

CHAPTER 9: CONTRACT PROCEDURE RULES

Procurement Overview

9.1 Background

- 9.1.1 These rules set out how the Authority will contract their various requirements and how suppliers wishing to work for the Authority can access those opportunities.
- 9.1.2 Public Sector procurement is the process of acquiring goods, services and works for the delivery of an Authority's obligation to its residents and regional visitors.
- 9.1.3 Depending on the nature of the procurement, the value, and any specific social interests that the contract may attract, the procurement process must be designed to facilitate competition, optimise quality, and deliver value for money across the whole life cycle of the contract.
- 9.1.4 To ensure delivery of the above, all procurements must be carried out within a specific legal framework and based on principles of equal treatment, transparency, and non-discrimination.

9.2 Governing Legislation

- 9.2.1 The Local Government Act 1972 section 135 requires Public Bodies to have standing orders for how they enter into contracts. These Contract Procedure Rules ("Rules") set out how the Combined Authority will deliver against this obligation.
- 9.2.2 All Procurements for Contracts, by Combined Authority staff or members (including where managed by an external organisation or public body on the Authority's behalf), MUST comply with these Rules, the Combined Authority's Financial Regulations, **Applicable Public Procurement Legislation** and all other relevant UK Legislation; *with 'applicable' relating to the date on which the procurement is commenced/ advertised, the framework/ DPS/ Dynamic Market was established or where no competitive process is required, a purchase order is raised.*
- 9.2.3 Where there is a discrepancy between these rules and any applicable public procurement legislation, the **Applicable Public Procurement Legislation** is the dominant.
- 9.2.4 Where there is a conflict between the **Applicable Public Procurement Legislation** and any other relevant legislation (as identified during procurement planning) the Monitoring Officer must be consulted immediately to carry out a legal, project risk assessment.
- 9.2.5 Central government guidance should be considered when designing a procurement; specifically, [Procurement Policy Notes](#) (PPNs), [Procurement Act 2023 - Guidance documents](#) and the [National Procurement Policy Statement](#)

(NPPS); however, they are generally not mandatory other than where specifically identified as such.

9.2.6 Guidance on when and how to apply current PPNs and the NPPS are set out in the ***Combined Authority's Procurement Guidance document***.

9.2.7 Non-compliance with any of these rules may constitute grounds for disciplinary action.

9.3 Application of the Rules (Regulated Procurements)

9.3.1 These rules govern:

- (a) any contract for the supply (*for pecuniary interest*), of goods, services or works, (not exempt/ excluded under 1.4 below) **regardless** of value,
- (b) using Frameworks, Dynamic Purchasing Systems or Dynamic Market's,
- (c) collaborative procurements,
- (d) consultancy requirements,
- (e) equipment hires or lease through rental agreements,
- (f) disposal of assets.

9.4 Excluded/ Exempted Contracts (Not Regulated)

9.4.1 **These rules do not apply to contracts that are classified as excluded/ exempted**, as defined by the ***Applicable Public Procurement Legislation***; including but not limited to:

- (a) Authority to Authority (Subsidiary) arrangements, vertical or horizontal – subject to approval by the Head of Procurement & Contracting. e.g.
 - i. Vertical - The Combined Authority exercises a parent or similar control or joint control with other contracting authorities on the entity as it does with its own departments, the entity carries out more than 80% of its activities for the controlling authorities and there is no private sector money in the entity.
 - ii. Horizontal - Public body to public body co-operation – to achieve objectives which the authorities have in common, through an arrangement that is solely for the public interest, and the parties perform less than 20% of the services covered by the arrangement on the open market.
- (b) Subject matter exemptions:
 - i. Certain types of legal advice e.g., relating to judicial proceedings and/ or dispute resolution

- ii. Certain types of financial advice e.g., funding or financing arrangements, investment services
- iii. Employment contracts
- iv. Purchases made at public auction or of goods sold due to insolvency
- v. Land contracts (including leases, licences, and transfers)
- vi. Grants of money, these cannot be contracts as there is no consideration and they are not services required to be delivered by the Authority
- vii. Specialist Requirements e.g., concessions, emergency, public transport as defined within the current procurement legislation.

(c) Any other arrangements excluded by the ***Applicable Public Procurement Legislation***

9.4.2 More specific detail on what may fall into the excluded/ exempted categories is detailed within the supporting ***Combined Authority's Procurement Guidance document***; and reliability of that exemption/ exclusion should be confirmed by the Head of Procurement & Contracting and/ or the Monitoring Officer before incurring any expenditure.

9.5 Procurement Objectives

9.5.1 Procurement aims and objectives cover not only those objectives set out in the ***Applicable Public Procurement Legislation***, but also those set out in the NPPS and the Authority's own procurement policy; these objectives should be used to determine the contract specific outcomes to be achieved by a specific procurement during the planning process.

9.5.2 These objectives may include, but not be limited to, all or any of the following and their inclusion should be informed by and tailored to the subject matter of the contract (legal, technical and commercial requirements)

- (a) Delivering Value for Money
- (b) Maximising public benefit (such as delivering Social Value)
- (c) Sharing Information
- (d) Equal Treatment (non-discrimination), unless justified.
- (e) Removing Barriers for Small and Medium Enterprises (SMEs)
- (f) Acting (and being seen to act with) Integrity (inc. accountability)
- (g) Fair and transparent (effective) competition

9.5.3 Further Guidance on what these mean and how to include them within a procurement is available in the ***Combined Authority's Procurement***

Guidance document, and through the National Procurement Policy Statement and Public Policy Notices (PPNs).

9.6 Roles & Responsibilities

9.6.1 The Head of Procurement & Contracting (and function) is responsible for all procurement process and compliance, including; ownership of Project Initiation Document and approvals, procurement option appraisals and process design, procurement training, procurement process management (including responsibilities for all notices up to the publication of the Contract Award Notice, ownership of e-tendering portal, ownership and provision of all procurement templates (including Authority standard form contracts)), completion/ approval of procurement template and reports, and oversight of all activities relating to waivers, contract modifications or termination.

9.6.2 Contract Manager is responsible for supporting the planning for and management of all contracts (regardless of how they are procured); specifically, feeding into procurement documents relating to contract management requirements, managing all applications for waivers, exemption or modification requests, owning the contract register (ensuring that information is kept up to date and that copies of contracts are attached) and forward planning for re-procurement of cyclical requirements, supporting Project Officers with contract management including financial and quality performance reporting, ensuring compliance with the Authority Governance requirements, publication of all mandatory and optional notices as required post the publication of the Contract Award Notice, ensuring all contract subject to the Gateway Process report in accordance with the stated procedures.

9.6.3 The Project Lead/ Manager is responsible for all pre-procurement governance and budgetary approvals, overseeing all technical document creation, organising any legal documents that are required, supporting all stages of the procurement process, co-ordinating the resourcing of tender evaluation and moderation sessions, completing any procurement related reports and any pre-contract governance requirements and working with Legal to finalise contracts all in accordance with this document, relevant procurement legislation and other associated legislation.

9.6.4 The Monitoring Officer is responsible for all legal decisions and activities; whether delegated to legal representatives or being actioned on behalf of the board. In the event of a disagreement within the project team relating to approach, legislation application, or any project governance, the decision will sit with the Monitoring Officer.

9.7 Separation of Duties

9.7.1 As part of the commitment to transparency, accountability, and service integrity, an individual that conducts a procurement, raises a purchase order, or requests a waiver cannot also approve one.

9.7.2 All requests and approval / awards therefore should be raised by one individual and approved by a different individual and in accordance with the decision value and this document.

9.8 Conflicts of Interest

- 9.8.1 Public procurement legislation, as part of ensuring that all processes are managed fairly and with integrity, require all individuals (officers and members) and suppliers involved in any stage of the contract life cycle to both identify/ disclose and mitigate any perceived, potential and/or actual conflicts of interest.
- 9.8.2 Compliance with this requirement will include carrying out conflict of interest assessments whenever anyone gets involved in the procurement, approval and/ or contract management.
- 9.8.3 All conflict-of-interest assessments must be recorded on a conflicts of interest register and kept under review during the whole life cycle of the contract. The assessment must also include details of any mitigations taken/ to be undertaken to mitigate potentially unfair outcomes; e.g., use of Ethical Wall agreements, use of alternative evaluators, etc.
- 9.8.4 The Head of Procurement & Contracting will own the register and in conjunction with the Monitoring Officer, advise on appropriate mitigations and risks.

9.9 Procurement Strategy

- 9.9.1 The Authority has established a Procurement Strategy that sets out the agreed approach and standard for designing and delivering procurement procedures.
- 9.9.2 **Combined Authority's Strategy and Policy document** has been created in consideration of the **Applicable Public Procurement Legislation**, Central Government guidance (Procurement Policy Notes (PPNs), ([Procurement policy notes - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/procurement-policy-notes))), the National Procurement Policy Statement (NPPS) [National Procurement Policy Statement.pdf \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/64444/npps-national-procurement-policy-statement.pdf), and best practice; It details the Authority's visions, medium term plan and the more immediate aims and objectives.
- 9.9.3 Officers are required to align their procurements to this Strategy; with guidance available from the Procurement and Legal teams.

9.10 Procurement Policy & Social Value

- 9.10.1 The Authority has created a Procurement Policy which details their commitment to delivering social value through their procurements, this being in consideration of the **Applicable Public Procurement Legislation**, the Public Sector (Social Value) Act 2012 and associated Procurement Policy Notes relating to delivering social value and the Social Value Model (PPN 06/20)([Procurement policy notes - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/procurement-policy-notes)).
- 9.10.2 The Authority's commitments relate to creating opportunities to support the local economy, local jobs, training opportunities, as well as ensuring the wellbeing of both the staff and the communities in which we work.
- 9.10.3 Where Social Value is included within a procurement, it must be related to the subject matter of the contract and must not increase costs. Further detail is

available in the *Combined Authority's Strategy and Policy Document* and the *Procurement Guidance Document*.

9.11 Partnership Arrangements

9.11.1 The Authority has entered into a number of arrangements with partner authorities for the purchase of various back-office services; officers must therefore liaise with procurement before commencing a new procurement for similar/ additional requirements to ensure that those arrangements are not breached or cause relationship problems across the Authority's partners.

9.12 Corporate Contracts

9.12.1 The Authority has established a number of corporate contracts, including but not limited to; stationery, treasury, insurance, and ICT services. Officers must therefore liaise with procurement before carrying out a separate/ an additional procurement for such requirements.

9.13 Use of Consultants

9.13.1 Where the Combined Authority requires the technical input of industry experts/ consultants to either resource and/or manage a procurement or inform a specification, or deliver a particular process, officers are required to ensure the following is applied:

- (a) The service is for a discrete (or multiple discrete) piece of work and/or is not backfilling a Combined Authority post.
- (b) The consultants are procured in accordance with these Rules.
- (c) The consultant is experienced in and fully understands all **Applicable Public Procurement Legislations** and agrees to be bound by them.
- (d) There is a clear specification of requirements and responsibilities set out in their appointment, including adherence to these rules and relevant legislation and that this is documented in the form of contract used.

9.14 Working with SMEs

9.14.1 The Authority is committed to making contracting opportunities accessible to all interested suppliers; and where appropriate (and not disproportionate to do so) remove barriers to SMEs participating in the procurement.

9.14.2 Officers, when designing a procurement, must consider the use of Lots, encouraging consortia bids, structuring the documents to be SME friendly, and setting financial participation thresholds to the minimum needed to manage performance risk/ failure.

9.15 Excluding Suppliers & Subcontractors

9.15.1 The Authority may exclude a supplier where they or one of their proposed subcontractors have exhibited behaviours that are unacceptable to the Authority.

9.15.2 Details of when and for what (mandatory and discretionary grounds) a supplier may/ must be excluded is available in the [Applicable Public Procurement Legislations](#).

9.16 Identifying Opportunities

9.16.1 All advertised procurements must be advertised initially on the Central Digital Platform in line with the contract value in the Applicable Public Procurement Legislations. It will also be advertised and managed through the Authority's e-tendering Portal. ([Opportunities - Search results \(due-north.com\)](#))

9.16.2 Suppliers wishing to bid for Authority contracts should register on both the Central Digital Platform and the referenced e-tendering portal. ([Supplier registration \(due-north.com\)](#)).

9.17 Contracts Register

9.17.1 All current contracts are included on the Authority Online Contract Register. This includes details of the current supplier(s), contract value, and the current contract expiry date along with details of any options to extend.

9.17.2 The online contract register is updated with details of all new contracts, regardless of how they were procured. ([Contracts register - Search results \(due-north.com\)](#))

Procurement – Planning, Design, Timings & Documentation.

9.18 Overview

- (a) The activities detailed in this section applies where the spend is not exempted from these rules under Section 9.4 above.
- (b) Officers, members, and others responsible for spending public funds must consider all of the following legal and best practice obligations when designing a procurement.
- (c) No procurement may proceed without an Officer having properly completed the **Procurement Instruction Document** and evidencing that they have considered all of the planning, documentation and process considerations detailed in this document) and that they have all the required approvals in place, (e.g., value, duration, lots, budget, risk, authority to procure/ award) all in accordance with the [Procurement Guidance Document](#)

9.19 Contract Types and Regimes

9.19.1 All spend must be classified by type and regimes before a procurement process can be designed; this is due to different types and regimes having different financial thresholds and obligations. The types and regimes include

- (a) **Types - Goods** (supplies or products), **Services** (labour, consultants, or technical resources); or **Works** (Construction Projects);

- (b) **Regimes - Utilities** (Gas, electric, Water, transport e.g. Buses on a fixed network), **Light Touch** (social Care, legal services, education), **Concession** (Supplier risk/ paid by service users), **Research** (for the benefit of the public), **Exempt/ Excluded** (Not Covered)

9.20 Contract Durations and Duty to Consider Lots

- 9.20.1 Before a procurement process can be designed/ commenced, officers need to decide both the initial and maximum contract durations (including any optional extension) and what might be the justification to apply those extensions.
- 9.20.2 Depending on the value and nature of the contract being procured, the duration may be limited by the **Applicable Public Procurement Legislation**. Officers must check with procurement and legal before finalising this decision.
- 9.20.3 When considering the above, officers must consider the use of Lots and the potential benefit of working with (local) SMEs (e.g., reduce overhead costs, local knowledge, public benefit) with the opportunity to achieve economy of scale discounts, manage market uncertainty, and the potential contract management benefits of appointing a single supplier.
- 9.20.4 In considering how to make opportunities accessible to SMEs, officers MUST ensure that they do NOT disaggregate, or sub-divide like of similar requirements purely for the sole purpose of avoiding the rules for above threshold/ public contracts. They must ensure that the process for removing barriers for SMEs does not unfairly advantage them.

9.21 Estimating Contract Values

- 9.21.1 The estimated contract value must include ALL monies that could be paid over the maximum life span of the contract (or Framework/ Dynamic Market), to the successful tenderer(s) regardless of the source; e.g., all planned and potential costs, additional requirements, fees/ commissions, contract extensions and/ or prizes/ participation costs plus any contingencies, whether funded by the authority, other grants or paid by service users. The total must also include VAT.
- 9.21.2 This value must not be artificially inflated or disaggregated as it will feed into various decisions, including route to market, and assessing whether a supplier has the capacity (under two times the annual value of the contract that a supplier may potentially be awarded)
- 9.21.3 The above calculated value, calculations and assumptions must be documented in the **Procurement Instruction Document** and where it exceeds the Authority threshold for a Key decision, this must be notified to legal. It must also be included in the relevant Notice.

9.22 Thresholds

- 9.22.1 Procurement Thresholds are determined by category and sector (regime) ; they determine which routes to market are available and what rules must be followed.

9.22.2 The Thresholds come from the [Applicable Public Procurement Legislation](#) (and updated by Procurement Policy Notes) and are based on the Government Procurement Agreement (GPA); these values being updated every other year.

9.22.3 The rules and available routes to market are determined by whether the estimated contract value is deemed to be 'Above Threshold' (Covered Procurements/Public Contracts) or 'Below Threshold'. See [Procurement policy notes](#)

9.22.4 For Below Threshold spend, the following table sets out a number of routes to market and the estimated value (which include VAT) and category/ sector rules for when a route is available for use.

Table 1 – Below Threshold procurement processes

Category/ Sector (Regime)	Level 1 - Single Quote	Level 2 - Request for Quotes	Level 3a & b Simple Tender
Goods (G)	£0 to £9,999	£10,000 to £29,999	£30,000 to Goods £GPA (3a)
Services (S)	£0 to £29,999	£30,000 to £49,999	£50,000 to Services £GPA (3a)
Consultancy Services	£0 to £49,999	£50,000 to £GPA	
Licences	£0 to £199,999		
ICT G & Services	£0 to £199,999		
Works	£0 to £99,999	£100,000 to £499,999	£500,000 to Works £GPA (3b)
Light Touch	£0 to £99,999	£100,000 to £299,999	£300,000 to Light Touch £GPA (3a)
Concession (ALL)	£0 to £99,999	£100,000 to £499,999	£500,000 to £GPA(3a)
Utilities	£0 to £99,999	£100,000 to £499,999	£500,000 to £GPA(3a)
Frameworks & DPS	In accordance with Framework Rules (direct award up to £199,999 (where permitted) with further competition above £200,000)		

9.22.5 Regardless of the minimum obligations, Officers may choose (or may be instructed by procurement to) conduct a procedure in line with a higher level, including one which is for Above Threshold/ Covered Procurement, including issuing a Tender/ Contract notice to invite interested suppliers to submit a Tender/ participate in the procurement.

9.22.6 The Head of Procurement & Contracting may also mandate such a process where the estimate contract value is very close to the relevant £GPA Threshold,

or the contract is considered to be high profile/ of public interest, or where it is a condition of the funding that a specific process must be applied.

9.22.7 An explanation of what is required for each procurement process/ level is provided below and with further detail being available in the **Procurement Guidance Document**.

9.23 Risk Assessments

9.23.1 Officers are required to carry out a risk assessment as part of the project initiation and planning process, and at the very least, in the following situations:

- (a) where the procurement is both a Key Decision and Above Threshold (a Covered Procurement) AND/ OR
- (b) is establish a new Framework or Dynamic Market with multiple suppliers
- (c) includes a Special Purpose Vehicle,
- (d) is for a contract duration in excess of five years,
- (e) includes design liabilities and/ or collateral warranties,
- (f) involves intellectual property,
- (g) involves a significant Health & Safety consideration,
- (h) is likely to be subject to significant inflation risks, or
- (i) where the spend relates to substantial direct awards or contract extensions that carry risks under the **Applicable Public Procurement Legislation**.

9.23.2 The outcome of the risk assessment must both be:

- (a) documented in the **Procurement Instruction Document** as it will feed into the process design and governance/ approval process; and
- (b) added to the Corporate Risk Register for monthly monitoring by the PMO and Project Lead.

9.24 Preliminary Market Engagement

9.24.1 Officers are required as part of designing both the competitive Tendering Procedure and the associated tender documentation to consider running a **Preliminary Market Engagement** event. Such events should be used where a contract has been assessed as high value, high profile, complex or specialist in nature, the market is saturated, made up of SMEs, or is suitable for a consortia delivery model; or as otherwise directed by Procurement. This decision and reason are to be documented in the **Procurement Instruction Document** and the tender record.

9.24.2 Where a **Preliminary Market Engagement** event is to be used, it must be advertised using an appropriate notice, and the Authority must take reasonable steps to ensure that participants at an event do not have an unfair advantage in the subsequent procurement; this to be assessed using the Conflict-of-Interest Assessments and documented in the Tender Record.

9.24.3 All information shared before, during or after a **Preliminary Market Engagement** event must also be included within the subsequent associated tender documents (Tender Pack).

9.25 Routes to Market, Document Requirement & Timescales

9.25.1 The minimum process/ route to market is determined by the category and value; where that value is “Below Threshold”, the following table sets out the stages, activities and documents required for each of the three levels set out in table 1 above.

Table 2a – Document and Process Requirement Checklist

		Below Threshold			
		Level 1	Level 2	Level 3a	Level 3b
Stages	Activities/ Documents	Single quote	Request for Quotes	Simple Tender (G&S)	Simple Tender (Works)
Process for identifying/ inviting suppliers to quote/ tender	Identify suitable supplier (s)	✓	✓	X	X
	Include at least 1 local supplier	✓	✓	X	X
	Invite all Suppliers to tender	X	X	X	X
	Advert on e-tendering Portal	X	X	✓	✓
	Advert on Central Digital Platform	X	X	✓	✓
Communication methodology	Manage by email	✓	X	X	X
	Manage on e-tendering portal	X	✓	✓	✓
Suitability assessment	Excluded/ Excludable Check	✓	✓	✓	✓
	Due Diligence Form - Capacity & Capability	X	✓	✓	X
	SQ- Capacity & Capability (Single Stage)	X	X	X	X
	SQ- Common Assessment Standard – single stage – concise form (Works only)	✓	✓	X	✓
	SQ- Common Assessment Standard – separate stage – intermediate form (Works Only)	X	X	X	✓
Documentation to be provided	Specification	✓	✓	✓	✓
	Contract	✓	✓	✓	✓

	RFQ/ Tender Response Document	X	✓	✓	✓
	Form of Tender	X	X	✓	✓
	Tender Instruction inc. timescales	X	X	✓	✓
	RFQ Instructions inc. timescales	X	✓	X	X
Evaluation Methodology	Price Only Evaluation model	✓	✓	X	X
	Quality & Price Evaluation model	X	✓	✓	X
	Quality, Social Value & Price Evaluation model	X	X	✓	✓
Review/ negotiation opportunity	Acceptability Review	✓	X	X	X
	Opportunity to Negotiate	✓	X	X	X
	Opportunity to refresh (ALL Suppliers)	✓	✓	X	X
process considerations	Min Number of evaluators	2	3	3	3
	Estimated timescales for process	2-4 weeks	4-6 weeks	6-10 weeks	12-14 weeks
Outcome notifications	Condition of Participation Outcome Letters	X	X	X	✓
	Award/ Outcome Letters to all suppliers	✓			
	Contract Award notice - Standstill	Discretionary			
	Contracts Detail Notice (above £30k) on the Contracts Finder/ Central Digital Platform	Over £30k incl. VAT			

9.25.2 For Procurements that are Above Threshold (Covered Procurements), the following table sets out the stages, activities, and documents to be included in the design of the procurement by Officers.

9.25.3 Where using a framework, officers must, in addition to the rules below, must comply with the framework rules; where there is a conflict, the framework rules take precedence.

9.25.4 Further guidance on using both Tables 2a and 2b is available in the [Procurement Guidance Document](#).

Table 2b – Document and Process Requirements Checklist

		Above Threshold			Any Value	
		Level 4	Level 4	Level 4	Level 4	Level 4
Stages	Activities/ Documents	Open Tender	Competitive Flexible Procedure	Direct Award	Use Existing Framework	Using Existing DPS/ DM
Process for identifying/ inviting suppliers to quote/ tender	Identify suitable supplier (s)	X	X	✓	X	X
	Include at least 1 local supplier	X	X	X	X	X
	Invite all Suppliers to tender	X	X	X	✓	✓
	Advert on e-tendering Portal	✓	✓	X	X	X
	Advert on Central Digital Platform	✓	✓	X	X	X
Communication methodology	Manage by email	X	X	✓	X	X
	Manage on portal	✓	✓	✓	✓	✓
Suitability assessment	Excluded/ Excludable Check	✓	✓	✓	✓	✓
	SSQ- Capacity & Capability Check (single stage)	✓	✓	✓	✓	✓
	SSQ- Conditions of Participation / limit suppliers	X	✓	X	X	X
Associated Tender Documents to be provided	Specification	✓	✓	✓	✓	✓
	Contract	✓	✓	✓	✓	✓
	Award Criteria & Assessment Methodology Document	✓	✓	✓	✓	✓
	Pricing Documents	✓	✓	✓	✓	✓
	Form of Tender	✓	✓	✓	✓	✓
	Tender Instruction inc. timescales	✓	✓	X	✓	✓
Evaluation Methodology	Price Only Evaluation model	X	X	✓	X	X
	Quality & Price Evaluation model	X	X	X	✓	X
	Quality, Social Value & Price Evaluation model	✓	✓	✓	✓	✓
Review/ negotiation	Acceptability Review	X	X	✓	X	X
	Opportunity to Negotiate	X	✓	✓	X	✓

opportunity	Opportunity to refresh (ALL Suppliers)	X	✓	✓	X	✓
process considerations	Min Number of evaluators	3	4	2	2	3
	Estimated timescales	14-18 weeks	over 26 weeks	2 weeks	4-12 weeks	4-12 weeks
Outcome notifications	Condition of Participation/ Limiting Suppliers Letters	X	✓	X	N/A	
	Standstill Letters*/Assessment Summaries**/ outcome Letters	✓	✓	X	✓	✓
	Contract Details Notice (On Central Digital Platform**)	✓	✓	✓	✓	✓
	Contract Award Notice (On Contracts Finder and Find a Tender Service */ Contract Award Notice/ Standstill on Central Digital Platform**)	✓	✓	✓	Optional	
* For procurements commenced before 28th October 2024						
** for procurements commenced after 28th October 2024						

9.26 Legal Considerations

9.26.1 Contracts

- (a) Every Procurement must be accompanied by a Contract. All contracts must be completed either in hardcopy or electronic form before contract commencement.
- (b) The contract may be a standard form, an amended standard form, a bespoke/ project specific contract, or a set of Heads of Terms; and these may be provided either in a finalised or draft form (depending on the route to market being used).
- (c) Legal are responsible for determining the appropriate form of contract and this must be documented in the **Procurement Instruction Document** as it will feed into various aspects of the process design.
- (d) The agreed form of contract must be made available to suppliers as part of the associated Tender Documentation before they are required to submit a price/ tender.

9.26.2 Bonds & Guarantees

- (a) All contracts over £250k will include an option for the Authority to request a Performance Bond and/ or a Parent Company Guarantee. The adoption and value of which are at the discretion of the relevant Director. The requirement is likely to be applied where the project or a contractor is deemed as a high risk for failure (likelihood and/or impacts). Advice is available from the procurement team, legal and finance.

- (b) Where a bond or guarantee is deemed necessary – this should be in a form acceptable to the Authority and in consideration of the form of contract being used

9.26.3 Non-Procurement Legislation

- (a) The design of any procurement must take into account all relevant legislation; as applies to the authority, the project, and the supply chain.
- (b) In the event that there is an incompatibility identified between two or more relevant pieces of legislation; this must be escalated to the Monitoring Officer for advice and a decision on how to manage the conflict.

9.27 Procurement Programme

- 9.27.1 In addition to the indicative timescales included in Tables 2a and 2b above, Officers will also need to plan for and include time allowances for complying with the Authority's approvals and reporting requirements. This being particularly significant where a procurement is classified as a Key Decision.
- 9.27.2 Officers should work with the Programme Management office (PMO) team and Contract Manager to create a procurement programme against which resource requirements can be managed.
- 9.27.3 Indicative timescales for different types of approvals are set out in the *Procurement Guidance Document*.

Procurement Documentation

9.28 Overview

- 9.28.1 The procurement documents required will depend on the selected route to market, the stages, and the activities to be completed; Tables 2a & b above set out the minimum information, process and notification requirements that must be adhered to.

9.29 Notices

- 9.29.1 The publication of the various notices is a legal requirement both to create effective competition and ensure transparency in the spending of public funds, the most commonly used notices and reasons for use are detailed below:
- 9.29.2 An Early Market Engagement Notice – A notice inviting suppliers to engage in an Early Market Engagement Event.
- 9.29.3 A Tender Notice – A notice inviting suppliers to submit a tender or a request to participate – minimum 25 days (unless urgency).
- 9.29.4 Procurement Termination Notices – used to inform the market that the Contracting Authority is terminating the procurement/ not making an award.
- 9.29.5 The Authority may also be required to publish other notices in relation to their plans, events, and/ or other decisions depending on the **Applicable Public Procurement Legislation** - Advice should be sought from the Head of Procurement & Contracting and/ or the Contract Manager as part of designing the procurement. Further details on notices and when they are required is included in the **Procurement Guidance Document**.

9.30 Instructions

- 9.30.1 Officers must ensure that they effectively and transparently communicate with all suppliers' details of the competitive Tendering Procedure and what it will involve (including excluding suppliers, conditions of participation, tender rounds (including intermediate rounds) and/ or negotiation stages), how long it should take and what is required from the supplier at each stage to enable them to progress/ have a chance to be awarded the contract.
- 9.30.2 This document must also detail the procedural rules including providing detail as to how the Authority will manage clarification, incomplete tenders or other rules, the breach of which could amount to their being excluded from the procurement process.
- 9.30.3 In addition, it must detail how suppliers should communicate with the Authority during the procurement process and any rules for participation/ conditions of tendering.
- 9.30.4 It must also detail how suppliers should communicate with the Authority during the procurement process and the various rounds/ activities.

9.31 Due Diligence / Standard Selection Questionnaire/ Conditions of Participation

- 9.31.1 It is essential that the Authority only appoint suppliers to deliver public sector contracts that are deemed suitable (meet the legal, ethical, and social standards) as set out in the Applicable Public Procurement Legislation
- 9.31.2 Equally, it is important to check that they have the capability, capacity, and experience needed to deliver the specific technical requirement; and this is to be checked regardless as to the value of the contract. (Noting that this can only be as a discrete/ separate stage where the contract is over a specific value for the specific category).
- 9.31.3 When procuring works, this capability, capacity, and experience assessment should be based on the Common Assessment Standard either in full or a modified version which as a minimum, meets the requirements of the SQ to be used for non-works procurements.
- 9.31.4 Further information on this is available at Gov.uk ([Standard Selection Questionnaire PPN](#))

9.32 Award Criteria (Evaluation Methodology)

- 9.32.1 Officers are required to design and effectively communicate the evaluation/ assessment methodology that will be applied to the tender responses submitted by suppliers.
- 9.32.2 This must include detailing whether the Assessment Methodology will be based on lowest price (where permitted in the tables above), Price per Quality Point method or a Price: Quality ration. In either case, the following will apply:
- (a) For quality and social value - the detailed questions include specific response guidance, the scoring methodology/ matrix, and the importance/ weighting to be applied to each question
 - (b) For Price – details on how the value will be calculated and then how it will be evaluated (e.g., the weighting allocated to the price as a whole or parts therein or divided by the quality score)
- 9.32.3 Once the Tender Notice has been published, this Award Criteria cannot be amended; unless specifically allowed for in the Tender Notice, the amendment is not substantial, and the change is implemented before the last chance to submit tenders as per the **Applicable Public Procurement Legislation**
- 9.32.4 Further guidance on designing the award criteria and assessment methodology is available in the **Procurement Guidance**.

9.33 Form of Tender

- 9.33.1 All Suppliers will be required to sign a disclaimer when submitting their tender; specifically relating to their conduct during the procurement, their adherence to the condition of tendering, the acceptance of the contract terms and their agreement to hold their price open for a specific amount of time.

9.34 Document Format

- 9.34.1 All documentation and communication will be issued and returned electronically, the documents may, therefore, be issued as attachment in Microsoft or Adobe formats (unless otherwise explicitly stated) or built into and answered in the e-tendering portal.

Procurement Process & Contract Management

9.35 Procurement Launch

- 9.35.1 The Authority is required to publish a full set of procurement/ Associated Tender documents when they publish the tender notice. Table 2a & b above state when a notice is required and where it must be published.
- 9.35.2 Suppliers can access these opportunities from the following links:
- 9.35.2.1 [E-tendering portal hyperlink \(Opportunities - Search results \(due-north.com\)\)](#)
- 9.35.2.2 Central Digital Platform

9.36 Process Management

- 9.36.1 All competitive procedures (level 2 and above) must be managed through the Authority's e-tendering Portal; including all of the following activities

9.37 Communication with Suppliers

- 9.37.1 All communication with suppliers should be, as far as practicable, be via electronic means; e.g., the e-tendering portal.

9.38 Clarifications

- 9.38.1 The Authority reserves the right to clarify any omissions, ambiguities, or errors as part of its procurement procedure
- 9.38.2 All clarifications (by suppliers and the Authority) must be raised and managed through the e-tendering portal.
- 9.38.3 Where a supplier asks a question, the questions and responses must be shared with all suppliers; an exception being where the supplier specifies that the question is commercially sensitive, and the Authority accepts this.
- 9.38.4 Where, as part of the evaluation process, the Authority identifies something that appears erroneous, needs to be clarified or was omitted, this must also be raised through the e-tendering portal.

9.38.5 A record of all clarifications must be maintained.

9.39 Evaluation Process

9.39.1 The Authority will identify a team Suitably Qualified and Experience Persons (SQEP) to carry out individual evaluations of their allocated question(s) in accordance with the Conditions of Participation/ Award Criteria questions as set out in the procurement documentation. All evaluators will then be required to attend a moderation session.

9.39.2 At some/ multiple points in the procurement, the Authority will/ must check a Supplier (and their supply chain's) suitability to deliver the contract. Where a supplier is assessed as Excluded or Excludable (mandatory or discretionary exclusions grounds) the supplier will/ may not be permitted to continue within the process.

9.39.3 At Conditions of Participation stage, depending on the route to market, the Authority may limit the number of suppliers to invite through to the next round, depending on how the Competitive Tendering Procedure has been designed.

9.39.4 Additionally, at intermitted tender stages, the Authority may, through evaluation, limit the number of suppliers to invite through to the next round.

9.39.5 At Award Stage, in all covered procurements, the quality, social value, and price evaluation will be carried out independently.

9.39.6 The Authority has the right (but is not obliged) to seek clarification on the submissions as part of the process. Where this prerogative is utilised, all suppliers will be treated equally.

9.40 Negotiations

9.40.1 Negotiations will only be permitted where this is expressly stated in the procurement documentation and will be carried out in compliance with the stated process.

9.40.2 If a supplier attempts to negotiate a contract post award where this is not permitted, the Authority may disregard the supplier and award the contract to the next ranked compliant supplier.

9.41 Preferred Supplier Identification & Assurance

(a) Once a preferred supplier has been identified, and the supplier suitability checks referenced above must be refreshed to ensure that they are still a suitable/ capable (not excluded) supplier.

9.42 Award Decisions and Approvals

9.42.1 Tender Report (Audit Trail)

(a) Throughout the life of the procurement, all decisions must be documented in a Project Tender Record; including the recommendation to award.

(b) This includes where a Direct Award is made.

9.43 Award Governance

9.43.1 Before suppliers can be notified of the recommendation, the decision to award must be approved in accordance with the Authority's scheme of delegation

9.44 Supplier Notifications

9.44.1 Once the recommendation is approved, and before the Contract Award notice is published, the Authority will collate and provide each supplier with an assessment summary (supplier feedback).

9.44.2 This summary must include the scores and the reason for those scores, for each of the award criteria, in consideration of the assessment methodology as set out in the procurement/ associated tender documents. Unsuccessful suppliers must also be provided with the same information relating to the successful supplier.

9.45 Standstill Period & Contract Notices.

9.45.1 For all Above Threshold/ covered procurements, the Authority must apply a standstill period before entering into the contract. (Excluding Utilities, Light Touch or contracts awarded under a framework, in which cases a standstill period is optional)

9.45.2 A contract award Notice must be published in accordance with the ***Applicable Public Procurement Legislation***.

9.45.3 Additionally, where required under the ***Applicable Public Procurement Legislation***, the Authority may be required to publish a Contract Details Notice within 30 days on entering into the contract.

9.45.4 Further guidance on Notices is available in the ***Procurement Guidance Document***.

9.46 Spend Approval & Contract Execution Thresholds

- (a) All contracts must be signed or executed in accordance with the following rules:

Monitoring Officer	Works – executed as a Deed, regardless of value
	Goods & Services – signed underhand
Responsible Officer	Up to £25k exc. VAT
Project Director including Assistant Director's	Up to £250k exc. VAT
Monitoring Officer	Up to £1 million exc. VAT
Key Decisions Process	Over £1 million exc. VAT

- (b) A record of the contract and a copy of all executed contracts must be added to the Contract Register (with physical copies of contracts executed as a deed stored securely).

Contract Management

9.47 Overview

- 9.47.1 Contracts must be managed in accordance with the *Applicable Public Procurement Legislation* under which they were procured and the Authority's *Procurement Guidance Document*.

9.48 Meetings & Performance Management

- 9.48.1 The Contract Manager will set up a series of meetings to kick off, administer and manage delivery of the contract. These meeting will as a minimum monitor and report on.
- (a) **Supplier & Supply Chain Suitability** – ensure the Authority is not contracting directly or indirectly with unsuitable (Excluded/ Excludable) suppliers.
 - (b) **Key Performance Indicators** – delivery against the agreed levels.
 - (c) **Contract Performance** – e.g., satisfactory delivery of the contract.

- (d) **Contracting Authority Payment Performance** – the Authority is required to pay the Supplier within 30 days of receiving a valid/ undisputed invoice.
- (e) **Supplier Payment Performance** - the Supplier is required to pay their supply chain within 30 days of receiving a valid/ undisputed invoice.
- (f) **Supplier Contracts** – the supplier is required to enter into a legally binding agreement with suppliers on whom they are relying on to meet the technical, legal, or financial conditions of participation.
- (g) **Modifications** – all modifications to a contract must be documented, along with their value and justification.

9.49 Contract Modifications

- 9.49.1 All modifications must be managed in accordance with the contract and in compliance of what is permitted under the *Applicable Public Procurement Legislation*.

9.50 Termination

- 9.50.1 In the event that any performance requirements are not being met, the Authority may terminate the contract in accordance with the stated contract clauses. Where required, this to be reported in accordance with the Applicable Public Procurement Legislation.

9.51 Notices

- 9.51.1 Where required under the *Applicable Public Procurement Legislation*, the Authority may be required to publish a notice. These notices which may be required include.
 - (a) **Contract Performance Notice** – used to report on KPIs and whether the contract is being delivered to the required standards.
 - (b) **Payment Compliance Notice** – used to publish the Contracting Authorities payment performance.
 - (c) **Contract Modification Notice** – used to publish detail of a proposed modification to a contract where there is an increase of decrease in the estimated contract value over a specific value.
 - (d) **Contract Termination Notice** – used where the Contracting Authority terminates a contract in full.
- 9.51.2 Further Guidance is available from procurement.

Other Procurement Considerations

9.52 Waivers & Exemption Approvals

9.52.1 Where an officer seeks to deviate from the requirements of this document a waiver must be completed and approved in accordance with the following rules:

	Activity	Approval Requirements
Exemption from obtaining quotes (level 2)	Under £25k (exc. VAT) (Goods) The responsible officer must complete and sign the template	The completed (signed) form must then be approved by both Procurement and Legal
	Over £30k up to £100k (exc. VAT) (Services) The responsible officer must complete and sign the template and also have it approved by the Project Finance Officer	
	Over £100k (exc. VAT) up to £GPA threshold (Goods & Service) The responsible officer must complete and sign the template and also have it approved by the Project Finance Officer and the Project Director	
	Over £100k up to £500k (exc. VAT) (Works, Concessions, Utilities) The responsible officer must complete and sign the template and also have it approved by the Project Finance Officer, the Project Director, and the Monitoring Officer	
Exemption from advertisement (level 3)	Under £GPA threshold (Goods & Service) The responsible officer must complete and sign the template and also have it approved by the Project Finance Officer and the Project Director	The completed (signed) form must then be approved by both Procurement and Legal and where a Key Decision, the individual(s) with delegated authority.
	Over £300k up to £500k (exc. VAT) (Light Touch) The responsible officer must complete and sign the template and also have it approved by the Project Finance Officer, the Project Director, and the Monitoring Officer	
	Over £500k (exc. VAT) up to £GPA threshold (Works, Concessions, Utilities)	

	Spend over this value is a Key Decision and so must be taken to Board for approval by the Project Director and Monitoring Officer	
Exemption from further competition under a framework	Over £200k up to £500k (exc. VAT) (ALL) The responsible officer must complete and sign the template and also have it approved by the Project Finance Officer, the Project Director, and the Monitoring Officer	The completed (signed) form must then be approved by both Procurement and Legal

9.52.2 Where a contract is awarded under a waiver and is over £30k Inc. VAT, a Notice must be published in accordance with the **Applicable Public Procurement Legislation**

9.52.3 Where an Officer deems that the proposed expenditure is exempt from these rules, the Officer must complete a procurement exemption form regardless of value and/or category/sector. This must be approved by Procurement and Legal.

9.53 Collaborative Procurements

- (a) Where the authority is required under its own powers or at the request of a partner authority to procure on its behalf, those procurements must comply with **Applicable Public Procurement Legislation**, and other relevant legislation more generally,
- (b) Each Authority must comply with their own rules with regards Financial, Procurement and delegated authority requirements; and then equally, their own scheme of delegation for contract signature.

9.54 Purchase Cards

9.54.1 The authority operates a purchase card facility; these are used for low value or one-off incidental spend where it is not efficient to add a supplier to the finance system and carry out a competitive procurement process. They may not be used as a means to disaggregate or bypass these rules.

9.55 Community Right of Challenge

- (a) Section 81 of the Localism Act 2011 permits relevant bodies (charities, community bodies, town and parish Authority Services and Staff) to submit Expressions of Interest to provide Authority Services. Corporate Services shall maintain and publish a timetable for the submission of interest. Any such expressions shall be forwarded to the Transformation Team.

9.56 Disposal of Goods & Assets

- (a) Where the Authority has goods or assets that are no-longer required these are to be disposed of through a closed-bid auction process. The Authority

has an eBay account for this purpose and any department wishing to use it needs to do so through the Procurement team.

9.57 Grants

9.57.1 Application Process

- (a) The Authority is the recipient and administrator of substantial funding from central government and potentially, other funders.
- (b) Where this funding is to be granted to an organisation to deliver specific aims and objectives for the Cambridgeshire and Peterborough communities, this will be administered through a formal process.
- (c) This process, in support of the Authority's commitment to transparency and equal treatment, will require organisation to submit a formal Grant Application; further details of how this works and what applicants need to do to be considered for different funding can be found in the Authorities ***Grant Application Guidance Document. (To follow)***
- (d) The Authority reserves the right to apply a funding specific application process (subject to approval by the Monitoring Officer) where the Authority's standard grant application process is deemed insufficient for reasons such as the scope, the specific delivery requirements and/ or the funding and reporting obligations are complex.

9.57.2 Grant Agreements

- (a) Where a grant is issued, it must be awarded in accordance with the Authority's process for advertising, selecting, and awarding grants.
- (b) All grants must include:
 - i. Details of what the applicant has committed to provide for the funding.
 - ii. Payment details including any payment conditions and frequency; and
 - iii. Any flow-down requirements relating to obligations that apply to the Authority; including where relevant, reporting and clawback options
 - iv. All grants which include clawback options **MUST** be executed as a Deed.

9.57.3 Monitoring & Reporting

- (a) A register of all grants issued must be maintained, this to include details of the recipient, the value, the funder, and the purpose.

- (b) Where the funding including reporting or other delivery/ payment obligations, this information must also be included in the register; e.g., conditions, monies paid, and delivery against the funding.
- (c) Where the grant includes reporting obligations, periodic meetings (as agreed as part of the grant agreement) must be held between the recipient and the Authority to ensure the recipient is both delivering as per their application and providing the required information. Notes and data from these meetings must be stored against the Grant Register.