

# Procurement Training

## Contract Procedure Rules – CPR's & The Tender Process

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# Agenda – What this training covers

- Procurement
- Rules and Regulations
- Procurement Process
- Contract modifications/variatioins
- Waivers
- CPR Exemptions

# Procurement - Introduction

**Procurement** is about acquiring **goods, services and works**

*It is the process of going out to tender to test the market and ultimately achieve **best value**, which includes 'whole life costing'*

*Procurement spans a **life cycle** from identification of need, through to selection of suppliers, purchasing, contract management and disposal*

# What is the Corporate Procurement function?

- The Corporate procurement function is responsible for and operates within appropriate governance, accountability, audit, scrutiny and risk management arrangements
- Provides subject-matter-expert advice and guidance through the process of acquiring goods, services or works

# Why is Procurement important in the Council?

- We are accountable for spending public money
- Four principles
  - Open Competition
  - Transparency
  - Equal Treatment
  - Proportionality
- Legislation: **Public Contract Regulations 2015**
  - Goods, Services and Works
- PCR Thresholds effective from January 2022



**Why are these important?**

Contract Type	Threshold Inc. VAT
Goods & Services	£213,477
Works	£5,336,937
Light Touch Regime	£663,540

# Contract Procedure Rules

**Contract Value Bands – CPR 4 (which determine our sign-off process for the spend)**

<b>Good, Works &amp; Services</b>	
<b>Band</b>	<b>Value</b>
<b>A</b>	£10,000 and below
<b>B</b>	£10,001 - £140,000
<b>C</b>	£140,001-£1 million
<b>D</b>	Over £1 million

- **The value of a contract means the total estimated value of the contract over the full contract period (net VAT) including possible extensions.**
- **Officers must not split purchases or disaggregate spend in order to avoid the contract value bands set out in the table below.**

# CPR11 – Competition Requirements

## Procedure below £10K (CPR 11.1)

- Will be classified as procurement expenditure and are subject to **value for money considerations**.
- Officers may be challenged by Internal Audit Officers to demonstrate best value has been obtained for contracts below £10,000 in line with CPR 23 (Record Keeping)
- Officers are recommended to ensure that:
  - (i) the purchase is not covered by an existing framework agreement or Corporate contract;
  - (ii) the purchase is a one-off requirement and not a reoccurring one; and
  - (iii) the total spend is up to £10,000 (excl. VAT)
- Price checks should be documented and retained on file for audit purposes.

# Procedures £10,001 to £25,000

(CPR 11.2/11.3)

- Identify need & obtain budget holder approval
- Complete Procurement Notification Form (PNF) – see also slide 17
- Use an appropriate existing contract/framework if possible
- If not .....
  - Source suppliers from market research or sell2wales and justify selection
  - Seek at **least 4 written quotes**
  - Evidence to be kept on file (see CPR on Record Keeping)
  - Evaluate quotes & award to highest scoring bid using standard award letter

Standard documentation available



# Procedures £25,001 – £140,000

- Identify need & obtain budget holder approval
- Use an appropriate existing contract/framework if possible
- If not .....
  - **Openly advertise** requirement on Sell2Wales
  - Quotations to be kept on file (see record keeping)
  - Evaluate quotes & award to highest scoring bid using standard award letter

Standard documentation available

# Works Only £10,001 – £140,000

## CPR 11.4

*Works only (£10,001 - £140,000):* At least four Quotations shall be sought from appropriate Suppliers using Sell2Wales or constructionline.co.uk in accordance with the following procedure:

- (a) a minimum of two Suppliers shall be chosen at random using the 'generate a list' function;
- (b) a maximum of two Suppliers shall be chosen by Officers;
- (c) at least one of the four Suppliers shall be from the Local Area and Officers shall consider increasing this number in accordance with CPR 14;
- (d) Officers shall contact all Suppliers (including those chosen at random and those chosen by Officers) within 14 days prior to the commencement of the Procurement Process to determine their interest in submitting a Quotation. Officers shall substitute all Suppliers not interested in submitting a Quotation with alternative Suppliers, and shall choose those alternative in compliance with this CPR 11.4.

# Works Only £140,000 - £500,000

## CPR 11.7

11.7 *Works only – £140,001 - £500,000*: Requirements shall be openly advertised on the Sell2Wales Website. Tenders shall be invited. Alternatively, at least six Tenders shall be sought from Suppliers registered on constructionline.co.uk in accordance with the following procedures:

- (a) a minimum of four Suppliers shall be chosen at random using the 'generate a list' function;
- (b) a maximum of two Suppliers shall be chosen by Officers;
- (c) at least two of the six Suppliers shall be from the Local Area (where the subject of the Contract allows);
- (d) Officers shall contact all Suppliers (including those chosen at random and those chosen by Officers) within 14 days prior to the commencement of the Procurement Process to determine their interest in submitting Tenders. Officers shall substitute all Suppliers not interested in submitting a Tenders with alternative Suppliers, and shall choose those alternative Suppliers in accordance with this CPR 11.8.

## Procedures £140,001 up to PCR Threshold

- Use an appropriate existing contract/framework if possible
- Requirement shall be openly advertised on Sell2Wales
- Full tendering procedure – eTenderWales
- Issue ITT - Advertise for a minimum of 28 days
- Seek advice from the relevant Category Manager

## Procedures above PCR Threshold

- Notice to be openly advertised on Sell2Wales and TED/FTS
- Issue ITT
- Public Contract Regulations tendering timescales apply - seek advice from the relevant Category Manager (minimum 30 days (open procedure))
- 10-day standstill period
- Contract award notice to be published 30 days following contract award.

Standard documentation available

# Procurement Phases

## Procurement & Supply Cycle



[cips.org](https://www.cips.org) | More procurement & supply resources for you & your team's development



A Source of Knowledge



Cycle: Contract Management



Cycle: Category Management



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# Procurement Phases

Phase 1: Service Need Identified

Phase 2: Pre-Procurement

Phase 3: Procurement

Phase 4: Evaluation

Phase 5: Award

# Phase 1: Service Need Identified

- **What initial questions do you think you must consider at this phase?**
- *This phase is before the Procurement Notification Form is submitted*

# Phase 1: Service Need Identified

- Always ask the question “**Do we really need it?**”
- Is it a need or a want? What is needed? Not what is wanted?
- Ensure you consult all stakeholders before you proceed
- Is it possible to deliver it?
- Can we stop doing it?
- Are there alternatives?
- What is it to be used for?
- Do you have to purchase it? Can you borrow, use someone else’s, hire or leasing?
- What happens when you don’t need it any more? Scrap, re-sell, refurbish etc.
- Innovation / technology



# Phase 1: Service Need Identified

- Where is the budget coming from?
- Is it grant funded? Any conditions to follow?
- Check Contract Register to avoid duplication
- Can Co-production and/or Social Value be incorporated?
- Safeguarding / DBS issues?
- Contract duration and value?
- GDPR – Data Protection Impact Assessment completed?
- Integrated Impact Assessments (IIA) completed?

## Phase 2: Pre-Procurement

- Complete a **Procurement Notification Form (CPR5)** and obtain a Contract Reference Number
- Procurement Strategy is then agreed, and Procurement Documents drafted



# CPR 5: Procurement Notification Form

- Before commencing a Procurement process within Band B, C or D, Officers must complete Procurement Notification Form and submit to Procurement – Every PNF is reviewed by Head of Commercial Services.
- Officers should only commence the procurement process once notification to proceed has been given by Procurement and a contract reference number allocated.
- Completed PNFs are to be sent to [Procurement@swansea.gov.uk](mailto:Procurement@swansea.gov.uk)

# Procurement Tender Timeplan

- It's not all about tendering the contract
- You need to do some ground work before Procurement begin their full support.
- To help you, complete a 'Procurement Tender Timeplan' which includes a list of activities and actions you (the Client) and/or Procurement will undertake.

**Procurement Tender Timeplan - Commercial Services**

Procurement Lead :  
Contract Title :  
Contract Ref :  
Project Start Date 01 July 2018  
Client Lead

Display Week 1

Phase	Activity	Action	Officers Involved	Start	End	Days	% DONE	Work Days
1	Phase 1: Service Need Identified	Is there authority/budget to Procure from the Responsible Officer?	Client	Sat 0/1/1900	Sat 0/1/1900	1	0%	-
		Is there authority/budget to Procure from the Responsible Officer?	Client	Sat 0/1/1900	Sat 0/1/1900	1	0%	-
		Is there authority/budget to Procure from the Responsible Officer?	Client	Sat 0/1/1900	Sat 0/1/1900	1	0%	-
		Is there authority/budget to Procure from the Responsible Officer?	Client	Sat 0/1/1900	Sat 0/1/1900	1	0%	-

## Phase 2: Pre-Procurement

- Agree procurement strategy with Procurement.
- Are you going to consult the market, hold a stakeholder event, a 'meet the buyer' event, or co-produce?
- Any TUPE implications?
- Draft Tender Documents

# Standard Tender Documents

- Invitation to Tender (ITT)
- Selection Questionnaire
- Schedule 1 – Safeguarding
- Schedule 2 - Specification
- Schedule 3 - Financial Provisions
- Schedule 4 – Monitoring
- Schedule 5 – GDPR
- Method Statement Questions
- Pricing Schedule
- Terms and Conditions



## **A Specification is:**

***A specification details the requirements of the goods, service or works. It must clearly and accurately define what is expected from a supplier regarding the function, outputs and performance requirements.***

**This is where it all starts, get it wrong and this is where the problems begin**



# What is its purpose?

- Documents the requirements of the Council.
- Details what is expected of the successful supplier
- Guides the supplier when preparing their bid
- Helps supplier to price for delivery
- Used as a guide when evaluating the submissions
- When awarded, helps with monitoring and management of the contract
- Can it be co-produced?

# Example: Structure of a Specification

**Introduction**

**Scope**

**Background to the  
requirement**

**Detailed and technical  
requirements**

**Timescales**

**Standards**

**Outcomes, KPI's and  
Service Levels**

**Implementation  
Plan**

**Reference to other documents**

# Specification –Getting it wrong

A poor specification can result in;

- No response from the market.
- Poor value for money.
- Buying the wrong thing or paying too much for the right one.
- Having to re-do the procurement
- Inability to realise benefits.
- Poor supplier performance
- Difficulties in contract management
- Increased clarification questions.
- Contract failure

# Method Statement Questions

- Method Statement Questions are based on the Specification
- Providers answer the questions which are then scored using scoring methodology
  - Weight each question
- Method Statement questions ask how the supplier is going to do something – forward looking.
- Some examples include;
  - project plans and methodologies,
  - staffing arrangements, training and development,
  - how they will meet specific contractual requirements or outcomes
  - speed of delivery, maintenance and support offered.
  - wider social, economic and environmental benefits offered to the community.
  - staff development, training and retention plans

# Award Criteria: CPR13

- Tenders/Quotations can be evaluated on either:
  - 100% Price/cost; or
  - 100% Quality; or
  - Mixture of Price/cost and Quality (**MEAT**)
- Price and quality are split into two sections to be evaluated separately.
  - Each will be given a maximum percentage score (combined totalling 100%) they are weighted according to the relative importance placed upon either Price or Quality.
  - If **quality** is likely to be the most important factor a 70% Quality 30% Price ratio may be appropriate,
  - If **price** is more important 70% Price 30% Quality may be more appropriate.
  - There is no fixed balance between the two, it varies between each procurement exercise.

Evaluation criteria must relate to the specific requirement

# Social Value

- Prior to commencing a procurement process, the Authorised Officer or the Responsible Officer must give consideration to how the Contract could provide **social, economic and environmental benefits** to the Local Area and the measures that may be taken to secure these benefits, **in line with the Well-Being of Future Generations Act.**
- *When provisioning services, all contracts over £1 million in value may wish to complete a Social Value Recording template, this will allow us to document how Social Value has been incorporated into the commission.*

## Phase 3: Publish Tender

- Tender published on eTenderWales /Sell2Wales
- Advertised for minimum 28 days below threshold and 30 days above threshold
- You will need to answer any Clarification questions that come from interested bidders

Publish



## Phase 4: Evaluation

- Move to this stage once Tender period closes





# Phase 4: Evaluation

- **3 Stages –**
  - **Selection Questionnaire** (Pass / Fail Questions)
  - **Quality** (Method Statement Responses)
  - **Price** (Total Cost)
- Evaluation panel (2 people minimum)
- Standard template Matrix will add up the scores given by panel and the price to produce a winning tenderer

Tenderer 1:			Tenderer 2:		Tenderer 3:	
Score/Price	Comments	Weighted Score	Comments	Weighted Score	Score/Price	Comments
		0.0%		0.0%		
		0.0%		0.0%		
		0.0%		0.0%		
		0.0%		0.0%		
		0.0%		0.0%		
		0.0%		0.0%		
		0.0%		0.0%		

# Stage 1 - Selection Questionnaire

Will be evaluated to select potential suppliers to invite to tender. Based on:

- Mandatory Grounds for Exclusion (Reg 57)
- Technical Capability and Capacity
- Financial Information
- Health & Safety
- Insurances
- DBS Certification
- Welsh Language requirements

*NB: Evaluation includes:*

- *Pass / Fail criteria*
- *Financial risk based assessment*

# Stage 2 - Evaluating Quality

- Award criteria relating to quality depend upon the nature of the Procurement.
- Scoring methodology (standard document available)
- Evaluate Method Statement responses

Evaluating the responses to the tender against the pre-established award criteria;

To ensure fair competition and achieve best value for money

To decide which supplier is to deliver the requirement

Rating	Criteria	Score
Very Good	<ul style="list-style-type: none"><li>• Demonstrates a very good understanding of requirements and a very good level of capability/commitment</li><li>• Complete confidence in abilities</li><li>• Very good prospects for contractual or partnership success</li></ul>	5
Good	<ul style="list-style-type: none"><li>• Demonstrates a good understanding of requirements and a good level of capability/commitment</li><li>• High level of confidence</li><li>• Good prospects for contractual or partnership success</li></ul>	
	<ul style="list-style-type: none"><li>• Demonstrates a good understanding of requirements and a good level of capability/commitment</li></ul>	

# Stage 3 - Evaluating Price

- The evaluation of price will be based on the supplier's response to the requirements of a Pricing Schedule/Schedule of rates designed for the specific contract using appropriate measures and units.
- Price should be based on the total cost of the goods or service over the duration of the entire contract, not just purchase price.
- Consider **Total Cost of Ownership**.

**What is the real cost of procuring the requirement? Rather than what is the lowest price I can get it for. Consider –**

- Running costs
- Delivery costs
- Maintenance costs
- Training costs
- Licence cost
- Energy consumption
- Disposal costs
- Any others?**

# Phase 5: Award

- Obtain approval and notify bidders of the outcome of the procurement



# Award Procedure: CPRs

- **Band A (Under £10,000)**
  - Officer to demonstrate Best Value has been obtained,
- **Band B (Under £140,000)** approval required from:
  - Responsible Officer (Department HoS)
  - Category Manager
- **Band C (£140,001 – £1 million)** approval required from:
  - Responsible Officer (Department HoS)
  - Head of Commercial Services
  - Deputy Chief Legal Officer
  - Chief Finance Office (S.151 Officer)
- **Band D (Over £1 million)**
  - As above with additional approval from relevant Cabinet Member
  - If required, Cabinet approval.

Standard documentation available

## Phase 5: Award

- Draft notification letters (CPR19):
  - Relative advantages
  - Feedback maybe asked from unsuccessful bidder
- Standstill Period – 10 days
- Contract Award Notice – Sell2Wales
- Contracts Register – above £10k

# Contract Management

- Once awarded -
  - Contract Management
  - Understanding the contract
  - Using the contract
  - Monitoring Outcomes
  - Monitoring Performance



# Contract Modifications / Variations

## Regulation 72

Reg allows for changes to be made to an existing contract without having to complete a new procurement exercise, only where one of the following six situations applies:

- 1. Change is included for within original Tender/Contract Documents**
- 2. Change of Provider cannot be made for economic or technical reasons and could cause significant duplication of cost (50% of total contract value cap)**
- 3. Change is due to unforeseen circumstances (50% cap)**
- 4. Replacement of supplier due to corporate restructuring, including takeover, merger, acquisition or insolvency**
- 5. Modifications that are not substantial or a “material change”**
- 6. Low value modifications – less than 10% of the current threshold for supplies and services and 15% for works**

# Contract Modifications / Variations

- Online Staffnet Application Form  
<https://staffnet.swansea.gov.uk/contractvariation>
- Variation application must include:-
  - Contract Title and Reference Number
  - Current Start / End Date
  - Original Contract Awarded Value
  - Current contract value including any variations made previously
  - New proposed value (inclusive of values above)
  - Proposed new end date (if extension required)
  - Justification for modification/variation in accordance with Reg 72

# CPR8 / Waivers

What is a Waiver?

A application to award a contract outside of Contract Procedure Rules

The waiver application form can be found on Staffnet <https://staffnet.swansea.gov.uk/cpr8>

***Waivers bring risk to the Council – why was only one supplier considered / were they the best option?***

A Waiver application must specify:

- The description of goods, services or works you are seeking to waiver
- The selection methods used to identify the proposed Supplier
- The reasons for the proposed waiver/s and why it is considered lawful and appropriate to award the Contract through a waiver.

Examples may include:-

- Only one provider can be appointed for reasons that are technical, or connected with the protection of exclusive rights, e.g a patent;
- extreme urgency brought about by events unforeseeable by the council (e.g. roof blows off)
- time limited grant funding, where the time limitations will not allow a competitive procurement process and where the grant conditions allow (under threshold)
- where delay of appointment would increase danger to life or limb.
  
- EXCEPT IN CASES OF A GENUINE EMERGENCY, PROCUREMENT APPROVAL MUST BE IN PLACE BEFORE PROCEEDING WITH A WAIVER.  
NEW £30K TRANSPARENCY THRESHOLD DUE LATE 2023 INCREASES LIKELY CHALLENGE

# CPR Exclusions

## CPR 1.10 : Exclusions

- Social Care have 3 specific exclusions allowed under CPR,
  - (i) at the discretion of the Director of Social Services only (with the Director to maintain the appropriate records for audit purposes)
    - where the decision to award a social care Contract has been made on the Council's behalf (e.g. **a court directed order**);
    - the award of an **emergency social care Contract and/or individual placement** if it is considered to be in the interest of the Council or necessary to meet its obligations under relevant legislation and demonstrates Value for Money.
    - **residential and nursing care contracts** which the Council has a duty to provide if it is considered to be in the interest of the Council or necessary to meet its obligations under relevant legislation and demonstrates Value for Money.

# Thank you

Any questions?



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