required to provide line item spend details as part of the contract to support

- benefits analysis:
- contract and supplier management
- supplier development
- future procurement activities / renewals

You should work with the UIG to make an assessment of future demand for the commodity, based upon the knowledge and expertise within the team and upon information obtained from communications with non-team members.

7.5(B) Sustainability – See Chapter 6.0

When developing the commodity strategy, User Intelligence Groups should make reference to sustainable procurement. Sustainable procurement means taking into account social, economic and environmental considerations as part of the procurement process. This needs to be considered in the total cost of ownership, to ensure future proofing and in the promotion of innovation. When evaluating tenders, considerations on sustainability must be relevant and proportional to the procurement.

This may affect the direction of the procurement exercise and influence the options available to them. As a matter of good practice sustainability needs to be built in to the earliest stages of the Procurement Journey, when requirements are being identified and specified. You should use the [Government Buying Standards](#) (formally *Buy Sustainable Quick Wins*) best practice specifications where appropriate.

7.6(B) Commodity Characteristics

The purpose of this section is to determine the requirement and agree what is in/what is out of scope with the UIG and other key stakeholders.

You should start by breaking down the requirement into its sub-commodities and identify the specific products/services within each sub-commodity. Use the 'Classifying a Commodity' template below to assist in this process.

At this stage you may also want to give consideration to how the products/services are provided e.g. electronic purchase orders, purchasing card, consolidated invoices and self billing.

7.7(B) Supply Market Analysis

A supply market analysis should be undertaken to enable the UIG to develop a detailed understanding of key trends, major players, and overall market dynamics that could influence the development of the commodity strategy e.g. route to market, lotting strategy.

At least one of the Market Analysis Templates provided should be used to assist in this exercise. You will probably wish to read the guidance below prior to completing the templates. At the end of the analysis you should provide a [Market Summary](#) of your findings.

You should give particular consideration to the potential for third sector involvement and reserved contracts.

Market Sounding

Any discussions on costs at this stage should be indicative only, and this needs to be made clear to suppliers.

There is no formal process for market sounding, but activities typically include researching and analysing the market as a whole and meeting selected suppliers for discussion. Care should be taken to engage with a good cross section of suppliers to best inform your strategic options i.e. the views of an SME compared with a large or multi-national supplier may be different. Supplier interest can

be generated by publishing advance notice of likely requirements, for example through Prior Information Notices (PINs).

Market sounding brings learning into the public sector that is useful in a broader sense. UIGs may need to gain a better understanding of the relevant markets to develop the commodity strategy, both in terms of how they operate currently and how they may operate in the future (i.e. changing technology, market entrants etc.).

Early engagement with potential suppliers can be critical to success and it is vital to understand the key issues before starting, but it must be undertaken with care and in such a way as does not distort competition. It is vital that any discussions on costs at this stage should be indicative only; you must make this clear to suppliers.

The Procurement Officer should always be present at meetings with suppliers. From the supplier side, someone who understands your requirements and can offer innovative solutions and constructive advice should be present. The right attitudes must be adopted: respecting confidentiality, maintaining flexibility and openness.

The UIG should:

- Be open to new ways of shaping your requirement based on what the market may be able to provide
- Consider the options for shaping the market: encouraging the market to develop in such a way that it can meet your requirements in the future. Engaging the market provides an opportunity to ensure that services provided are at the forefront of those available

The overarching theme of early engagement is to identify the organisation's desired outcomes, risks and issues and permit suppliers to provide feedback on how the outcomes might be achieved, the risks and issues as they see them, along with feedback on timescale, feasibility and affordability. All discussions should flow from this theme.

Market sounding should also take account of the knowledge held by other buying organisations, trade bodies, business support organisations e.g. Federation of Small Businesses, Chambers of Commerce

You should consider the following questions:

- Is there doubt over the existence of a market for the identified business need?
- Are there doubts over its capacity, capability, maturity or competitiveness?
- Is first-hand in-house knowledge of the market superficial, incomplete or simply absent?
- Is there uncertainty about the level of suppliers' interest?
- Is the desired outcome likely to involve significant business change? is it unprecedented?
- Is there a need to manage expectations of the project?
- Is the requirement very unusual?
- Is there an innovative solution?
- Is the solution required to provide the service to diverse groups across society?
- Are there carbon reduction targets?
- Is there uncertainty about the technological / eprocurement capabilities of the market?
- Has economic development been considered?
- Has accessibility and 'designed for all' been considered?
- Are more sustainable outcomes available?

Questions to Consider

Enquiries at market sounding usually fall into particular areas. These are not questions to ask of suppliers, but rather questions that the UIG should seek to answer for themselves through dialogue with suppliers.

- Maturity: is the market ready to deliver what's required? Is it evolving or diversifying with suppliers entering or exiting the market?
- Feasibility: will the market be technically capable of meeting the requirement?
- Technical / product innovation: technological advancements or product / service developments expected and how can requirement be future proofed to take advantage of these?
- Competition: how many suppliers provide what is required? Will there be effective competition?
- Capacity: are there enough suppliers, with sufficient capacity, to meet the requirement?
- eProcurement: is the market ready to embrace the electronic suite of tools that are currently utilised within the Scottish public sector?
- Working together: will the requirement bring suppliers from different subsectors together in a new way? How will this work?
- Geographical: do supplier operate differently or provide different goods or services in different geographical areas e.g. in another country?
- Traditions and prevailing attitudes: why are they in this market? How will they affect the project?
- Sustainability: can suppliers provide solutions to sustainability issues?

Discussions with Suppliers

Talking to suppliers is at the heart of market sounding. It is crucial to talk to the right suppliers - ideally, those who have achieved outcomes of a similar nature and scale.

Great care must be taken to ensure that those contacted are not given an advantage over other potential suppliers. It is equally important to ensure specifications are not written in such a way as to favour any particular supplier(s). If either of these approaches are not adhered to you could breach procurement law and the procurement itself could be challenged.

Some possible questions to open productive discussions with suppliers include:

- Are you interested in this opportunity?
- If not, why not?
- Is the business model realistic?
- Are the business aims realistic? Is the business attractive?
- What do you see as the risks?
- Can you give an early indication of cost, what are the major cost drivers and how can these be minimised?
- Can you give a broad indication of the likely timescales?
- Are there other, better approaches?
- What added value in terms of sustainability could the supplier provide related to the subject matter of the contract?
- Discussions on how suppliers can provide added value on sustainability and other issues over and the requirements of the regulations

- Can you share examples of good or bad practice in terms of how others have tried to secure these products or services and what can we do to ensure clarity and improve the tendering process for suppliers?

You may also wish to discuss aspects of eProcurement with suppliers such as:

- Provision of content in the required format e.g. an ecatalogue or transactional punch-out site
- Ability to accept cXML purchase orders and / or invoices
- Potential for an eAuction
- Potential for eTendering

7.8(B) Shaping the Requirement

You should ensure that all research conducted is collated and reviewed as a whole. A poorly scoped and researched requirement can present major risks (including procurement risks) to the project.

The following areas are key:

- Ensuring customer requirements are met and balanced with affordability
- Challenging the end users requirement to ensure that an optimum combination of whole life costing and quality is achieved
- Keeping your options open: avoiding the tendency to 'zero in' on particular options; allowing suppliers the freedom to suggest ways forward
- Considering business models: looking at all the options for how the arrangement between customer and supplier might work e.g. organisationally, financially and in relation to risk management
- Considering how the wider supply chain might affect the project
- Considering whether requirements should be grouped in a specific way to reflect market structure. e.g. procuring computer hardware desktop/laptop separately from maintenance; breaking down a cleaning contract into geographical lots rather than procuring a single National contract. This should be reflected in your lotting strategy
- Incorporate sustainability requirements from the outset, e.g. building sustainability into the specification and considering a whole life costing approach

7.9(B) Initial Opportunity Assessment

The objective of this stage is to identify high-level opportunities based on the data gathered in the previous stages which may be achieved with or without the creation of a contract.

Strategic sourcing highlights opportunities in three key areas:

- Purchase Demand Management
- Supply Base Management
- Total Cost Management

The above are portrayed as the three sides of the '[Best Value Triangle](#)'. For each of the potential opportunities on the triangle, the commodity team should assess and highlight those opportunities that could be exploited and determine how they could be applied to the commodity in question, bearing in mind any risk assessment considerations.

The assessment of high-level opportunities should be carried out in conjunction with the [Sustainable Procurement Test](#) previously identified for the requirement.

A blank [Best Value Triangle](#) is provided for your use. Alternatively you may wish to use the [tabled version](#) of the triangle. [Sustainability Opportunities](#) should also be captured for inclusion in your strategy.

This exercise should be proportionate to the complexity of your requirement and you are not always expected to address every aspect of the best value triangle.

Checkpoint - are there early opportunities?

Early Opportunities are defined as cost savings or total cost improvements which:

- Can be implemented within 90 days
- Realise the benefits within six to twelve months
- Are aligned to the [Government Buying Standards](#) for sustainable procurement
- Are relatively easy and straightforward to do
- Are often tactical and short-term in nature and must support strategic plans

Opportunity Assessment

There are many factors to consider for implementation of all opportunities as well as early opportunities:

- Time to deployment
- Cross-functional complexity
- Number of Geographical locations/Business Units involved
- Regulatory, Safety, Criticality, Legal, Specification Changes
- Use of external technology
- Acceptability to the customer
- Business Unit readiness --"pull"
- Supply market challenge
- Skills & knowledge
- Number of people involved in deployment
- Clear decision owner(s)
- Results of the Risk Assessment

The [opportunity assessment template](#) is an aid to quantifying and prioritising the opportunities which will be included in the commodity strategy.

7.10(B) Develop Commodity Strategy

Based on the opportunities already identified the strategy will be developed incorporating information gathered in previous stages. The strategy produced should be proportionate to the value, complexity and strategic importance of the commodity.

Strategic Positioning of Commodity

The aim of strategic positioning is to consider the commodity from both a buyers' and suppliers' perspective in relation to:

- Importance of the commodity to the business
- The complexity of the requirement
- The relative power of the buyer/supplier in the marketplace
- The attractiveness of the business to the supplier
- Risks to the business

The Strategically Positioning the Commodity slide considers the above aspects from the buyers' perspective against both Business Impact and Supply Market Challenge. Understanding the [Supplier's View of the Buyer](#) considers Account Attractiveness and Relative value of Business to the supplier.

You should also consider the Current and Possible Future State of Relationships between the Buyer and Supplier to demonstrate how you intend to develop any relationship with a supplier going forward.

Having considered the above you should be able to identify the position of your commodity as either Leverage, Strategic, Routine or Bottleneck. The Strategic Positioning Action Plan provides guidance as to the procurement approach you should adopt in each of these circumstances.

The suggested approaches are designed to provide the commodity with a starting point. They must be further defined in the context of the specific commodity and opportunities identified using the best value triangle.

Compliance Issues and Strategies

As part of the commodity strategy you should consider how you will ensure compliance to the contract. Compliance requires involvement from all parties concerned throughout the Procurement Journey. Governance arrangements, management and budget holder behaviours within local organisations will be key.

The [components of a compliance strategy](#) should encourage optimum uptake of a new contract. Members of the UIG should champion the contract and commitment for users should be obtained for the proposed strategy options.

Commodity Strategy Options

There will be a number of delivery options which are applicable to any commodity. You may wish to refer to [A guide to the appraisal of possible options](#) for further guidance. These will vary with the type, size and complexity of the requirement but are likely to fall within the range of options indicated. In all cases, you should consider a 'Do Nothing' option as a benchmark.

The commodity strategy should take full account of applicable guidance, policies and legislation. For example, commodities acquired from the private sector may need to be advertised in accordance with the organisation's policies and / or with EU public procurement law (see EU Public Procurement Guidance).

The commodity strategy should include a summary of options that clearly details the benefits, costs and risks associated with each option and demonstrates compliance with any legal obligations. This should enable the objective selection of the commodity strategy to be pursued in the short, medium and long term.

Information on estimating benefits within a commodity area can be obtained from sources such as benchmarking, market testing, market trends, past discounts, past experience.

Costs to implement sourcing strategies include contract switching costs, supplier switching costs, manpower investment, communications and roll out and cost of going to tender.

The [Options Appraisal](#) summarises the various delivery options considering the benefits and risks of each before selecting a option for recommendation.

The recommended option must satisfactorily meet the requirements, be affordable and viable and agreed with the UIG.

Contract Implementation / Contract and Supplier Management

There are separate stops on the Procurement Journey on Contract Implementation and Contract and Supplier Management, however your approach must be considered during this 'Develop Commodity Strategy' phase. Consideration must be given to how the proposed options will operate throughout the life of the requirement. For example, if you decide to utilise an existing contract or framework agreement the contract implementation and management aspects of the arrangement are likely to be covered in the framework terms and conditions and, if so, must be complied with in full.

You must think about how the new goods or services will be introduced into the organisation or requirements migrated from your existing arrangements to the new arrangements. You should also consider your transition or exit strategy for when this new contract or framework agreement comes to an end. Once fully operational you will want to manage and develop the contract and supplier(s), in accordance with procurement law, to ensure the desired outcomes are delivered now and in the future. Consideration must be given to the resource requirements to implement and manage the contract or framework agreement as a designated contract manager must be identified.

The contract and supplier management requirements should be detailed in the contract or framework agreement terms and conditions to ensure both parties are clear on the contractual obligations. The contract should then be managed in accordance with these terms and conditions.

The level of contract and supplier management required depends on the risk, value and complexity of the contract. The Contract and Supplier Management Assessment tool will help identify what the level of management to be applied.

- **Low level** - ensuring compliance to the contract by managing the delivery of the contract using 4 high level indicators i.e. cost, quality, delivery, service
- **Medium level** - managing the performance of the contract and the supplier by expanding the 4 high level indicators and holding a minimum of one performance review meeting per annum
- **High level** - managing the performance of the contract and the supplier using the full balanced scorecard

More details can be found under Contract Management in the council's Procurement Manual.

7.11(B) Procurement Route – to assist with section of route see Chapter 9.0

7.12(B) Commodity Strategy Executive Summary

Prior to finalising the commodity strategy and submitting it for approval, the Procurement Officer should ensure an [Executive Summary](#) is included. The purpose of the Executive Summary is to highlight the key points of your strategy including details of any decisions taken and the justification.

The finalised strategy which has been developed with the UIG should be approved or signed off by an appropriate reviewer, in accordance with the relevant governance arrangements.

The [example commodity strategy](#) includes an [Executive Summary](#) for your reference.

7.13(B) Commodity Strategy Review

Commodity profiling and strategy development should not be an isolated or 'one-off' occurrence. A subset of the UIG needs to be assigned to carry out the on-going activities of supplier relationship management, monitoring, implementation, compliance and benefits tracking, and a periodic review of the chosen strategic option to validate its applicability for the current/changing environment should also be considered (both internal to the procuring organisation and external to market supply).

There are a number of issues that may trigger a commodity strategy review, these include:

- Market Developments e.g. changes in economic environment, technology, regulation.
- Internal Changes to the Organisation e.g. significant restructuring, changes in demand.
- Contract Termination e.g. through poor performance.
- Contract Expiry

8.0 Sourcing Plan

ADVICE IS TO BE TAKEN FROM YOUR PURCHASING OFFICER AS TO WHEN IT'S APPROPRIATE TO COMPILE A SOURCING PLAN.

A sourcing plan should be completed for each tendering exercise. The sourcing plan encompasses the objectives of the tendering exercise, and the risks inherent in the exercise that may prevent all of those objectives from being delivered in full. Defining the objectives and identifying the risks means that the procurement process can begin with everyone involved having a shared realistic view of the likely outcomes. The sourcing plan also includes a timeline for the delivery of the contract, which takes into account all of the legislative and work related constraints. Again, this should ensure that sufficient time is allowed for the process and there is no pressure to cut corners to meet unrealistic deadlines.

8.1 The Sourcing Plan

Building on the sourcing strategy, developing a sourcing plan involves the following steps;

STEP 1	Validate and quantify objectives
STEP 2	Complete risk analysis
STEP 3	Risk to optimism bias
STEP 4	Complete the Contract Work Plan
STEP 5	Build the Financial Plan

8.2 Validate and quantify objectives

The objectives outlined in the sourcing strategy need to be quantified. This is unlikely to be straightforward. There are two templates to be completed; one for cashable objectives and one for non-cashable objectives. Each template has the facility to enter high and low values as well as a best estimate. The best estimate is the one that will go forward to the financial plan and that should be based on a realistic scenario where none of the identified risks impacts on the performance of the contract – template available from Procurement.

8.3 Complete risk analysis

The risks identified and assessed in the sourcing strategy should now be reviewed, and solutions or mitigating actions should be added where possible. The updated risk register should have clear solutions, actions, owners and resolution dates. Risks should be fed into a central risk register so that any overlap may be recognised.

This guidance outlines how to assess the risks presented during the procurement process. A risk assessment would typically be carried out for a high value/complex procurement exercise.

Risk can be defined as uncertainty of outcome (whether positive opportunity or negative threat). All projects contain risks that may affect their costs and quality, and the time taken to complete them. Risk management is a planned and systematic process consisting of:

- **Identification:** determine what the risks are;
- **Assessment:** determine the likelihood of the risks occurring and their potential impacts; and

- **Monitoring and Response:** identify options for dealing with risks or their impacts and monitor implementation of the preferred options

Risk Monitoring

One of the most common approaches to monitoring responses to risks is the use of a 'project risk register'. The risk register is set up during the start of the project, ready to record all the identified risks and the results of their analysis and evaluation, see Page 25 for a project risk register template. Information on the status of the risk is also included.

Ownership of risk must be clearly defined and documented within the project risk register and agreed with the individual owners, so that they understand their various roles, responsibilities and ultimate accountability. Individual owners should have the capability, authority and experience to deal with risk/s allocated to them.

Control

The risk assessment process requires that risks logged on the register are controlled. Responses to risk can be divided into four response categories:

- **Transfer:** For some risks the best response may be to transfer them. This might be done by conventional insurance, or it might be done by paying a third party to take the risk in another way.
- **Tolerate:** Ability to do anything about some risks may be limited, or the cost of taking any action may be disproportionate to the potential benefit gained. In these cases the response may be toleration.
- **Treat:** By far the greater number of risks will belong to this category. The purpose of treatment is not necessarily to prevent the risk, but more likely to contain the risk to an acceptable level. The actions that an organisation takes in treating risk are called "internal control" - they are actions instigated from within the organisation (although their effects may be felt outside of the organisation) which are designed to contain risk to acceptable levels.
- **Terminate:** Some risks will only be treatable, or containable to acceptable levels, by terminating the activity. It should be noted that the option of termination of activities may be severely limited in public sector when compared to the private sector; a number of activities are conducted in the public sector because the associated risks are so great that there is no other way in which the output or outcome, which is required for the public benefit, can be achieved.

8.4 Risk to optimism bias

The reviewed risk register should have risks plotted once again, using the simple impact / likelihood grid included in 6.4.6.

The risks as plotted here should affect the outcome of the benefits on the BRM through the optimisation bias score. For instance we might say that one or more risks affecting a particular benefit in the red zone might cause an optimisation bias of between 50 - 70 percent; yellow zone 70 -90 percent and all greens would imply a level of certainty about the benefits that would place the optimism bias at between 90 and 100 percent.

8.5 Complete the Contract Work Plan

The work plan is a very simple form of project planning suitable for a procurement exercise. This can be developed using MS Project or Excel to create a time sequence for each stage of the procurement exercise.

Care should be taken that sufficient time should be taken for each stage of the exercise. For contracts with a value exceeding the OJEU thresholds minimum timescales are laid down for individual stages of the procurement but in any case, sufficient time should be allowed for bidding companies to complete the tendering process. Forcing bidders to cut corners is unlikely to produce a well-thought out presentation that will deliver best value to the Council.

It is also important to allow sufficient time for the evaluation process, taking account of the need to take up references or arrange site visits. Consideration should be given to critical staff resources needed for the evaluation and care taken to ensure that key staff are available on the days marked for their input into the process. This is a good time to notify those contributors of their role and to ensure that time is committed.

Always try and allow a realistic lead in period for the successful supplier. He too will have competing demands on scarce resources and may have to obtain specialist plant or equipment to carry out the contract. Speak to prospective suppliers at an early stage.

Avoid if possible working backwards from a fixed end-date. Such dates do sometimes have to be accommodated due to circumstances outwith the control of the Council and the procurement process has to be compressed as a result. Even when necessary this will not generate best value. Do not be bound by the project plan. Make changes to the timescales where circumstances dictate.

The below is an example Contract Work Plan:

<u>CONTRACT WORK PLAN FOR THE PROVISION OF CHAIRS</u>	
(The below is an example for an OJEU contract following the restricted route)	
<u>Task</u>	<u>Date by (start date</u> <u>1/4/10)</u>
PQQ & Tender Stage	
Agree Sourcing Strategy (if applicable)	07/04/2010
Complete Sourcing Plan	12/04/2010
Build PQQ	16/04/2010
Agree & Issue PQQ	19/04/2010
Begin compiling Tender Document	
PQQ Return date	20/05/2010
PQQ Evaluation	28/05/2010
Agree Tender List	28/05/2010
Agree & Issue Tender	31/05/2010
Tender Return date	05/07/2010
Evaluation Stage	
Evaluation of Tenders	14/07/2010
Period for Clarification	19/07/2010
Presentations (if required)	
Post Tender Negotiations	23/07/2010
Contract Award Stage	
Notification of Preferred / Unsuccessful Tenders	26/07/2010
End of Standstill Period	05/08/2010
Contract Award	06/08/2010
Contract Notice Placed	09/08/2010
Contract Management	
Management Procedure implemented	Ongoing

9.0 Supplier Selection / Selection Route

9.1 Introduction

The methods available to public sector organisations are governed by the Scottish Public Procurement Rules, which themselves are largely determined by European Union Directives and determinations from the European Court. The Scottish Procurement Directorate issue Scottish Public Procurement Notices (SPPN) on a regular basis providing advice on procurement directives and case law as it emerges.

Contract Standing orders require that all contracts in excess of £50,000 are subject to a degree of advertising which is sufficient to ensure open competition and meet the requirements of the principles of equal treatment, non-discrimination and transparency, and will be let and awarded through the portal. All contracts, where the estimated contract value is less than £50,000 will not require to be tendered provided the relevant Director is satisfied that the arrangements can be shown to be in the best interests of the Council and the contract demonstrates best value for money. In such circumstances, the relevant procedure to be used is outlined in the table at 9.2 below.

9.2 OJEU and other thresholds

The values over which contracts must be advertised in the Official Journal of the European Union apply to the whole value of the contract, excluding VAT. Although the thresholds are initially set in Euros, they do not fluctuate in line with the rate of exchange but are updated in sterling periodically. The current EU financial thresholds and recommended routes are as follows:

	<u>Value</u>	<u>Action</u>
Supplies	£0 - £999	Pricing agreement should be reached prior to purchase, can be done verbally but file note must be kept/ Quick Quote
	£1,000 - £20,000	Quick Quote (recommended from a min of 3 companies), preferably via Public Contracts Scotland, but can be carried out by email. File note must be kept.
	£20,000 - £50,000	Closed, Open or Restricted Tender
	£50,000 - £173,934	Tender (Open or Restricted)
	> £173,934 (EU)	Tender (Open or Restricted) - must be an OJEU notice
Services	£0 - £999	Pricing agreement should be reached prior to purchase, can be done verbally but file note must be kept/ Quick Quote
	£1,000 - £20,000	Quick Quote (recommended from a min of 3 companies), preferably via Public Contracts Scotland, but can be carried out by email. File note must be kept.
	£20,000 - £50,000	Closed, Open or Restricted Tender
	£50,000 - £173,934	Tender (Open or Restricted)

	> £173,934 (EU)	Tender (Open or Restricted) - must be an OJEU notice
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Works	£0 - £999	Pricing agreement should be reached prior to purchase, can be done verbally but file note must be kept/ Quick Quote
	£1,000 - £50,000	Quick Quote (recommended from a min of 3 companies), preferably via Public Contracts Scotland, but can be carried out by email. File note must be kept.)
	£50,000 - £350,000	Closed, Open or Restricted Tender
	£350,000 - £4,348,350	Tender (Open or Restricted)
	> £4,348,350 (EU)	Tender (Open or Restricted) – must be an OJEU notice

The Official Journal of the European Union (OJEU) is an electronic journal and access to place a notice is given via the “Public Contracts Scotland” procurement portal.

9.3 Timeframes

Where contract values exceed the threshold the directive also sets a minimum timescale for tender/PQQ returns.

The following table show the timeframes in relation to the different routes of procurement:

	Route			
	Restricted	Open	Closed Tender	Quick - Quote
From date of publication of the contract notice to deadline for receipt of PQQ	32 days	N/A	N/A	N/A
If PQQ not available electronically	37 days	N/A	N/A	N/A
Days from date of publication of the contract notice/invitation to tender (restricted) to deadline for receipt of tender	35 days	47 days	recommendation 2-3 weeks but varies due to complexity of contract	varies due to complexity of contract
If documents not available electronically	40 days	52 days	N/A	N/A
Standstill period following evaluation notified by electronic means	10 days	10 days	Only to be used if a high risk of challenge is present	N/A
If PIN placed at least 52 days and no more than 12 months before the contract notice, Tender timeframe can be reduced to	36 days	36 days	N/A	N/A

Note:

- Dates should be calculated from the day after the relevant action is taken.
- The end of the standstill period must not fall on a weekend and should be extended to the next working day.

9.4 Choosing the Correct Route

9.4.1 Prior Information Notice

Publishing a **Prior Information Notice (PIN)** to OJEU is a useful device that can serve several purposes. The Notice alerts the marketplace to a forthcoming business opportunity and can help early engagement with interested suppliers and assist with early market research. The response to the notice will also identify the level of interest that exists in the marketplace and may provide an early warning if there is either little or no interest, in which case the strategy may have to be re-thought or an overwhelming amount of interest, in which case the selection strategy will have to take account of this.

As can be seen from the table above, the issue of a Prior Information Notice to OJEU also reduces the minimum timescales for the return of tenders. In order to reduce the timescales the Prior Information Notice must have been issued at least 52 days ahead of the Invitation to Tender. A Prior Information Notice is valid for a period of twelve months from issue.

A prior information notice does not create any commitment from the Council to proceed with a tendering exercise.

For below-threshold contracts Future Contract Opportunities contracts notices can be used – please contact your Purchasing Officer for details.

9.4.2 Open Procedure

Under the open procedure all interested parties are entitled to request tender documents. In general the use of open procedure is not recommended as best practice except in cases where the market is extremely restricted in the number of likely bidders.

Where the open procedure is used the contract award criteria should be based on a quality / price mix, with the award going to the Most Economically Advantageous Tender (MEAT). In other cases, where quality is an absolute (mandatory or legislative), award can be made on the basis of lowest price where the quality threshold is met.

In order to put in place some sort of supplier selection, the department may choose to specify qualifications the bidder are required to have obtained. E.g. CIPS or equivalent. An equivalent must be requested to ensure fairness and equality.

9.4.3 Restricted Procedure

Under the restricted procedure, a pre-qualification questionnaire will be compiled and issued in response to each expression of interest from a prospective bidder. Pre-qualification questionnaires are in a standard format but can be tailored to meet the requirements of each individual contract.

The responses are ranked using pre-defined and pre-published criteria and a short list of qualified companies is drawn up to receive the tender documents.

It is important to note that while a quality / price mix is often used in tenders issued under the restricted procedure, no further judgements should be made on the bidder's ability or capacity to perform the contract. Having gone through a qualification procedure the short listed bidders are deemed to be capable of carrying out the contract. Their approach to the contract may still be subject to scoring as part of a quality assessment.

9.4.4 Closed Procedure

Under the closed procedure the tender documentation is to be issued to a restricted list of at least 3 suppliers with every effort normally being made to identify a minimum of 5 companies who may be interested in tendering. Whenever possible where the closed procedure is used the contract award criteria should be based on a quality / price mix, with the award going to the Most Economically Advantageous Tender (MEAT). In other cases, where quality is an absolute (mandatory or legislative), award can be made on the basis of lowest price where the threshold is met.

In order to put in place some sort of supplier selection, the department may choose to specify qualifications the bidder are required to have obtained. E.g. CIPS or equivalent. An equivalent must be requested to ensure fairness and equality

The closed tender should normally be issued via the Quick-Quote facility on Public Contracts Scotland.

9.4.5 Quick – Quote (can be issued to a single supplier if emergency works or circumstances dictate, e.g. limited market)

Quick Quote is an efficient solution for low value procurement exercises. It is an online request for quotation facility. It is used to obtain competitive quotes for low value/low risk procurement exercises from suppliers who are registered on the portal. The Quick Quote request is created online and sent to a selected list of suppliers, or on occasions, to a single supplier. Only those suppliers selected to quote can access the details of the quote and submit a bid. Registered suppliers complete the required details and submit their quotation using the secure electronic post-box. A full electronic audit trail is maintained.

Quick Quote is intended to provide a standard simplified method of operation in line with best practice models for low value procurement exercises. It will provide a standard business process for low value procurement exercises across Scotland. This will help demonstrate transparency, provide management information and increased auditability, meaning that the portal provides one place for suppliers to register for both high value contracts and low value quotations.

Before implementing Quick Quote within your department, you should ensure that incumbent suppliers have been informed of any changes to current processes. Please note that all suppliers registered on Public Contracts Scotland have been informed of this new functionality being made available to contracting authorities. Quick Quote should not be used for high value/high risk procurement exercises.

If it is known that a supplier who the department believe may be interested in submitting a Quick-quote is not on Public Contracts Scotland, the department may contact them and provide them with

the Public Contracts Scotland website link to register. If the supplier is having difficulty using the site please direct them to your department's Purchasing Officer.

A vendor rating system is currently being produced and is due to shortly start a pilot. The intention is that eventually suppliers for Closed Procedure and Quick Quotes will be selected with reference to this information.

9.5 Framework Contracts

Framework contracts are specifically provided for within the EU Directives. A framework contract is often used where the extent of the purchase is not known or where it is anticipated that several suppliers will be engaged on the contract over a specific period of time. A framework contract may be let to either a single bidder or three or more bidders, but not two. It is possible that a framework can be tightly specified in terms of unit price and deliverables but this is not always the case. Where it is not possible to arrive at specific prices it is possible to apply only pricing to core items or indeed have quality only criteria for inclusion in the framework. In such case, selection to specific supply under the framework would be undertaken by mini-bid, which may itself be price only or quality of submission for a specific supply.

Under the European Procurement Regulations, the Council is only allowed to participate in contracts that they have been named as part of from the offset, i.e. named on the contract notice during the advertising stage. The Council is automatically included for all Scottish Procurement, OGC and Scotland Excel contracts.

Mini competitions

Where frameworks are awarded to several economic operators there are two options for awarding call-off under the framework;

- a) Apply the terms of the framework agreement
- b) Hold a mini competition

Under option (a) users of the agreement may determine which of the suppliers offers the best value for money under the framework agreement with respect to their individual requirements and then proceed to place an order with the selected supplier without re-opening competition.

Where the terms laid down in a framework agreement are not precise enough or complete for the particular call-off, a further or mini competition – option (b) - may be held with all those suppliers within the framework capable of meeting the particular need. It is important that all suppliers on a framework are invited to take part in the mini competition in the first instance; assumptions should not be made regarding their capability. There are four main ways in which mini competitions can be carried out - dependent on the circumstances - which are outlined below. Guidance should be sought from corporate procurement personnel in all cases.

1) Government Procurement Services (GPS)

Government Procurement Services is the national procurement partner for UK public services. Its primary role is to maximise the value for money obtained by Government departments and other public bodies through the procurement and supply of goods and services.

Whilst GPS sets procurement policy and best practice to help the UK public sector to achieve value from its spending, GPS facilitates procurement for nationally sourced commodity goods and services to customers in both central civil government and the wider public sector. Its framework agreements and discount arrangements cover approximately half a million products and services through around six hundred suppliers.

2) Scottish Procurement

Scottish Procurement, part of the Scottish Procurement Directorate, launched in March 2008 with the task of developing and implementing procurement strategies for national Category A commodities on behalf of all Scottish public sector organisations. Category A commodities are defined as goods or services that are standard or of a similar nature across the largely common requirements of the Scottish public sector. Scottish Procurement's aim is to maximise effective collaboration throughout the procurement cycle and optimise compliance to national contracts. Currently in scope Category A areas include IT hardware and software, office equipment, utilities, professional services and telecoms among others. Guidance and documentation on conducting mini competitions under the national contracts is provided for public sector organisations to follow and Scottish Procurement can also facilitate collaborative mini competitions between, for example, several local authorities.

3) Scotland Excel

Scotland Excel was created in 2008 as a Centre of Procurement Expertise for the local government sector to help improve the efficiency and effectiveness of public sector procurement in Scotland. It is a non-profit making organisation funded mainly by participating local authorities, with Renfrewshire Council as the lead authority for Scotland Excel. Their Strategic Procurement Team is responsible for the creation and delivery of purchasing strategy for Category B commodities and establishing and managing Scotland Excel contracts for use by all member councils and associates. Category B commodities are those which are sector –specific, but common within that sector, for example catering equipment or education materials. Mini competitions may be held under the Scotland Excel framework contracts, either individually as a local authority or as 'cluster' collaborations of groups of local authorities. Again, guidance is provided by Scotland Excel on conducting the mini competition.

4) Argyll & Bute Council frameworks

Mini competitions may be held under existing Argyll and Bute Council framework contracts where appropriate.

10.0 Advertising

10.1 Introduction

This section of the Procurement Manual discusses Advertising. Within this section the following topics will be covered:

- The requirement to advertise
- The information required to place an advert
- Release of Adverts
- Timescales for advertisement
- Public Contracts Scotland – Access
- Public Contracts Scotland Guide

As discussed in Section 8.0 (Selection Routes) there are 3 main selection routes available when fulfilling a contract requirement – Restricted, Open or Quick Quote. Regardless of the types they all require notices to be placed on Public Contracts Scotland Portal, whether it is a contract notice or a contract award notice.

10.2 The Requirement to advertise

There is an obligation to advertise public contracts under the original Treaty of Rome. The legal interpretation of this for contracts with a value below the directive thresholds is that contracting opportunities should be advertised to an extent to allow access to organisations that could reasonably have been expected to be interested. The Council has interpreted this within its Contract Standing Orders with limits of £50,000 for goods and services and £350,000 for works. Those are minimum values however and advertising should be the default position for any significant expenditure by the Council.

Public Contracts Scotland is the national advertising website for Scottish public sector organisations to post large Official Journal of the European Union (OJEU) notices (contracts over the European directive thresholds) and small contracts commonly known as sub-threshold notices on the website and make subsequent awards. It also allows contracting authorities to invite suppliers to submit quotations electronically via the website's secure tender post-box.

In accordance with the **Public Contracts (Scotland) Regulations 2012** the Portal fulfils all advertising requirements. If you decide to advertise in other publications (e.g. the national press, etc) you must not send your advert to the other publication before you place your advert on the Portal.

10.3 What an advert should contain?

Please see the list below of the information requirement to prepare an advert for release:

- Contract Title
- Description of the goods and service required
- Minimum standards and qualifications – if required
- Deadline for responses (Week day, 12noon.)
- Time – limit for obtaining documents, if necessary
- Any additional information

- Supporting information, can be made available electronically – tender/PQQ document, any drawings, maps, etc. Also copies of supplier guides:
 - Guide – Additional Docs - http://www.millstream.eu/guides/engb/P_S_AdditionalDocs.pdf
 - Guide – Post – Box - <http://www.millstream.eu/guides/en-gb/Scotland/Postbox%20%20Contracting%20Authority%20Guide.pdf>
 - Guide – Questions & Answers - http://www.millstream.eu/guides/en-gb/P_S_Questions_Answers.pdf

Within the Additional information part of the advert please insert the information below:

Your completed response should be submitted by the due date and time required:

Date:
Time: 12:00

Responses should be submitted in an electronic format via the ‘post-box’ on the Public Contracts Scotland website (guidance attached). No other method will be accepted.

In order to overcome file size difficulties we request that submissions are completed in ‘Word’ or similar.

Please note that submitted individual documents must be less than 10Mb in size and if greater it will be rejected and will not be added to the submission. The post-box will accept a maximum of 3 documents/zip file.

Further information requests and clarification questions are to be posted on the Public Contracts Scotland Website under the ‘Question and Answer’ Section. Answers to questions will be circulated to all bidders.

You must not contact anyone else at the Council in relation to this procurement. A breach of this rule may lead to your exclusion from the procurement process. **It is the sole responsibility of the submitting company to deliver their response as specified.**

Late responses will not be accepted. If problems occur during the submission stage, please contact (...insert name...¹) (details below) in advance of the deadline.

Telephone:
 Mobile:
 E-mail:

10.4 Release of Adverts

As detailed in previous sections the Purchasing Officer has been involved during the whole Procurement process, from the decision of which Procurement Route (restricted, open, closed or

¹ This Contact will be changed to represent the Purchasing Officer who looks after your department.

quick-quote) suits the type of contract being put into place to assisting in the preparation of the tender documents, they will also prepare and release of the advert.

The Public Contracts Scotland Portal has the facility to allow collaborated work when building Quick Quote or Closed Tender adverts. As a result of this your department's Purchasing Officer will be responsible for the final release of any adverts. This means that the department will be able to put together all the documents and advert on the Portal then the Purchasing Officer will be able to access, check over and release the advert. The purpose behind this is to ensure that all adverts meet all the regulations (Public Contracts (Scotland) Regulations [2012](#)), follow Procurement Best Practice and do not open the Council to any forms of challenges, court actions or claims for damages.

At present we would request that during this stage, the Purchasing Officer should place the advert.

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11.0 The Quick Quote Procedure

11.0 Introduction

Quick Quotes are to be used for the purchase of goods, works or services up to the value of £20,000. Please note all the below steps will be carried out with assistance and support from the Procurement Team.

11.1 Prepare a Brief

Firstly a written brief should be prepared which should reflect the contract requirements (see Appendix 2 for template). The template provides a suggested format. As a minimum, you should identify the key requirements, outputs, consider how the responses will be objectively evaluated and include estimated timescales for the requirement. You should also consider how you are going to manage the contract in terms of Quality, Service, Cost and Delivery at this point.

11.2 Identify Suppliers

You should seek quotations from a minimum of 3 suppliers, where possible, who have the experience and expertise to meet your requirements for the goods or services. In order to receive three quotes back from suppliers you may wish to approach four or five suppliers in case not all respond.

Suppliers may be identified by searching the register of suppliers on Public Contracts Scotland (PCS). Your departments Purchasing Officer will use the 'Quick Quote' system to seek quotations from suppliers registered on the website.

You should endeavour not to restrict your selection to existing suppliers. This will help suppliers who have not previously bid for public sector work gain access to opportunities and gain experience working for the Public Sector. This will also facilitate competition, encourage innovation and ensure best value in future service delivery. As discussed earlier in the Manual the Council's Procurement Team are currently working on a 'Vendor Rating' process, which once piloted will be available to assist with supplier selections.

If only one supplier can undertake the work required your Purchasing Officer will seek approval for a Non-Competitive Action from the Procurement Team Leader and the relevant department personnel.

You should then follow the remainder of this process. For commercial reasons you should not inform the supplier that they are the only suppliers involved in the process.

Note: Non Competitive Action is an exceptional procedure and should be strictly limited to certain situations **approved by the Procurement Team and should be documented for audit purposes.**

11.3 Prepare Quotation Documents

The Invitation to Quote Goods/Works/Services template is a guide and should be used as applicable. These may be amended to suit your requirements. The completed brief and the Council's Terms and Conditions of Contract for the purchase of goods and/or services/works should be attached. It is important to ensure that you include your evaluation criteria - including weightings - in the brief.

Any other information that may affect a supplier's quote should also be included in the Invitation to Quote document.

Suppliers may ask questions about the Invitation to Quote document and as a result you may wish to issue further information or clarification not contained within the original document. If you have issued any clarifications, you should communicate all questions, answers and clarifications in writing to all suppliers via Public Contracts Scotland.

You should keep to your original timescales identified in your brief document however, in exceptional circumstances you may choose to consider extending the deadline for receipt of quotations. Remember to communicate this to **all** suppliers if you do so via Public Contracts Scotland.

The time limit for quotation responses should reflect the complexity of the requirement, but should be sufficient for the supplier to make a considered response.

11.4 Receive and Evaluate Responses

Quotation responses should be received through the Public Contracts Scotland. This provides a secure receipt mechanism, and is considered best practice.

If less than three quotation responses were returned, reasons should be sought from the suppliers who did not submit their quote and this information should be retained on file. If only one response is received the Purchasing Officer will seek approval for a Non-Competitive Action from the Procurement Team Leader.

Any quote which shows an abnormally low price out of context may be queried with the supplier to identify the reasons for this. All communications with suppliers are to be carried out by the Purchasing Officer.

If quotation responses are received with alternative Terms and Conditions of contract to those you are using in the Invitation to quote the supplier must be informed in writing that the Terms and Conditions of Contract as originally identified will apply to the requirement. Again, this discussion will be carried out by the Purchasing Officer responsible, in assistance from department staff.

If you need to seek clarification of any or all quotation responses, this should be done in writing and a specific timeframe for response should be given. You should take care to treat all suppliers on an equal basis in this process.

In exceptional circumstances, you may consider interviewing/inviting presentations from suppliers in order to assist in the evaluation of quotation responses. This need should be identified upfront in the process, should you decide to score the presentation as part of the evaluation process this should be stated in the Invitation to Quote. If you decide to request supplier interviews/presentations, you should provide details of the time, place and format of any interview or presentation to the suppliers. Care should be taken to ensure equal treatment of suppliers in this process. All suppliers should be provided with an equal opportunity for interview, presentation or site visits unless the initial evaluation undertaken shows that the supplier could not meet the core requirements.

Records of the interviews/presentations should be kept for audit purposes.

11.5 Notify Suppliers

Identify the successful supplier from the bid evaluation and seek approval to award the contract by completing the Contract Award Recommendations Report (CARR) – Appendix 6.

The chosen supplier should be notified of their success in writing using the Contract Award Letter (see Appendix 8) as appropriate. This must be signed by a person with the delegated authority to procure and commit your organisation to the contract. This letter will be prepared by the Purchasing Officer responsible.

At the same time as the above, unsuccessful suppliers should be notified using the Unsuccessful Bidder Letter (see Appendix 7B).

A mandatory "standstill" period of 10 days must be adhered to. During this time the Council may not award the contract.

A supplier is entitled to ask for the reasons why their quotation was unsuccessful. If requested, debriefs should be given within 15 days. It is essential that all feedback is documented for audit purposes and based on the objective criteria used to evaluate the quotation. De-briefing provides suppliers with positive constructive feedback to help improve their performance in future competition. It can also provide an opportunity for suppliers to suggest improvements to our procurement processes.

Once these letters have been issued to the successful supplier, the quotation becomes live and can now be referred to as a contract.

11.6 Retention of Documentation

All documentation relating to this quotation process must be retained to ensure a full audit trail. If you are using the Quick Quote facility, a full audit trail will have been maintained by the system

11.7 Contract Management

The supplier's performance should be managed throughout the lifetime of the contract and you should ensure that the goods/services are delivered in line with the performance or service level expectations i.e. Quality/Service/Cost/Delivery identified in the original quotation.

You should manage the contract to ensure that any changes to the original quotation are minimised.

Variations to the brief or extensions to the period of the original quotation may result in a situation where a new procurement process becomes necessary. Variations/Extensions are an exception and should be kept to a minimum. They should only take place where the changes that you make would not materially alter the original contract. Where a significant change to the contract scope, value or duration is proposed the Purchasing Officer Responsible, in conjunction with the appropriate technical officer must handle these discussions.

You may wish to conduct a review of the contract on its completion or a 'lessons learned' process to identify what went right and what could be improved for future quotation processes. It is worthwhile involving the supplier in this review; however it must be recognised that any such

information could be subject to a freedom of information request. Care should therefore be taken to ensure any information held is entirely objective in its nature – see Appendix 11.

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12.0 Developing Pre-Qualification Questionnaires

Where the Restricted Procedure is to be followed, the Scottish Public sector's standard Pre-Qualification Questionnaires (PQQ) should be used to assist in Supplier Appraisal. Questions can be edited, deleted or added to the PQQ provided that they are relevant to the subject matter of the contract – see your Purchasing Officer for template.

12.1 Purpose of PQQ

A PQQ is the assessment of a supplier's resources and capability.

The prime aim of a PQQ is to systematically assess whether a potential supplier is competent and likely to meet the buying organisation's requirements in all key respects throughout the life of a contract:

- PQQs must be conducted against clear and defensible criteria, established in advance and published in the PQQ document.
- This procedure allows the contracting authority to create a short-list of candidate suppliers to whom an Invitation to Tender (ITT) will be issued.
- Where a contracting authority wishes to limit the number of suppliers invited to tender a fair and transparent scoring system must be employed, and records kept so that the decision to exclude any candidate supplier from the tendering stage can be justified in the event that the decision is challenged.
- Unsuccessful suppliers in the pre-qualification process are entitled to a Debrief but do not require to be notified when the decision on contract award has been made. The depth of the PQQ will be dependent on the value of the purchase, its sensitivity, estimated risks, and the complexity of the requirement or previous experience of contracting with known suppliers. For many small value purchases of standard items or simple services, the PQQ may be no more complicated than confirming potential tenderers are experienced in their business and can supply the requirement. Equally, a small value purchase could involve some detailed PQQ work should the item be of strategic importance or involve a frequent servicing commitment.

Ensure that selection criteria are appropriate to the particular procurement. An important part of pre-qualification is to remove suppliers who have weaknesses that would make them unlikely to be able to meet the business need.

It should be noted that the supplier selection process prior to the issuance of an ITT is a "backward-looking, not forward-looking" process. That is, the criteria for selection should concentrate on the general suitability of the candidate supplier for the project, as opposed to the specific means by which the candidate would implement the contract. The intention of this stage of the procurement process is to expedite proceedings by eliminating unsuitable candidate suppliers and thus save time and resources which would be unnecessarily expended on a detailed examination of unrealistic bids. You should therefore refrain, at this stage, from asking questions that would be more appropriate for the tender stage of the process.

The questions asked in the PQQ will generally follow a similar pattern in each procurement project, and will concentrate on the financial and legal background of the candidate, its capacity, capability and experience in the particular field required. Other criteria, such as environmental and sustainable development issues may be considered where appropriate to the requirements of the project. The

Scottish Procurement Directorate has produced a standard Pre-Qualification Questionnaire which should be used as a basis for all PQQs issued.

12.2 Points to take into account when using PQQs

One limitation of the PQQ approach is that it can constrain supplier's responses. They have little scope to question, suggest and adapt; they can only respond to what is there.

It is therefore vital that PQQ questions 'make sense' to the supplier; that they deal with topics, processes and services that they can readily understand, and that they do not ask for inappropriate information (or the right information in an inappropriate way). The questions asked in the PQQ must be consistent with what is allowed under the EU Directive:

- All the questions must have selection criteria associated with them (or suppliers will be put to needless work)
- All topics covered by the selection criteria must relate to the questions and other activities to be evaluated such as reference site visits (or the information on which to base the evaluation will not be available).

12.2.1 Consortia

Where candidate suppliers form a consortium, the prime bidder should provide a single set of responses covering all consortium members.

The track record of a consortium member should include details on performance and reliability on previous projects - those undertaken on its own account and jointly with consortium partners. This will also encompass records on short-listing and details of any contract breaches.

12.2.2 How much detail?

The dividing line between criteria used for selection of tenderers and that which is used as the criteria for award of the contract is not always clear cut. Selection criteria is a backward looking process which examines a bidder's skills, experience and financial standing, whereas award criteria consider how that bidder will deliver the contract.

For example, an overview of the supplier's track record will help to establish their suitability to be selected, while a more detailed examination at evaluation will fully establish that they can deliver all aspects of the requirement and provide value for money.

Some areas may require expansion or substantiation later on, perhaps through a site visit. It is also important to avoid putting suppliers to extra work that adds no value. The following suggestions may help with this:

- only ask for information which will actually be used in assessment
- don't put scoring systems around questions that require only a "yes" or "no" answer
- consider, where appropriate, using standardised formats and word limits, particularly at selection, to level the playing field and reduce bid costs and evaluation timescales

12.3 Questions in the PQQ

Part A - Background Information

These questions ask for background information on the potential supplier and do not seek to assess the technical ability of the potential supplier. Consequently, the questions in Part A should not be scored.

Part B - Financial Standing

The questions in Part B seek to ascertain if the potential supplier's financial standing is sufficient to allow it to be able to deliver the contract requirements. The standard PQQ asks for the potential supplier's annual turnover and audited accounts or equivalent for the preceding two years. However we will not be requesting this as standard. As a rough guide we will look for the turnover of the company to be greater than the value of the contract.

Where a contract has to be advertised in the OJEU, if minimum standards relating to financial standing are to be used, these must be included at section III.2 (Conditions for Participation) of the contract notice and potential suppliers that do not meet the minimum standards should be excluded automatically. If the contracting authority has not laid down minimum standards in the contract notice, it can only take this information into account if it is listed as an objective non-discriminatory criterion in section IV.1.2 of the notice.

It is appropriate to include information on financial standing as a minimum standard, but it should not be weighted, as there is the potential to discriminate against smaller organisations which are nevertheless capable of performing the contract in favour of larger ones. If the potential supplier's resources are deemed to be inadequate, it should be excluded from the process at this point.

Part C - Business Probity

We are obliged to ask the questions in part C. If a potential supplier answers "yes" to any of the questions then further information should be sought to enable us to take an informed decision as to the suitability of the potential supplier. Any remedial action taken by the potential supplier must be considered, along with other factors such as how long ago the incident occurred and the seriousness of it. Any decision should stand up to scrutiny in terms of non-discrimination, equal treatment and transparency.

Where the Public Contract (Scotland) Regulations 2012 apply, contracting authorities are obliged to ask the questions in part C. If potential suppliers answer "yes" to any of the questions, they may be excluded unless there are overriding requirements in the general interest which would justify a decision to include them or where the Council has exercised its discretion.

This exception to the general rule of exclusion should only be used in the most serious of circumstance, for example in the case of a national emergency. In such cases the Purchasing Officer/Department, as appropriate, should be satisfied that the circumstances are such that they will justify the exception.

Part D - Technical or professional ability

The questions in Part E seek to ascertain whether the potential supplier has the technical or professional capability to deliver the contract requirements. Any questions that are asked in this part must be related to the contract in question.

Similar to the questions on financial status, where a contract has to be advertised in the OJEU, the contracting authority may choose to lay down minimum standards in section III.2 of the contract notice which should detail conditions for participation. These may include relevant accreditations, qualifications or experience of providing similar contracts, etc. Where the answers to the PQQ questions reveal that potential suppliers do not meet the minimum standards, they should be disqualified automatically.

Where no minimum standards have been laid down, the contracting authority must include technical ability in the list of objective non-discriminatory criteria in section IV.1.2 of the contract notice, for example, past experience, technical accreditations, professional qualifications, etc.

12.4 Scoring the PQQ

Assess responses to Pre-Qualification in accordance with the agreed criteria.

[The Public Contract \(Scotland\) Regulations 2012](#) provide a finite list of criteria which can be taken into account to assess a candidate supplier's suitability including:

- Business probity and criminality
- Technical and professional ability
- Economic and financial standing

The Office of Government Commerce has produced detailed Supplier Financial Appraisal Guidance to assist contracting authorities with this process. Some of the key messages in this guidance are:

- The key assessment of risk should be based on sound business judgement rather than just the mechanistic application of financial formulae.
- All candidates, whatever their size, should be treated fairly and with equal diligence during the financial appraisal process. Small and Medium -sized Enterprises (SMEs) should not be inadvertently disadvantaged.

The Directives and the Scottish Regulations set a minimum number of candidates that can be selected for the tendering stage. When using the Restricted Procedure, the minimum number of candidates that can be selected for the tendering stage is five, although we must still be sure that the number of candidates is "sufficient to ensure genuine competition". (See [S16 \(9\) and \(10\) of the Public Contract \(Scotland\) Regulations 2012](#)). It should be noted however, that so long as we have acted in accordance with the relevant regulations during the selection process, it will be possible for it to continue to tendering with fewer than the requisite number of suppliers, so long as it does not include any economic operator not selected, or that did not request to participate – discuss with department's Purchasing Officer.

A scoring methodology should be drawn up in advance of issuing the PQQ. In the interests of transparency the scoring methodology should disclose relative weightings: case law suggests that

where scoring methodologies, including sub criteria and weightings are to be used, they **must** be decided prior to the issue of the PQQ and they **must** be disclosed. In any case, a potential supplier may be entitled to see any documentation dealing with the PQQ should it make a Freedom of Information Request.

When scoring the PQQ, it is important to observe the EU Treaty principles of transparency, non-discrimination and equal treatment:

- **Transparency:** the criteria used by the contracting authority to score the PQQ must be the same as the minimum standards and/or objective non-discriminatory criteria laid down in the contract notice. If the contracting authority fails to state either minimum standards or objective non-discriminatory criteria in the contract notice there will be no grounds relating to capability and capacity on which interested parties can be excluded and the contracting authority will be obliged to invite all contractors that submitted a PQQ to tender for the contract.
- **Non discrimination:** Potential suppliers must not be excluded or receive less favourable treatment on the basis that they are not based in the UK. Consequently, European standards should be cited where possible and, in the event that the relevant EU standards do not exist and the UK standards are required instead, equivalents from other EU and EEA Member States should be accepted. Similarly, while it may be justifiable to require the winning potential supplier to have a UK presence in the form of an office or branch when performing the contract, it would be discriminatory to demand such a UK presence at the time when the potential supplier submits the PQQ.
- **Equal treatment:** All potential suppliers should be given the same opportunity to win the contract. This means that contracting authorities should not treat some potential suppliers more favourably than others without an objective reason.

For example, if two organisations have adequate financial resources, demonstrated by meeting the minimum standards specified in the contract notice, to deliver the contract, they should receive the same score for that question. It would breach the principle of equal treatment to give a higher score to the larger organisation which may have better financial figures. The principle of equal treatment is also breached where an organisation which has only been trading for one year is disqualified because it cannot provide financial information for the preceding two years. In this and similar situations, the contracting authority must be prepared to consider alternative evidence of financial stability, although they are not compelled to accept the evidence offered by the potential supplier.

When scoring the responses to a questionnaire it is crucially important that the actual scores given are accompanied by detailed reasons for the comparative scores. Unsuccessful bidders are entitled to a brief outline of the comparative benefits of the successful bid as part of their notification under the Remedies Directive and it is Council policy that suppliers are given a fuller de-brief of those reasons if they request this. The reasons must therefore be recorded in full at the same time as the scoring is carried out.

12.5 Next Step

Notifying bidders of their success/unsuccessfulness at the PQQ stage – please see Appendices 3 & 4 for template of email which is to be issued following the scoring of the PQQ.

A Contract Award Recommendation Report (CARR) should be started that clearly identifies the reasons for rejecting suppliers to assist with debriefing (Appendix 6).

It may be helpful to identify any risks or issues arising from the responses and raise these during the next stage when finalising the tender documents for issue.

Finally, prepare the tender list on the outcome of the supplier assessment and notify suppliers of the outcome of the selection stage.

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13.0 Developing Tender Documents (Open, Restricted or Closed)

This section of the Manual provides the Purchasing Officer with guidance on the following:

- Specification
- Selection and Award Criteria
- Invitation to Tender (ITT) - including Term's and Condition's

It is best practice to have all of the above documentation finalised before preparing the contract notice and advertising the requirement. If that is not possible and, for example, the notice is published before the ITT is finalised, care must be taken to ensure consistency between the ITT and the contract notice (if, when preparing the ITT you decide that it will need to differ from the contract notice you will usually need to cancel the existing notice and republish, which could result in new suppliers coming forward).

13.1 Specification

The specification must:

- Clearly describe what is required
- Focus on outputs required without being prescriptive as to the method the supplier should use to provide it (Output specification)
- Be sufficiently tight so that the product or service fits the user's needs, but not so explicit that it discourages the supplier from proposing innovative solutions that optimise VFM
- Include performance targets or include criteria for acceptance of the products or services
- Include service levels and a process for measuring ongoing performance
- Avoid over-specification of performance (more than "Fit for Purpose" or than is actually required) to ensure procurement at the optimum cost
- Take account of any e-commerce requirements
- Take account of sustainability policies where appropriate – see HUB for council's policy.
- Take into account suitability of design for all users
- Take account of relevant legislation e.g. health and safety and racial equality
- Take account of relevant policies e.g. is the requirement one that would be suited for the inclusion of a Community Benefits clause?
- Take account of all licensing requirements that a supplier must have in order to operate in a particular industry/sector and which are relevant to the performance of the contract e.g. A supplier of water and waste water services must hold a current retail license for the provision of water and wastewater services in Scotland under the Water Services etc. (Scotland) Act 2005, including signing up to the accompanying Market Code (including the Code Subsidiary Documents) and Operations Code
- Not refer to brands or Trade Names but refer to the characteristics of the product e.g. it is not permissible to specify a particular product type
- Ensure that any requirements for limits, tolerances, deliverables timescales etc are practical and realistic
- Consider commercial and ongoing performance management aspects of the contract throughout the supply chain e.g. payment terms including those to sub-contractors ([SPPN-08-2009](#))
- Support a structured method of tender evaluation
- Be able to form the major part of the formal contract between the purchaser and the contractor

If the specification is wrong it may result in:

- Failure by the council to meet our objectives
- Wasted money
- Unsuitable tenderers
- Unsuitable bids
- Misinterpretation of requirements
- Major difficulties in evaluating the bids
- Wrong or unsuitable products/services supplied
- Claims of unfair treatment being made by tenderers

The award criteria must be linked to the specification. The award criteria must be relevant to the subject matter of the contract and not be discriminatory.

Once a contract is awarded the scope to make changes to the specification (e.g. asking the contractor to deliver more, or less or something that was not specified at the time of tendering) is limited and any such changes may be challenged in the Courts. If it is not possible for the supplier to deliver the contract as originally intended as a result of omissions or errors in the specification, the contract may have to be terminated and a new procurement undertaken.

Variants

If you intend to award a contract on the basis of the most economically advantageous tender you may consider variants on the requirements as long as it has been specified in the contract notice. The minimum requirements to be met by the variant and how the variant will be evaluated must also be stated in the contract documentation.

Who Provides the Specification?

The UIG are responsible for developing the specification, but should ensure that other end-users, stakeholders and technical specialists are consulted where appropriate. Part of the role of the UIG is to challenge accepted thinking. At the specification stage the UIG should explore opportunities to incorporate economic development and sustainability considerations.

The foundation of a good specification is laid in the planning and research undertaken before writing begins. Allow sufficient time to create the specification.

There is often merit in discussing the specification with a broad range of potential tenderers. This must be done in a fair and transparent manner to avoid distorting competition and/or giving any potential tenderer an advantage. Care must be exercised to avoid not only genuine unfairness, but also the impression of unfairness to some tenderers. Under no circumstances should any commitments be made during this process.

Following discussions with the marketplace, care must be taken to ensure that innovative ideas and approaches which provide a supplier(s) with a competitive edge are not disclosed in the development of the specification e.g. inclusion of proprietary methods or Intellectual Property Rights (IPR).

Purchasers can also use their commercial influence to help improve the competitiveness of suppliers by encouraging them to produce innovative goods and services which will assist the public body to deliver evolving policies and strategies e.g. with regards to sustainability low carbon products.

Suppliers should not be put to unnecessary cost through casual enquiries for bids. Everyone is responsible for ensuring that best VFM is achieved through the procurement process.

Output/Performance Specification

The specification should be written in "performance" terms, which focus on the function of the product or the output of the service required. It builds the specification around a description of what is to be achieved rather than a fixed description of exactly how it should be done and encourages innovation in the market place, thereby allowing and encouraging suppliers to propose modern (including environmentally preferable) solutions.

In very exceptional circumstances, for a very limited number of products or services, a "design" specification may be unavoidable. As the term implies, such a specification starts with exact details of the physical dimensions, the materials used, power input and output, the manufacturing processes required, and so on. The nature of the requirement may make it essential to narrow the options by writing a detailed full design specification. However, these assertions should be tested and guidance sought particularly when EU Procurement Regulations apply, as a "design" specification may restrict competition.

Technical Specifications and Standards

The EU Procurement Directives set extensive rules on how contracting authorities may define and incorporate technical specifications and standards.

You must avoid reference within a technical specification which has the effect of favouring or eliminating particular suppliers by specifying a particular material or goods of a specific make or source or to a particular process, or trademark, patent, type, origin or means of production e.g. do not specify "Hoover" when we mean a vacuum cleaner or "Intel" when we mean a Central Processing Unit of a PC. In exceptional circumstances such reference may be justified if either the subject of the contract makes the use of such references indispensable or where the subject of the contract cannot otherwise be described in a manner which is sufficiently precise and intelligible to all bidders. In either circumstance, such reference must be accompanied by the words "or equivalent".

Using Samples, Patterns, etc, in Specifications

If it is not possible to produce a detailed description of the requirement, samples or patterns may be issued to the tenderers or requested from them. In this case, a "sealed sample" must be kept for later comparison with the products supplied. Samples, patterns and drawings may also form part of a design specification.

Any samples that are no longer required should be returned to the tenderer.

Care should be taken that Copyright is not breached when using samples, patterns etc. for specification purposes. Consideration again needs to be given to the Intellectual Property Rights of the tenderers.

Simplification and Variety Reduction

Simplification and variety reduction techniques can help in reducing costs and in obtaining better VFM.

Simplification and variety reduction in a specification requires the elimination of complexities in design by omitting different types, sizes, grades etc. of products. At its simplest this might be seen as the reduction in the number of colours in which an item is purchased, or in the sizes of envelopes which are purchased and kept in stock and can be a valuable tool when seeking to establish a specification for large collaborative procurements.

Contract Implementation / Contract and Supplier Management

As you develop your specification, especially an output specification, you will start to consider how the quality and performance aspects of the goods and services of the contract will be measured. These factors should be translated into the Management Information(MI) you will require from the supplier(s) and the Key Performance Indicators (KPIs) both of which will be included in the ITT and Terms and Conditions.

Review and Sign-off

The key criteria that the UIG need to ensure in completing the specification are:

- Requirements are complete and accurate
- Stakeholders needs are taken into account
- Future developments have been taken into account
- Consistency with the organisations' requirements and objectives including business case, EU Directives, procurement and contracts strategies, sustainability objectives and evaluation strategy
- Risk assessment is completed to ensure that related risks are closed or managed

13.2 Selection & Award Criteria

The distinction between Selection and Award criteria is crucially important. Selection criteria are focussed on "the Bidder" and Award criteria is focussed on "the Bid" and purchasers must maintain a clear distinction between both throughout the procurement process. This means that issues/questions which are appropriate to the selection criteria must be addressed at the selection stage and cannot form part of the award stage (even if they were omitted from the selection stage in error) and vice versa.

The selection stage, often known as the "Pre-Qualification stage", involves an examination of the suitability and capability of the potential suppliers to perform the contract that will be awarded at the end of the competition. The criteria used for selection must be appropriate, relevant and proportionate to the particular procurement. The selection process should be a "backward-looking, not forward-looking" process. That is, the criteria for selection must concentrate on the general suitability and capability of the supplier for the project, as opposed to the specific means by which the supplier would perform the contract.

The award stage involves examination of the merits of the bids and will identify which of the eligible tenderers will deliver best value for money for the organisation, based on either the most economically advantageous tender or lowest price, depending on the criteria agreed by the User Intelligence Group (UIG). The award criteria must relate directly to, and be proportionate with, the subject matter of the requirement.

Value for Money is defined as the optimum combination of whole life costs and quality (or fitness for purpose) to meet the user's requirement. Depending on the nature of the contract, whole-life costs may include implementation costs, ongoing operating costs and end-of-life disposal.

You must ensure that the criteria used at both stages are relevant, objective, **transparent**, proportionate and non-discriminatory. Criteria (and any sub-criteria) used by a public body at both the selection stage and the award stage, together with any weightings attached to them, must be published and made known to suppliers at the time of the issue of either the PQQ or the ITT documents.

A clearly documented process must be followed in order to ensure there are satisfactory responses from suppliers and no inconsistencies in both Pre-Qualification and Tender evaluations, which could ultimately result in a legal challenge. Any failure in this respect will leave the procurement suspect to audit scrutiny and legal challenge.

Publication of Criteria

As a matter of procurement policy, and in order to meet obligations of transparency, public bodies must publish details of the evaluation criteria to be used to either select the suppliers to be invited to bid for the contract or the evaluation criteria to be used to identify the supplier to whom the contract will be awarded. It is best practice that evaluation criteria for both Selection and Award stages be agreed, along with respective weightings, by the UIG before the Contract Notice is published and any documentation issued. The Evaluation criteria will comprise the selection or award criteria (depending upon the stage of the competition), sub-criteria, weightings, minimum standards, pass marks (if any) etc.

The Evaluation Criteria must be included or referenced within the Contract Notice where possible, and set out in the subsequent Pre-Qualification Questionnaire (PQQ) and Invitation to Tender (ITT) documentation. If it is not possible to have all of this prepared prior to the publication of the Contract Notice, the public body must ensure that it publishes any selection evaluation criteria at the same time as it issues Pre-Qualification Questionnaire and it publishes the contract award criteria at the same time as the Invitation to Tender document is issued.

Where it is not possible to provide weightings on objective grounds, the criteria should be stated in descending order of importance in the contract notice or ITT documents

The objective and non-discriminatory criteria that will be applied to produce a 'short-list' must be contained in the Contract Notice, or at the very latest published at the same time as the PQQ documents are issued to suppliers.

In exceptional circumstances you may be entitled to invoke the Negotiated Procedure with or without competition. Please see [EU Public Procurement Guidance](#) for more information. Please note that the Negotiated Procedure may only be invoked in circumstances set out in procurement legislation.

The agreed and advertised award criteria and weightings **must not** be changed once they have been notified to the tenderers.

Minimum Standards

Where it has been determined that minimum standards are applicable either within selection or award criteria they must relate to and be proportionate to the subject matter of the requirement and clearly detailed in the appropriate documentation. Where you wish to apply minimum standards to limit the number of potential suppliers to be invited to tender, minimum standards or objective criteria must be specified or referred in the Contract Notice and set out in the PQQ to allow the rejection of potential suppliers. Similarly if a pass mark can only be obtained by a response that meets the minimum requirement, it must be clearly stated within the scoring guidance provided to suppliers.

Selection Criteria

Further information on the selection stage is available under section 8.0 of the manual. A standard template for the Pre-Qualification Questionnaire (PQQ) can be obtained from your Purchasing Officer.

Prior to issuing the PQQ, the Purchasing Officer should develop a scoring methodology for the questionnaire tailored to the needs of the requirement.

Award Criteria

The Purchasing Officer should work with the UIG to agree appropriate award criteria, based upon their knowledge of the goods or services to be procured and the critical aspects of the requirement as identified in the Specification.

The criteria identified must relate directly to the goods, services or works to be provided and not focus on characteristics of the individual suppliers. Each award criterion should be clearly defined, so that there is a common understanding of what it means.

Good criteria will ensure that responses from suppliers clearly address the most critical aspects of the specification and allow the evaluation panel to make a fair and equal comparison of the bids received.

The objective of any procurement exercise should be to achieve best Value for Money for the taxpayer. Public bodies can award contracts on the basis of the most economically advantageous tender or the lowest price. In determining the criteria for the award of contracts, purchasers should rarely rely on price alone. This is because awarding contracts on the basis of the most economically advantageous tender allows public bodies to balance the quality of the goods, services and works they are procuring against price and to frame specifications in a way which encourages innovation rather than defining the solution. As part of value for money, due regard to other relevant organisational policies is important, for example, policies in relation to corporate social responsibility/sustainability. Quality/Technical Merit - Is the product or service proposed fit for purpose? How well does it perform?

Lowest price is based on the lowest priced tender which meets the user's requirements.

Some examples of award criteria are given below

- Quality/Technical Merit - Is the product or service proposed fit for purpose? How well does it perform?

- Design, functional characteristics and aesthetics - How should the product look and feel? How easy is it to use?
- Sustainability - e.g. social, economic and environmental considerations.
- Innovation, where appropriate - e.g. new or novel concept?
- Maintenance, ongoing technical support or after sales service - What support is required and available?
- Delivery or period of completion - The guaranteed turnaround time from order to delivery or provision of service.
- Price - The whole life cost including the initial purchase price, operating costs, consumables and disposal costs. How cost effective will the goods/service prove to be?

Weighting the Criteria

The Purchasing Officer should work with the UIG to decide on an overall ratio or split between Price and Quality (non commercial aspects) criteria and allocate weightings to any sub-criteria as appropriate.

As the aim of any procurement exercise should be to achieve Value for Money, it is recommended that the "most economically advantageous" evaluation is used.

The ratio will determine how much Price and Quality will influence the tender evaluation and should reflect the relative importance of either element to the public body.

The table below provides some suggested criteria and ratios depending on the nature of the commodity/service being procured.

Commodity Type	Description	Suggested Price/Quality Ratio
Routine	<ul style="list-style-type: none"> • Low Value/High Volume • Many Existing Alternatives 	90:10 to 80:20
Leverage	<ul style="list-style-type: none"> • High spend area • Many Sources of Supply • Commercial involvement can influence price. 	70:30 to 60:40
Strategic	<ul style="list-style-type: none"> • Strategic to Operations • Few Sources of Supply • Large Spend Area • Specification may be complex 	60:40 to 50:50 to 40:60
Bottleneck	<ul style="list-style-type: none"> • Few Sources of Supply and alternatives available • Complex specifications • If supply fails, impact on organisation could be significant. 	40:60 to 10:90

Scoring Methodology for Award Stage Evaluation

The Purchasing Officer should ensure that a robust methodology is developed to assist with the evaluation process.

An example of scoring methodology provided below and should be used in conjunction with the evaluation matrix: this can be tailored to suit the specific requirements of your procurement exercise

0 - Unacceptable - Nil or inadequate response. Fails to demonstrate an ability to meet the requirement.

1 - Poor - Response is partially relevant and poor. The response addresses some elements of the requirement but contains insufficient/limited detail or explanation to demonstrate how the requirement will be fulfilled.

2 - Acceptable - Response is partially relevant but acceptable. The response addresses a broad understanding of the requirement but lacks details on how the requirement will be fulfilled.

3 - Good - Response is relevant and good. The response is sufficiently detailed to demonstrate a good understanding and provides details on how the requirements will be fulfilled.

4 - Excellent - Response is completely relevant and excellent overall. The response is comprehensive, unambiguous and demonstrates a thorough understanding of the requirement and provides details of how the requirement will be met in full.

13.3 Invitation to Tender

The Invitation to Tender document should include comprehensive information for potential suppliers about the requirement being tendered. The content will be specific to each requirement however there are a number of generic documents that you should include in the ITT pack.

Whilst developing the documentation it is likely that the Purchasing Officer will draw information from the Sourcing Strategy stage of the Procurement Manual.

If following a "restricted" procurement procedure, the ITT will only be sent to those who were successful at the PQQ evaluation stage.

A list of documents that should make up the ITT pack is provided below:

Mandatory Inclusion

- Instructions to Tenderers e.g. timetable, submission deadline, e-tendering process, including information regarding the impact on a public body of the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004
- Background and overview of the tendering and evaluation process including details of presentations and site visits, if applicable
- Terms and Conditions of Contract which will apply to any resulting contract with the principle supplier
- Specification and technical requirements
- Response requirements
- Quality Questionnaire
- Pricing Schedule
- Form of Tender

- Acceptance of Terms and Conditions
- For frameworks inclusion of Mini Competition Guidance

Evaluation Criteria

The questions within the ITT must be consistent with the evaluation criteria and weightings published or referenced within the Contract Notice. You should also draft a timetable for the process which must comply, where appropriate, with the minimum timescales detailed in the EU procurement regulations.

Further inclusions for ITT documentation

You may wish to consider the areas below for inclusion within the ITT documentation:

e-Procurement

- Content management requirements
- P2P connection types e.g. CXML
- Supplier Engagement

Contract Implementation / Contract and Supplier Management

- Roles & Responsibilities
- KPIs / SLAs
- Management information requirements
- Proposed approach

Mini-competition guidance

- Details of process to be followed for call offs

14.0 During the Tender Process

14.1 Introduction

This section of the Procurement Manual discusses the involvement of stakeholders/procurement staff during the Tender Process. Within this section the following topics will be covered:

- Supplier Introduction
- Questions
- Additional Documents
- Submissions

14.2 Supplier Introduction

As the procedure of using Public Contracts Scotland is relatively new to suppliers, the Council will need to be available to help and guide suppliers in their use of the system.

Firstly, after placing an advert on the Portal if you have a list of suppliers you feel could be interested in placing a bid, contact them, bring Public Contracts Scotland to their attention, and provide them with the help guide available from: http://www.millstream.eu/guides/en-gb/Supplier_QuickStart.pdf.

This guide should be more than enough to get them on their way to successfully using the Portal. If suppliers are still having difficulties with the system and you are unable to help them, then direct them to your department Purchasing Officer.

The Council will also use “Meet the Buyer” events to increase awareness of the procedures amongst suppliers.

14.3 Questions

During the tendering process suppliers should direct all operational questions, further information requests and clarification questions (tender specific) via the ‘Questions and Answers’ section of Public Contracts Scotland. Answers to questions will be accessible to all bidders. This method cuts down on duplicate questions, and reduces work for the department as they do not have to manually circulate all questions and answers to all interested parties. Only accept questions over the phone if they are regarding the usage of the Portal.

The reason behind the strict usage of the ‘Questions and Answers’ Section is to allow the Council to be in a position of being able to provide evidence in a form of an electronic audit trail from Public Contracts Scotland. Procurement laws require an audit trail to be kept at all stages of the process to prove fair and equal treatment of all suppliers.

Departments should specify on the advert that questions should be submitted no later than two days prior to the Tender return date. The identity of the tenderer raising the question will not be revealed.

Argyll & Bute Council will only answer queries using this method to allow all interested parties access to both the question and answer hence treating all parties equal and keeping the process fair.

See guidance: http://www.millstream.eu/guides/en-gb/P_S_Questions_Answers.pdf

14.4 Additional Documents

Should the department and Purchasing Officer jointly make the decision that any additions or amendments to the Tender Documents are required, these can be added at any stage during the Tender Process, issued to the Tenderers in the form of Additional Documents.

See guidance: http://www.millstream.eu/guides/en-gb/P_S_AdditionalDocs.pdf

14.5 Submissions

Submissions should only be accepted via the Portal's 'Post-box'.

Only in very rare and specific conditions will other methods be considered.

The complete electronic tender with no pages omitted must be submitted signed by the Tenderer or by a person authorised by the Tenderer. If the signatory is not the Tenderer then the Tenderer must provide at time of tendering written confirmation of the signatory's authority to bind the Tenderer. The documents are to be signed by the bidder then scanned in for electronic submission or signed by the use of an electronic signature.

See guidance:

- Purchaser - <http://www.millstream.eu/guides/en-gb/Scotland/Postbox%20-%20Contracting%20Authority%20Guide.pdf>
- Supplier - <http://www.millstream.eu/guides/en-gb/Scotland/Postbox%20-%20Supplier%20Guide.pdf>

Please note electronic signatures are legally binding.

15.0 Tender Evaluation

This stage of the Procurement Manual has become the subject of much scrutiny and criticism in recent years. [The Freedom of Information Act \(Scotland\) 2002](#) has led to a notable increase in the amount of documentation relating to the evaluation of tenders and contract awards being released into the public domain and it is your duty to ensure that any procurement process can withstand such scrutiny.

This section provides you with guidance to assist in maintaining transparency and impartiality throughout the process of tender evaluation. It is important that the evaluation of tenders is robust in order to provide a full justification and audit trail for the resultant award decision.

15.1 Receipt of Tenders

It is considered best practice to use an electronic tendering system

Best practice suggests that you should obtain at least 3 responsive tenders where possible. The Regulations require that a minimum of 5 tenders are invited for the restricted process, where the 5 are capable of delivering the requirement.

Where tenderers issued with a copy of the Invitation to Tender (ITT) do not submit a response, you should ask for reasons why and record these on file to inform future strategy development.

In a case where only one tender is received it must be decided whether to restart the competition or to proceed as a Non-Competitive Action (NCA). Where an NCA is required it is mandatory that the Purchasing Officer receives approval from the appropriate person in the council e.g. Procurement Team Leader, before proceeding with the process.

It is the responsibility of all suppliers to ensure that their bid is submitted in accordance with the rules of the competition and before the specified deadline. In exceptional circumstances it may be permissible for a bid that arrived after the deadline to be accepted into the competition.

15.2 Opening of Tenders

Prior to the tender return date the Purchasing Officer should establish a tender opening team consisting of at least two members of the councils' staff. This will include the Purchasing Officer responsible & one member of the department.

The Purchasing Officer will check the following:

- Form of tender has been signed and dated by the tenderer
- Price schedule has been completed in accordance with the instructions within the ITT
- Standard Conditions of Contract and all other conditions of contract issued with the ITT have not been amended or altered nor replaced by the supplier's terms and conditions of contract.
- Any omissions must be recorded in writing, and kept for the registered file

Note: If a tender is incomplete, or doesn't conform to instructions, it may be disqualified by the Purchasing Officer responsible, in consultation with the relevant department.

If the tender is disqualified, the Purchasing Officer must inform the tenderer in writing at the earliest opportunity that the tender has been disqualified and the reason(s) for disqualification.

15.3 Technical Evaluation

Technical and Quality evaluation is one of the most important stages of the procurement process. This stage of the manual ensures that:

- the contract award decision is objective
- the decision making process is fair, transparent and auditable
- the Public Body can demonstrate Best Value in the tender process

Tender Evaluation happens once the deadline for tender submissions has passed. The time taken to evaluate the returned submissions will vary from project to project depending on the complexity and the number of responses received. However, the Purchasing Officer should endeavour to provide approximate timescales for this stage as part of the Invitation to Tender (ITT) document.

An evaluation panel of at least two people should be established and consist of individuals with demonstrable technical ability to evaluate tenders, this may or may not include the Purchasing Officer. Ideally the panel membership will be consistent throughout the entire process from Pre-Qualification to Presentations and Site Visits. The evaluation panel should be able to withstand any scrutiny and no member should be associated in any way with any of the tendering suppliers without prior declaration of interest.

The panel members should read and score the quality/technical aspects of the tenders independently using pre-defined evaluation criteria and scoring system prior to a moderation meeting taking place. At the moderation meeting the evaluators come together to agree the final scores. The process to agree the final scores must be fully transparent and documented. The Purchasing Officer should evaluate the commercial aspects of the tenders separately, including the price evaluation. **As a matter of good practice, no member of the evaluation panel should assess both the quality/technical elements and the commercial elements of the tender.** The evaluation criteria and scoring methodology should have been determined as part of the "Develop Documents" stage and published to tenderers in the Invitation to Tender (ITT) or OJEU advert.

The role of the Purchasing Officer in the evaluation panel is to ensure an impartial and objective approach is taken to the evaluation of tenders. Some suggested "Do's and Don't's" are listed below:

Do's and Don'ts of Tender Evaluation

Do	Don't
Make note of areas that are unclear for clarification with the bidder	"Read between the lines" or make assumptions
Read the submission at face value and score on the basis of the information provided	Collude with other panel members to agree scoring collectively.
Score tenders independently and discuss any irregularities at a Tender Evaluation Meeting	Make changes to the evaluation criteria during this process - the criteria MUST be the same as that published in the ITT
Ensure full justification for scoring is provided for each question to assist with	

Do	Don't
debriefing	

The Tender Evaluation stage may be accompanied by Presentations/Site Visits

Unsuccessful Bids

You should ensure that the evaluation panel provide justification for their scoring to help when preparing standstill letters and debriefing suppliers. A full justification of scoring is especially important where a bid has failed to meet the "acceptable" expectation set out in the evaluation criteria. A record should be kept to ensure fairness and transparency of the process.

15.4 Price Evaluation

Where possible, the price/commercial evaluation of tenders should be completed by the Procurement Officer.

To enable an easier comparison, you should include a price schedule with a breakdown of the product/service areas for tenderers to complete. The evaluation should endeavour to identify and compare all the costs and benefits which can be quantified in money terms.

You must consider a "whole-life costing" approach in order to take account of all aspects of cost from cradle to grave (Acquisition, Operation, Ownership and Disposal). Higher value or complex procurements may require the use of investment appraisal techniques (such as discounted cash flow calculations). In all cases the method for Price Evaluation should be defined within the ITT documentation.

Price/financial evaluation criteria should include:

- Whole Life Cost comparisons
- Quantifiable financial benefits arising from the technical evaluation (e.g. speed, fuel or electricity consumption, coverage, shelf life etc)
- Fixed or variable pricing
- Cost of components, spare parts, consumables and servicing
- Risk analysis and financial appraisal (for major contracts of strategic importance, especially those of an innovative nature)

15.5 Demonstrations, Interviews & Site Visits

If the contract is of the nature that it would benefit from further research this could be in the form of demonstration, interview or site visit. This is acceptable as long as all bidders are treated equally and the published procurement process is followed.

Following the interviews the scorers may alter the Tenderer's quality submission scores to reflect their findings at the interview.

Interviews can be used to used to clarify all technical, staffing, administrative and financial aspects of the proposal, including methodology and approach to the Council's requirements and culture before a final decision on the award

15.6 References

When either a short-list of bidders or the preferred bidder has been reached the two references provided should be checked.

Notes should be taken from the references in case required in future.

Standard forms for collecting references – see Appendix 3. Questions can be added or amended. The main reason behind the template is to ensure references are collected in a written format.

15.7 Tender Clarification

Tender Clarifications may become necessary during the evaluation of Tenders where there are aspects of the bid that are unclear or contain errors or price anomalies. Clarification may also be sought on matters of quality performance or conditions of contract.

In seeking clarification, all communications with Tenderers should be properly recorded so that an audit trail is maintained. This must be carried out in a written format, email or letter.

Negotiations in relation to price or other areas where improvements may be possible should not take place at this stage of the process. Purchasers must give all Tenderers who are able to meet the requirements of the specification the same opportunity to engage in tender/bid clarification. Extreme caution and care must be exercised to avoid unfairness.

16.0 Post Tender Negotiations

TO BE CARRIED OUT WITH PREFERRED BIDDER ONLY.

The objective is to ensure that all outstanding risks are addressed and that best overall value for money is achieved in terms of quality and cost. It should not be conducted in a way that puts Tenderers at a disadvantage, distorts competition or adversely affects trust in the competitive tendering process, and must not trade off one Tenderer against another by using the lowest Tender to seek a reduction in costs from the other Tenderers.

It must be a controlled and documented process. It should not be used automatically on all procurements. Before engaging in Post Tender Negotiation, the following criteria must be met:

- There must be a real prospect of improving value for money.
- It must be possible to justify resources expended during negotiation.
- Trained and experienced staff must conduct negotiations.
- Negotiations must be fully documented with a clear audit trail (justification, aim of negotiation, record of all exchanges – written and verbal).

Potential areas for negotiation will differ for every Contract but may typically include terms of payment; quality of goods or services; delivery/completion dates; warranties/guarantees; compensation/remedial procedures for failure to meet specified requirements – basically, “everything is negotiable”. Most importantly, competition must not be distorted by allowing a Tenderer, not clearly in the lead, a chance to improve its offer without giving the same opportunity to all other Tenderers.

Following any negotiations, the outcome should be documented and substantiated by revised bids. Final evaluation can then be completed, approved at the appropriate level and Contract concluded with chosen supplier. Thereafter, unsuccessful Tenderers will be informed, who may request a debriefing.

16.1 Preparing for the Negotiation Process

It is important to gather and analyse information, set objectives, develop strategy and tactics:

Gather Information

- What is the market condition?
- What is the supplier’s position in the market?
- What are the supplier’s competitive strengths and weaknesses (past performance)?
- What are the reasons for the supplier’s stance?
- How attractive is our business to the supplier (%age of turnover it represents/full order books)?

Set Objectives

- Consider strengths and weaknesses of both parties.
- Establish main issues for negotiation.
- What do you want to achieve, in order of importance?
- What are you willing to concede, in order of importance?
- When would you be willing to compromise?

Strategy and Tactics

- Decide who will form the negotiating team (must include individuals authorised to take decisions).
- Plan what needs to be covered and in what order (agenda?).
- Plan tactics for bidding and bargaining (must be flexible to respond to developments).
- Find out who you will be negotiating with and ensure he/she has decision-making authority.
- Establish at what point you may wish to break or end the negotiations.

16.2 Handling the Negotiation

Negotiation Stage

The aim of the meeting is to achieve an outcome which both sides can accept. Points to remember include:

- Allow room to negotiate. Have a structure to your argument.
- Clarify the issues on which you want to focus.
- Only make a concession as a trade-off for something you want in return.
- Trade things that are low value for you to give but worth a lot to the other party.
- Avoid deadlock. If you cannot agree, are you sure you need to deal with this Tenderer?
- Have a break if things are not going well.
- Note agreements as they are reached and recap at the end to confirm understanding.

Do's and Don'ts

Do:

- Wait for an answer after you ask a question.
- Pursue your question if the answer given is evasive or inadequate.
- Get your questions ready in advance.
- Keep your questions open (unless a closed question is necessary to move things on).
- Choose the right time to ask a question. If the time is not appropriate write it down and wait.

Don't:

- Ask a question to show how clever you are.
- Stop listening while you are waiting to ask a question - write it down and wait.
- Cancel out team members' good questions by asking yours before their questions are fully answered.
- Ask antagonistic questions.
- Be afraid to ask simplistic questions.
- Answer a question which has been put to another team member unless they have signalled for you to do so.

16.3 Post-Negotiation

Any variations to the tender should be confirmed in writing by the Tenderer. The variation will then become part of the offer.

The negotiation should be reviewed by the team. Reasons for successes and failures should be considered, lessons learned and areas for future improvement identified.

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17.0 Contract Award Recommendation Report (CARR)

17.1 Background

For contracts with a value of **up to £350,000**, individual Directors should formally delegate the authority to award to nominated officers within those departments. A list of the delegated officers and the level of delegation will be held on the Procurement page within the intranet and Purchasing Officers will only begin the award process after the tender Contract Award Recommendation Report (CARR) has been approved by a designated officer within the appropriate department.

For contracts with a value **in excess of £350,000** a formal Contract Award Recommendation Report will be prepared by the relevant Purchasing Officer, in consultation with the Contract Owner before the award process begins. The Contract Award Recommendations Report will be forwarded by the relevant Director to the Director of Customer Services for approval. The Purchasing Officer will only begin the award process upon approval being given by the Director of Customer Services.

It is assumed that communication, including approvals, will normally be electronic.

The CARR will be prepared by the Purchasing Officers responsible. There may be some circumstances where this is prepared with assistance from the department, but must be approved by Procurement beforehand.

See Appendix 6 for a copy of the CARR.

17.2 Details

The contents of the template are summarised below:

- The purpose of the report (if appropriate make reference to the Business Case)
- A brief summary of requirements
- Details & results of the PQQ stage (if appropriate)
- Details & results of the ITT stage
- Price/Quality Ratio Results and Tender Ranking
- Details of any bid clarification
- Details of any presentations/system trials/demo/site visits, etc.
- Details of any interviews (if undertaken)
- Details of Post Tender Negotiation (if undertaken)
- Final recommendation
- Signatory requirements:
 - Recommendation made by – Purchasing Officer
 - Recommendation agreed by (OJEU only) –Procurement & Commissioning Manager
 - Recommendation agreed –Contract Owner
 - Recommendation agreed by Head of Service/Director depending on contract value, if appropriate.
 - Recommendation approved by Authorised Signatory (Delegated Staff or Director)

17.3 Benefits of This Procedure

The purpose of the CARR template is to ensure all the important decisions leading to the award recommendation are recorded both for provision of the audit trail and to enable the Authorised Signatory to approve the recommendation based on all available information.

17.4 Who Can Sign-Off the CARR?

Customer Services

Value	Who can sign?
£0 – £50,000	Head of Service
£50,000 - £350,000	Service Director
Greater than £350,000	Director of Customer Services

Development & Infrastructure Services

Value	Who can sign?
£0 – £15,000	Third Tier Manager
£15,000 - £100,000	Head of Service
£100,000 - £350,000	Service Director
Greater than £350,000	Forwarded by the relevant Director to the Director of Customer Services for approval

Community Services

Value	Who can sign?
£0 – £50,000	Head of Service
£50,000 - £350,000	Service Director
Greater than £350,000	Forwarded by the relevant Director to the Director of Customer Services for approval

Chief Executive's

Value	Who can sign?
£0 – £50,000	Head of Service
£50,000 - £350,000	Service Director
Greater than £350,000	Forwarded by the relevant Director to the Director of Customer Services for approval

The limits below £350,000 may be varied at the discretion of the relevant Service Director.

18.0 Notification of Preferred / Unsuccessful Bidders

18.1 Notification to Preferred Tenderer(s)

The notification to the preferred Tenderer(s) of Argyll and Bute Council award decision must contain:

- The contract award criteria.
- The score the winning Tenderer(s) obtained
- A precise statement as to the effect of the standstill period on the recipient's rights.

18.2 Notification to Unsuccessful Tenderers

The notification to unsuccessful Tenderers of Argyll and Bute Council's award decision must contain:

- The contract award criteria.
- Where appropriate, the score the Tenderer obtained against those award criteria.
- Where appropriate, the score the winning Tenderer obtained; and
- The name of the winning Tenderer.
- A summary of the reasons why the Tenderer or candidate was unsuccessful.
- The characteristics and relative advantages of the successful Tender.
- A precise statement as to the effect of the standstill period on the recipient's rights.

A Tenderer may be unsuccessful because the Tender either fails to meet the specification or meets the criteria but is not ranked as offering the most economically advantageous solution. Favourable areas should be highlighted as being evaluated positively. Areas which may be highlighted as favourable include being beaten by a stronger bidder/delivery period not acceptable/cannot supply full spec/not fit for purpose/quality management inadequate/financial standing weak etc. Care must be taken to ensure all information provided to a Tenderer can be justified in the event of a formal complaint against the Council.

This comprehensive information is a statutory requirement of the EU Remedies Directive and obviously requires a greater degree of preparation by the Council. It is good practice therefore to be mindful of the standstill letter during the evaluation process.

A proforma is attached (Appendix 7).

Providing this information is, however, a way of helping suppliers to improve their competitive performance which in turn produces benefits to Argyll and Bute Council in future Tender exercises. Unsuccessful Tenderers have a right to know the reasons for their rejection. Other internal benefits include; the enhancing Council's reputation as a fair and honest customer and serves as a feedback mechanism to ensure Tender packages are complete and understood fully.

18.3 The Mandatory Standstill Period

The implementation by the European Commission of the standstill period was designed to ensure an effective remedy must be available to challenge an award decision by use of interim measures. For all public sector procurements covered by the full EC Procurement rules, the mandatory standstill period means that a period of not less than ten (10) calendar days must elapse between the electronic communication of the award decision to all tenderers and contract commencement fifteen (15) days with postal or other communication). Argyll and Bute Council shall also apply the mandatory standstill period to all Contracts above £50,000. The mandatory standstill period begins

the day after the award decision is notified to all Tenderers in writing by either fax or e-mail. If the standstill period ends on a non-working day, it must be extended to the next working day. This standstill requirement is incorporated into Scots Law. An outline of the 10 day timeline is below (as it is recommended that all communications should be sent electronically).

Day 0	Notification of award decision containing all relevant information to be e-mailed to unsuccessful Tenderers and issue of preferred bidder status.
Day 1	Standstill period commences.
Day 2 - 9	---
Day 10	End of standstill period.
Day 11	Conclusion (final award) of Contract if no legal challenge received.

Note: the 10 day period includes weekends and should be extended as necessary if Day 10 falls on a Saturday or Sunday, or if standstill period falls around a Public Holiday.

18.4 Debriefing during the Mandatory Standstill Period

Having provided the information detailed in Appendix 7, Argyll and Bute Council is not obliged to provide an additional debrief, although it may grant a request if it so wishes.

If a debrief is provided, only the Tenderer's own submission may be discussed – **commercial terms or innovations put forward by another Tenderer cannot be disclosed!!** Tenderers may also be asked for constructive comments on the ITT document. A record of the debrief should be kept in the internal file.

18.5.1 Legal Challenge by Tenderer

Procurement law provides greater power to aggrieved bidders to suspend the Contract award process. In effect, a Tenderer may make an application to the Court of Session/Sheriff Court which shall automatically suspend the procurement process upon serving of a summons. This litigation would not be an expensive process for the Tenderer and Tenderer would not be responsible for the costs of delay, merely legal expenses, if rejected. The onus would be on Argyll and Bute Council to demonstrate that the application is spurious and for the suspension to be lifted prior to proceeding to Contract award.

In the event that Argyll and Bute Council breaches the standstill period or proceeds with Contract award despite automatic suspension, then the Contract may be declared 'ineffective' i.e. can be set aside even when performance has commenced and the Court must make an order unwinding the result – Argyll and Bute Council may become liable for damages from the aggrieved bidder **and** the Contractor who was awarded the Contract. The court must then decide what to do about works already completed under the Contract e.g. TUPE-transferred staff. Furthermore, the Court must order a fine.

The simple way to avoid 'ineffectiveness' is to ensure that the process has been standstill compliant as a Contract may not be declared ineffective for substantive breach alone. Tenderers have a time limit of 6 months from award or 30 days from Contract award notice in OJEU.

18.5.2 No Legal Challenge by Tenderer

If no legal challenges have been received by the end of the mandatory standstill period, then the Contract may be concluded and a letter issued to the successful Contractor in accordance with the following section (18.0).

DRAFT

19.0 Contract Award

19.1 Appointing the Successful Tenderer

The contract is concluded by the issue of a letter of acceptance, the preferred method of carrying this out is by email.

This task is to be undertaken by the Purchasing Officer responsible. Please see Appendix 8 for the template to be used in all cases. Additional information may be added.

Please note electronic signatures are legally binding.

19.2 Placing the Contract Award Notice

Contract Award notices must be placed on Public Contracts Scotland for all contracts over £10,000, with the option to place award notices for those below that value. This notice will be placed by the Purchasing Officer responsible after they have received confirmation that the successful bidder agrees and understands the contents of the letter of acceptance.

Purchasing Officers, please note that they will be required to manually update and check Spike Cavell that the contract information for contracts has been updated.

19.3 Tender Review

Following all tendering exercises the Purchasing Officer responsible for the contract must circulate the tender review form (see appendix ?) to all members of the contracts UIG.

Completed tender review forms are to be passed to the Procurement Analyst for review, any issues identified from these, are to be discussed at monthly Purchasing Officers Team meetings.

20.0 Contract Management

THIS CONTRACT MANAGEMENT PROCEDURE DOES NOT REPLACE THE CONTRACT MANAGEMENT UNDERTAKEN AS REQUIRED BY SPECIFIC CONDITIONS OF CONTRACT, E.G. NEC, ICE, etc.

20.1 Introduction

The purpose of Contract and Supplier Management is to:

- ensure the contract is successfully executed
- provide a formalised system of monitoring supplier performance against the contract requirements
- ensure there is clarity of the roles and responsibilities by all parties relating to supplier and contract management
- monitor overall compliance by all parties to the terms of the agreement and contract Key Performance (KPIs) & Service Level Agreements (SLAs)
- facilitate the identification and management of relationships with key supplier representatives
- identify potential additional savings due to proactive contract and supplier management including added value performance measures, demand, cost, supply chain, efficiencies and effectiveness management
- realise estimated savings due to continuous monitoring of spend information
- co-ordinate of the supply chain and intervention points
- provide a focus for development of initiatives/innovation
- deliver learning and knowledge transfer
- drive continual improvement

20.2 Segmentation

This section outlines the process and activities to be used in determining the most appropriate level of Contract and Supplier Management for each contract the Council handles.

The Council will follow the Scottish Procurement Directorate Procurement Journey methodology for determining the extent of the Contract and Supplier Management to be applied and this will have been ascertained as part of the Sourcing Strategy.

As the Council employs between three and four thousand suppliers and contractors each year, it is not possible to engage in detailed supplier management with each of those suppliers and therefore three basic levels of contract management have been created:

- 1) High Level – where the failure or delivery would affect the strategic outcomes or have a significant effect on the delivery which relates to the risk analysis in the sourcing strategy.**

The performance of the contract and the supplier will be managed using the full balanced scorecard, with a minimum of 4 review meetings a year.

Some examples of high level contracts:

- School Estate NPDO
- Waste Management PPP
- Care Contracts

- Construction term or framework contracts
- Consultancy Term Contracts
- Office Equipment Contracts
- Service Contracts, Air Services, Bus Contracts, Ferry services etc
- Construction and Consultancy contracts on works with a value of over £1 million

2) Medium Level

The performance of the contract and the supplier would be managed by expanding the 4 high level indicators and holding a minimum of one performance review meeting per annum or more likely, on delivery of the contract.

Some examples of medium level contracts would be:

- Purchase and implementation of computer software or other systems
- Works contracts of a strategic or high profile nature, or with other risk factors
- Consultancy Projects, as above,
- Purchase of Critical Goods or Materials over a period of time, e.g. winter salt.

3) Low Level

Compliance to the contract is ensured by managing the delivery of the contract using 4 high level indicators i.e. cost, quality, delivery, service. A formal review takes place on completion and is shared with the supplier.

The template forming Appendix 9.1 & 9.2 will be used to identify what level of contract management is needed for each contract – this will be completed jointly between the Purchasing Officer and the Department's Representative.

20.2 How to measure - Key Performance Indicators

20.2.1 Existing Contracts

Although the full implementation of contract management cannot be put in place, basic management can be implemented based on the tender specification. This can be done by reviewing the existing service specification and extracting performance measures under the heading of the balance scorecard.

20.2.2 New Contracts

The performance of contract will be managed against Key Performance Indicators (KPIs), for quality scored or even mandatory performance. The list provided below are indicative of the level of KPIs which would be appropriate when a High level of management is required. For a Low level of management it may be sufficient to measure performance using the core KPI headings e.g. quality, service, delivery and cost and for a Medium level of management, a combination of core with only a few specific indicators may be sufficient.

Quality:

- § Fit for purpose in terms of quality of product/service
- § Returns – incorrect item, damaged, substandard quality, incorrect item ordered
- § Corporate Social Responsibility – dependant on specification of requirements

§ Continual Improvement/Innovation

Service:

- § Responsiveness
- § Complaints
- § Management Information
- § Education/Training
- § Communication

Delivery:

- § Lead time/delivery time
- § On time delivery against objectives
- § Accuracy

Cost:

- § Pricing Stability
- § Invoice Accuracy
- § Cost Reduction Initiatives

The specific requirements for each core performance indicator should be amended to reflect the specific requirements of the contract. The targets will either be stipulated within the ITT and Ts & Cs or agreed by all parties concerned during the implementation stage of the contract or framework agreement. It is intended that these indicators will be developed throughout the lifetime of the contract/framework agreement as demand evolves and will reviewed annually (as a minimum) in consultation with the Supplier, Department and Procurement Team.

20.3 Contract and Supplier Management Plan

Once you have concluded which level of contract management is most appropriate (19.2), in conjunction with your Purchasing Officer you should complete a Contract and Supplier Management Plan, which can be found as Appendix 9.3, which includes details of:

- Roles and Responsibilities
- Level of Management (Low/medium/high) required
- Contract Objectives
- Performance Management defined in tender/quote
- Mobilisation Plan
- Migration Plan
- How to ensure contract compliance
- Exit plan
- Dates of review meetings
- Issues/Risks

20.4 Methodology for Contract and Supplier Management

The methodology used to carry out and record contract and supplier management will follow that laid down in the Scottish Procurement Directorate's Procurement Journey. This is carried out with reference to the Balanced Scorecard (Appendix 9.2) and using the Scoring Template (Appendix 9.4)

Contract and Supplier Management will be carried out by the Council in a manner that is objective, fair and transparent. The relevant Purchasing Officer will assist with all scoring in the early stages. Scoring of suppliers in particular must only relate to their performance and matters under their control of their own suppliers and sub-contractors. All scoring will be visible to the suppliers involved and they will have an opportunity to comment on the scoring and have their comments noted in the records. All records will be held by the Corporate Procurement Team.

The balanced scorecard provides an example of the type of guidance (in the Quality, Service, Delivery, Cost worksheets) which would be used for a “High Level” contract but can be modified for “Medium and Low Level” contracts.

20.5 Performance Review Meetings

Performance Review Meetings are an important part of the Contract & Supplier Management process and provide the Procurement Team and the Supplier with an opportunity to focus on what is going well, identify any problems at an early stage and agree opportunities for improvement and innovation. The Performance Review Meeting template (Appendix 9.5) can be completed by both the buyer and supplier in advance of the meeting and provides a structure to the meeting.

It is suggested that for contracts/suppliers where a medium level of management is being applied that there should be at least one performance review meeting a year. For Contracts and/or Suppliers where a high level of management is being applied there should be at least four review meetings a year.

An early Performance Review Meeting could include a ‘Procurement Procedure Review’ session with the stakeholders on the tendering and contract implementation process – appendix 11.

20.6 Exit Strategy

As the contract progresses the Procurement Team will have responsibility for ensuring that both parties are working towards the planned exit of the contract, and the procurement process for securing subsequent supply arrangements if required.

The Exit Strategy should involve a review of the contract and supplier's performance and a Lessons Learnt review.

20.7 Roles and Responsibilities

Details of roles and responsibilities of both the department and the Procurement can be found under Appendix 9.6.

21.0 Procurement and Financial Management

ONLY VARIATIONS OF GREATER THAN £1000 ARE TO BE REPORTED

21.1 Introduction

Procurement has a direct effect on the Council's budgets and financial management. It is essential to good financial management that the work of procurement is communicated to the Finance Managers within the Council and that the results of contract award and management activities are reflected in the Council's budgets. It is just as essential for good procurement that the Purchasing Officers are aware of current and prospective budgets set for commodities and of historical spend on those items. Traditionally, procurement tasks are divided into three types; re-buys, modified re-buys and new buys. Each of those tasks has a specific effect on the Council's budgets

A "re-buy" is where essentially the same goods or services are procured by a new contract to replace an existing contract. While there may be marginal differences in the performance following a "re-buy" the main difference will be price and this should be reflected in the budget line.

In a "modified re-buy" situation the specification of the goods, services or works will vary significantly from that previously purchased and the impact on budgets may be more complex in its calculation with potentially savings being made against cost centres distinct from that used to record the actual purchase.

A "new buy" will result in a new expenditure, which will have been already budgeted. Most re-buys relate to individual projects, each of which will be in some way unique within the Council and therefore will not stand direct comparison with other projects. The main effect of the procurement exercise on budgets is to provide a degree of certainty over the estimated cost.

21.2 Budget Monitoring

Finance Managers within Strategic Finance are responsible for budget monitoring across the Council. For procurement spend, budget variances come in two forms, price variations and quantity variations. The Finance Manager can realistically expect service managers to control and be responsible for quantity variations. It is the role of the Purchasing Officer to keep the Finance Manager informed of price variations as soon as they can be realistically forecast.

Category Management Responsibilities

Each Purchasing Officer is responsible for letting and managing contracts for distinct categories of spend. Those spend categories are linked to cost centre and account code combinations, which operate separately from the existing financial management hierarchies. The Purchasing Officers are provided with reports at the end of each budget monitoring period (calendar month) detailing the annual budget, budget to date and spend to date for each cost centre, account code combination within their spend category.

This allows the Purchasing Officers to monitor all spend within their category and gives them initial warnings of fluctuations in spend within contracts, giving them early notice of situations where term or framework contracts may be exceeded or where previous small levels of expenditure, previously made on an ad-hoc basis, have grown to the extent of meriting formal contract procedures to be put in place.

Each Purchasing Officer will also take on budgetary responsibility that will be complementary to that of Strategic Finance, alerting the Finance Managers to price movements within contracts. It is assumed that by the end of 2011, 85% of procurement expenditure will be covered by formal contract.

21.3 Price Variation Budget Forecast

The Purchasing Officers will inform the Finance Managers of impending price variations by means of the Price Variation Budget Forecast (PVBF) form, which will be completed either following the award of a contract, or where an agreed price variation within a contract has taken place. This will be completed in respect of spend covered either under one of the Council's own contracts or on a relevant contract introduced or amended on the Council's behalf by either Scotland Excel or Scottish Procurement.

A PVBF will be issued in the first place to the Customer Services Finance Manager and a copy will be sent to the Procurement Analyst. The Procurement Analyst will collate all of the PVBFs and those will form an initial savings record against each Purchasing Officer. Those savings records will be reviewed by the responsible Purchasing Officer at the end of each contract, and measured against actual spend for the quarter to arrive at an actual value for savings achieved during the quarter. The actual savings achieved figures will then be returned by the Purchasing Officers to the Procurement Analyst for final collation and upload to the Council's Performance Management System.

Budget Adjustments

All PVBFs will be received by the Customer Services Finance Manager, but each form will carry the name of the Finance Manager whose budget is affected by the change. In some cases, for Corporate contracts there will be more than one Finance Manager involved. The issue of a PVBF will not result in a subsequent budget in all cases as this will depend to some extent on the budget position and other variations being experienced at the time. Budget adjustments will be noted on the Strategic Finance copy of the PVBF as they are made.